

CHAMBER ACTION

1 The Finance & Tax Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the annual intangible personal property
7 tax; repealing ss. 199.012, 199.023, 199.032, 199.033,
8 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055,
9 199.106, 199.175, and 199.185, F.S., relating to the
10 annual intangible personal property tax; amending s.
11 199.303, F.S.; providing additional legislative intent
12 relating to the annual intangible personal property tax;
13 amending ss. 28.35, 192.0105, 192.032, 192.042, 192.091,
14 193.114, 196.015, 196.199, 196.1993, 199.133, 199.183,
15 199.218, 199.232, 199.282, 199.292, 201.23, 212.02,
16 213.053, 213.054, 213.27, 220.1845, 376.30781, 493.6102,
17 516.031, 650.05, 655.071, and 733.702, F.S., to conform
18 provisions to the repeal of the annual intangible personal
19 property tax; authorizing the Department of Revenue to
20 adopt emergency implementing rules for a certain time;
21 providing effective dates.

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23 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Sections 199.012, 199.023, 199.032, 199.033, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106, 199.175, and 199.185, Florida Statutes, are repealed.

Section 2. Paragraph (c) of subsection (1) of section 28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.--

(1)

(c) ~~For the purposes of s. 199.183(1),~~ The corporation shall be considered a political subdivision of the state and shall be exempt from the corporate income tax. The corporation is not subject to the procurement provisions of chapter 287 and policies and decisions of the corporation relating to incurring debt, levying assessments, and the sale, issuance, continuation, terms, and claims under corporation policies, and all services relating thereto, are not subject to the provisions of chapter 120.

Section 3. Paragraph (a) of subsection (4) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.--There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks

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52 | of the court, local governing boards, the Department of Revenue,
53 | and taxpayers. Additional rights afforded to payors of taxes and
54 | assessments imposed under the revenue laws of this state are
55 | provided in s. 213.015. The rights afforded taxpayers to assure
56 | that their privacy and property are safeguarded and protected
57 | during tax levy, assessment, and collection are available only
58 | insofar as they are implemented in other parts of the Florida
59 | Statutes or rules of the Department of Revenue. The rights so
60 | guaranteed to state taxpayers in the Florida Statutes and the
61 | departmental rules include:

62 | (4) THE RIGHT TO CONFIDENTIALITY.--

63 | (a) The right to have information kept confidential,
64 | including federal tax information, ad valorem tax returns,
65 | social security numbers, all financial records produced by the
66 | taxpayer, Form DR-219 returns for documentary stamp tax
67 | information, and sworn statements of gross income, copies of
68 | federal income tax returns for the prior year, wage and earnings
69 | statements (W-2 forms), and other documents (see ss. 192.105,
70 | 193.074, 193.114(5)~~(6)~~, 195.027(3) and (6), and 196.101(4)(c)).

71 | Section 4. Subsections (5), (6), and (7) of section
72 | 192.032, Florida Statutes, are amended to read:

73 | 192.032 Situs of property for assessment purposes.--All
74 | property shall be assessed according to its situs as follows:

75 | ~~(5) Intangible personal property, according to the rules~~
76 | ~~laid down in chapter 199.~~

77 | (5)~~(6)~~(a) Notwithstanding the provisions of subsection
78 | (2), personal property used as a marine cargo container in the
79 | conduct of foreign or interstate commerce shall not be deemed to

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80 have acquired a taxable situs within a county when the property
81 is temporarily halted or stored within the state for a period
82 not exceeding 180 days.

83 (b) "Marine cargo container" means a nondisposable
84 receptacle which is of a permanent character, strong enough to
85 be suitable for repeated use; which is specifically designed to
86 facilitate the carriage of goods by one or more modes of
87 transport, one of which shall be by ocean vessel, without
88 intermediate reloading; and which is fitted with devices
89 permitting its ready handling, particularly in the transfer from
90 one transport mode to another. The term "marine cargo container"
91 includes a container when carried on a chassis but does not
92 include a vehicle or packaging.

93 (6)~~(7)~~ Notwithstanding any other provision of this
94 section, tangible personal property used in traveling shows such
95 as carnivals, ice shows, or circuses shall be deemed to be
96 physically present or habitually located or typically present
97 only to the extent the value of such property is multiplied by a
98 fraction, the numerator of which is the number of days such
99 property is present in Florida during the taxable year and the
100 denominator of which is the number of days in the taxable year.
101 However, railroad property of such traveling shows shall be
102 taxable under s. 193.085(4)(b) and not under this section.

103 Section 5. Subsection (3) of section 192.042, Florida
104 Statutes, is amended to read:

105 192.042 Date of assessment.--All property shall be
106 assessed according to its just value as follows:

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107 | ~~(3) Intangible personal property, according to the rules~~
 108 | ~~laid down in chapter 199.~~

109 | Section 6. Subsections (5) and (6) of section 192.091,
 110 | Florida Statutes, are amended to read:

111 | 192.091 Commissions of property appraisers and tax
 112 | collectors.--

113 | (5) ~~Provided, that~~ The provisions of this section shall
 114 | not apply to commissions on ~~intangible property taxes or~~
 115 | ~~drainage district or drainage subdistrict taxes.~~ ; ~~and~~

116 | (6) If ~~Provided, further, that where~~ any property
 117 | appraiser or tax collector in the state is receiving
 118 | compensation for expenses in conducting his or her office or by
 119 | way of salary pursuant to any act of the Legislature other than
 120 | the general law fixing compensation of property appraisers, such
 121 | property appraiser or tax collector may file a declaration in
 122 | writing with the board of county commissioners of his or her
 123 | county electing to come under the provisions of this section,
 124 | and thereupon such property appraiser or tax collector shall be
 125 | paid compensation in accordance with the provisions hereof, and
 126 | shall not be entitled to the benefit of the said special or
 127 | local act. If such property appraiser or tax collector does not
 128 | so elect, he or she shall continue to be paid such compensation
 129 | as may now be provided by law for such property appraiser or tax
 130 | collector.

131 | Section 7. Subsections (4), (5), and (6) of section
 132 | 193.114, Florida Statutes, are amended to read:

133 | 193.114 Preparation of assessment rolls.--

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134 ~~(4) The department shall promulgate regulations and forms~~
 135 ~~for the preparation of the intangible personal property roll to~~
 136 ~~comply with chapter 199.~~

137 (4)~~(5)~~ For every change made to the assessed or taxable
 138 value of a parcel on an assessment roll subsequent to the
 139 mailing of the notice provided for in s. 200.069, the property
 140 appraiser shall document the reason for such change in the
 141 public records of the office of the property appraiser in a
 142 manner acceptable to the executive director or the executive
 143 director's designee. For every change that decreases the
 144 assessed or taxable value of a parcel on an assessment roll
 145 between the time of complete submission of the tax roll pursuant
 146 to s. 193.1142(3) and mailing of the notice provided for in s.
 147 200.069, the property appraiser shall document the reason for
 148 such change in the public records of the office of the property
 149 appraiser in a manner acceptable to the executive director or
 150 the executive director's designee. Changes made by the value
 151 adjustment board are not subject to the requirements of this
 152 subsection.

153 (5)~~(6)~~ For proprietary purposes, including the furnishing
 154 or sale of copies of the tax roll under s. 119.07(1), the
 155 property appraiser is the custodian of the tax roll and the
 156 copies of it which are maintained by any state agency. The
 157 department or any state or local agency may use copies of the
 158 tax roll received by it for official purposes and shall permit
 159 inspection and examination thereof under s. 119.07(1), but is
 160 not required to furnish copies of the records. A social security
 161 number submitted under s. 196.011(1) is confidential and exempt

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162 from s. 24(a), Art. I of the State Constitution and the
 163 provisions of s. 119.07(1). A copy of documents containing the
 164 numbers furnished or sold by the property appraiser, except a
 165 copy furnished to the department, or a copy of documents
 166 containing social security numbers provided by the department or
 167 any state or local agency for inspection or examination by the
 168 public, must exclude those social security numbers.

169 Section 8. Subsection (9) of section 196.015, Florida
 170 Statutes, is amended to read:

171 196.015 Permanent residency; factual determination by
 172 property appraiser.--Intention to establish a permanent
 173 residence in this state is a factual determination to be made,
 174 in the first instance, by the property appraiser. Although any
 175 one factor is not conclusive of the establishment or
 176 nonestablishment of permanent residence, the following are
 177 relevant factors that may be considered by the property
 178 appraiser in making his or her determination as to the intent of
 179 a person claiming a homestead exemption to establish a permanent
 180 residence in this state:

181 ~~(9) The previous filing of Florida intangible tax returns~~
 182 ~~by the applicant.~~

183 Section 9. Paragraph (b) of subsection (2) of section
 184 196.199, Florida Statutes, is amended to read:

185 196.199 Government property exemption.--

186 (2) Property owned by the following governmental units but
 187 used by nongovernmental lessees shall only be exempt from
 188 taxation under the following conditions:

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189 (b) Except as provided in paragraph (c), the exemption
 190 provided by this subsection shall not apply to those portions of
 191 a leasehold or other possessory interest in real property,
 192 except for any leasehold or other possessory interest described
 193 in s. 4(a), Art. VII of the State Constitution or subsection
 194 (7), owned by the United States, the state, any political
 195 subdivision of the state, any municipality of the state, or any
 196 agency, authority, and other public body corporate of the state,
 197 which are undeveloped or predominantly used for residential or
 198 commercial purposes and upon which rental payments are due
 199 ~~defined by s. 199.023(1)(d),~~ subject to the provisions of
 200 subsection (7). ~~Such leasehold or other interest shall be taxed~~
 201 ~~only as intangible personal property pursuant to chapter 199 if~~
 202 ~~rental payments are due in consideration of such leasehold or~~
 203 ~~other interest.~~ If no rental payments are due pursuant to the
 204 agreement creating such leasehold or other interest, the
 205 leasehold or other interest shall be taxed as real property.
 206 Nothing in this paragraph shall be deemed to exempt personal
 207 property, buildings, or other real property improvements owned
 208 by the lessee from ad valorem taxation.

209 Section 10. Section 196.1993, Florida Statutes, is amended
 210 to read:

211 196.1993 Certain agreements with local governments for use
 212 of public property; exemption.--Any agreement entered into with
 213 a local governmental authority prior to January 1, 1969, for use
 214 of public property, under which it was understood and agreed in
 215 a written instrument or by special act that no ad valorem real
 216 property taxes would be paid by the licensee or lessee, shall be

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217 | deemed a license or management agreement for the use or
 218 | management of public property. Such interest shall be deemed not
 219 | to convey an interest in the property and shall not be subject
 220 | to ad valorem real property taxation. Nothing in this section
 221 | shall be deemed to exempt such licensee from the ~~ad valorem~~
 222 | ~~intangible tax and the~~ ad valorem personal property tax.

223 | Section 11. Subsection (2) of section 199.133, Florida
 224 | Statutes, is amended to read:

225 | 199.133 Levy of nonrecurring tax; ~~relationship to annual~~
 226 | ~~tax.~~--

227 | (2) The nonrecurring tax shall apply to a note, bond, or
 228 | other obligation for payment of money only to the extent it is
 229 | secured by mortgage, deed of trust, or other lien upon real
 230 | property situated in this state. Where a note, bond, or other
 231 | obligation is secured by personal property or by real property
 232 | situated outside this state, as well as by mortgage, deed of
 233 | trust, or other lien upon real property situated in this state,
 234 | then the nonrecurring tax shall apply to that portion of the
 235 | note, bond, or other obligation which bears the same ratio to
 236 | the entire principal balance of the note, bond, or other
 237 | obligation as the value of the real property situated in this
 238 | state bears to the value of all of the security; however, if the
 239 | security is solely made up of personal property and real
 240 | property situated in this state, the taxpayer may elect to
 241 | apportion the taxes based upon the value of the collateral, if
 242 | any, to which the taxpayer by law or contract must look first
 243 | for collection. In no event shall the portion of the note, bond,
 244 | or other obligation which is subject to the nonrecurring tax

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245 | exceed in value the value of the real property situated in this
 246 | state which is the security. ~~The portion of a note, bond, or~~
 247 | ~~other obligation which is not subject to the nonrecurring tax~~
 248 | ~~shall be subject to the annual tax unless otherwise exempt.~~

249 | Section 12. Subsections (1), (3), and (4) of section
 250 | 199.183, Florida Statutes, are amended to read:

251 | 199.183 Taxpayers exempt from ~~annual and~~ nonrecurring
 252 | taxes.--

253 | (1) Intangible personal property owned by this state or
 254 | any of its political subdivisions or municipalities shall be
 255 | exempt from taxation under this chapter. This exemption does not
 256 | apply to:

257 | ~~(a) Any leasehold or other interest that is described in~~
 258 | ~~s. 199.023(1)(d).~~

259 | ~~(b)~~ property related to the provision of two-way
 260 | telecommunications services to the public for hire by the use of
 261 | a telecommunications facility, as defined in s. 364.02(14), and
 262 | for which a certificate is required under chapter 364, when such
 263 | service is provided by any county, municipality, or other
 264 | political subdivision of the state. Any immunity of any
 265 | political subdivision of the state or other entity of local
 266 | government from taxation of the property used to provide
 267 | telecommunication services that is taxed as a result of this
 268 | paragraph is hereby waived. However, intangible personal
 269 | property related to the provision of such telecommunications
 270 | services provided by the operator of a public-use airport, as
 271 | defined in s. 332.004, for the operator's provision of
 272 | telecommunications services for the airport or its tenants,

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273 concessionaires, or licensees, and intangible personal property
274 related to the provision of such telecommunications services
275 provided by a public hospital, are exempt from taxation under
276 this chapter.

277 ~~(3) Every national bank having its principal place of~~
278 ~~business in another state, but operating a credit card credit~~
279 ~~application processing, customer service, or collection~~
280 ~~operation in this state, that is not considered a bank under the~~
281 ~~provisions of 12 U.S.C. s. 1841(c)(2)(F), is exempt from paying~~
282 ~~the tax imposed by this chapter on credit card receivables owed~~
283 ~~to the bank by credit card holders domiciled outside this state.~~

284 ~~(4) Intangible personal property that is owned, managed,~~
285 ~~or controlled by a trustee of a trust is exempt from annual tax~~
286 ~~under this chapter. This exemption does not exempt from annual~~
287 ~~tax a resident of this state who has a taxable beneficial~~
288 ~~interest, as defined in s. 199.023, in a trust.~~

289 Section 13. Section 199.218, Florida Statutes, is amended
290 to read:

291 199.218 Books and records.--

292 ~~(1)~~ Each taxpayer shall retain all books and other records
293 necessary to identify the taxpayer's intangible personal
294 property and to determine any tax due under this chapter, as
295 well as all books and other records otherwise required by rule
296 of the department with respect to any such tax, until the
297 department's power to make an assessment with respect to such
298 tax has terminated under s. 95.091(3).

299 ~~(2) Each broker subject to the provisions of s. 199.062~~
300 ~~shall preserve all books and other records relating to the~~

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301 ~~information reported under s. 199.062 or otherwise required by~~
 302 ~~rule of the department for a period of 3 years from the due date~~
 303 ~~of the report.~~

304 Section 14. Paragraph (a) of subsection (1) and subsection
 305 (3) of section 199.232, Florida Statutes, are amended to read:

306 199.232 Powers of department.--

307 (1)(a) The department may audit the books and records of
 308 any person to determine whether ~~an annual tax or~~ a nonrecurring
 309 tax has been properly paid.

310 (3) With or without an audit, the department may assess
 311 any tax deficiency resulting from nonpayment or underpayment of
 312 the tax, as well as any applicable interest and penalties. The
 313 department shall assess on the basis of the best information
 314 available to it, including estimates based on the best
 315 information available to it if the taxpayer fails to permit
 316 inspection of the taxpayer's records, ~~fails to file an annual~~
 317 ~~return,~~ files a grossly incorrect return, or files a false and
 318 fraudulent return.

319 Section 15. Subsections (2), (3), (4), (6), and (8) of
 320 section 199.282, Florida Statutes, are amended, and subsections
 321 (5), (7), and (9) of said section are renumbered as subsections
 322 (4), (5), and (7), respectively, to read:

323 199.282 Penalties for violation of this chapter.--

324 (2) If any ~~annual or~~ nonrecurring tax is not paid by the
 325 statutory due date, then despite any extension granted under s.
 326 199.232(6), interest shall run on the unpaid balance from such
 327 due date until paid at the rate of 12 percent per year.

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328 (3)(a) If any ~~annual or~~ nonrecurring tax is not paid by
329 the due date, a delinquency penalty shall be charged. The
330 delinquency penalty shall be 10 percent of the delinquent tax
331 for each calendar month or portion thereof from the due date
332 until paid, up to a limit of 50 percent of the total tax not
333 timely paid.

334 ~~(b) If any annual tax return required by this chapter is~~
335 ~~not filed by the due date, a penalty of 10 percent of the tax~~
336 ~~due with the return shall be charged for each calendar month or~~
337 ~~portion thereof during which the return remains unfiled, up to a~~
338 ~~limit of 50 percent of the total tax due.~~

339
340 ~~For any penalty assessed under this subsection, the combined~~
341 ~~total for all penalties assessed under paragraphs (a) and (b)~~
342 ~~shall not exceed 10 percent per calendar month, up to a limit of~~
343 ~~50 percent of the total tax due.~~

344 ~~(4) If an annual tax return is filed and property is~~
345 ~~either omitted from it or undervalued, then a specific penalty~~
346 ~~shall be charged. The specific penalty shall be 10 percent of~~
347 ~~the tax attributable to each omitted item or to each~~
348 ~~undervaluation. No delinquency or late filing penalty shall be~~
349 ~~charged with respect to any undervaluation.~~

350 ~~(6) Late reporting penalties shall be imposed as follows:~~

351 ~~(a) A penalty of \$100 upon any corporation that does not~~
352 ~~timely file a written notice required under s. 199.057(2)(c).~~

353 ~~(b) An initial penalty of \$10 per customer position~~
354 ~~statement, plus an additional penalty of the greater of 1~~
355 ~~percent of the initial penalty or \$50 for each month or portion~~

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356 ~~of a month, from the date due until filing is made, upon any~~
 357 ~~security dealer or investment adviser who does not timely file~~
 358 ~~or fails to file the statements required by s. 199.062(1). The~~
 359 ~~submission of a position statement that does not comply with the~~
 360 ~~department's specifications and instructions or the submission~~
 361 ~~of an inaccurate position statement is not a timely filing. The~~
 362 ~~department shall notify any security dealer or investment~~
 363 ~~adviser who fails to timely file the required statements. The~~
 364 ~~minimum penalty imposed upon a security dealer or investment~~
 365 ~~adviser under this paragraph is \$100.~~

366 (6)(8) Any person who fails or refuses to ~~file an annual~~
 367 ~~return, or who fails or refuses to~~ make records available for
 368 inspection, when requested to do so by the department is guilty
 369 of a misdemeanor of the first degree, punishable as provided in
 370 s. 775.082 or s. 775.083.

371 Section 16. Section 199.292, Florida Statutes, is amended
 372 to read:

373 199.292 Disposition of intangible personal property
 374 taxes.--All intangible personal property taxes collected
 375 pursuant to this chapter, ~~except for revenues derived from the~~
 376 ~~annual tax on a leasehold described in s. 199.023(1)(d),~~ shall
 377 be deposited into the General Revenue Fund. ~~Revenues derived~~
 378 ~~from the annual tax on a leasehold described in s. 199.023(1)(d)~~
 379 ~~shall be returned to the local school board for the county in~~
 380 ~~which the property subject to the leasehold is situated.~~

381 Section 17. Subsection (3) is added to section 199.303,
 382 Florida Statutes, to read:

383 199.303 Declaration of legislative intent.--

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384 (3) It is hereby declared to be the specific intent of the
 385 Legislature that all annual intangible personal property taxes
 386 imposed as provided by law for calendar years 2005 and prior
 387 shall remain in full force and effect during the period
 388 specified by s. 95.091 for the year in which the tax was due. It
 389 is further the intent of the Legislature that the department
 390 continue to assess and collect all taxes due to the state under
 391 such provisions for all periods available for assessment, as
 392 provided for the year in which tax was due by s. 95.091.

393 Section 18. Subsection (4) of section 201.23, Florida
 394 Statutes, is amended to read:

395 201.23 Foreign notes and other written obligations
 396 exempt.--

397 (4)(a) The excise taxes imposed by this chapter shall not
 398 apply to the documents, notes, evidences of indebtedness,
 399 financing statements, drafts, bills of exchange, or other
 400 taxable items dealt with, made, issued, drawn upon, accepted,
 401 delivered, shipped, received, signed, executed, assigned,
 402 transferred, or sold by or to a banking organization,~~as defined~~
 403 ~~in s. 199.023(9),~~ in the conduct of an international banking
 404 transaction,~~as defined in s. 199.023(11).~~ Nothing in this
 405 subsection shall be construed to change the application of
 406 paragraph (2)(a).

407 (b) For purposes of this subsection:

408 1. "Banking organization" means:

409 a. A bank organized and existing under the laws of this
 410 the state;

411 b. A national bank organized and existing pursuant to the
 412 provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.,
 413 and maintaining its principal office in this state;

414 c. An Edge Act corporation organized pursuant to the
 415 provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss.
 416 611 et seq., and maintaining an office in this state;

417 d. An international bank agency licensed pursuant to the
 418 laws of this state;

419 e. A federal agency licensed pursuant to ss. 4 and 5 of
 420 the International Banking Act of 1978 to maintain an office in
 421 this state;

422 f. A savings association organized and existing under the
 423 laws of this state;

424 g. A federal association organized and existing pursuant
 425 to the provisions of the Home Owners' Loan Act of 1933, 12
 426 U.S.C. ss. 1461 et seq., and maintaining its principal office in
 427 this state; or

428 h. A Florida export finance corporation organized and
 429 existing pursuant to the provisions of part V of chapter 288.

430 2. "International banking transaction" means:

431 a. The financing of the exportation from, or the
 432 importation into, the United States or between jurisdictions
 433 abroad of tangible personal property or services;

434 b. The financing of the production, preparation, storage,
 435 or transportation of tangible personal property or services
 436 which are identifiable as being directly and solely for export
 437 from, or import into, the United States or between jurisdictions
 438 abroad;

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439 c. The financing of contracts, projects, or activities to
 440 be performed substantially abroad, except those transactions
 441 secured by a mortgage, deed of trust, or other lien upon real
 442 property located in the state;

443 d. The receipt of deposits or borrowings or the extensions
 444 of credit by an international banking facility, except the loan
 445 or deposit of funds secured by mortgage, deed of trust, or other
 446 lien upon real property located in the state; or

447 e. Entering into foreign exchange trading or hedging
 448 transactions in connection with the activities described in sub-
 449 subparagraph d.

450 Section 19. Subsection (19) of section 212.02, Florida
 451 Statutes, is amended to read:

452 212.02 Definitions.--The following terms and phrases when
 453 used in this chapter have the meanings ascribed to them in this
 454 section, except where the context clearly indicates a different
 455 meaning:

456 (19) "Tangible personal property" means and includes
 457 personal property which may be seen, weighed, measured, or
 458 touched or is in any manner perceptible to the senses, including
 459 electric power or energy, boats, motor vehicles and mobile homes
 460 as defined in s. 320.01(1) and (2), aircraft as defined in s.
 461 330.27, and all other types of vehicles. The term "tangible
 462 personal property" does not include stocks, bonds, notes,
 463 insurance, or other obligations or securities; ~~intangibles as~~
 464 ~~defined by the intangible tax law of the state;~~ or pari-mutuel
 465 tickets sold or issued under the racing laws of the state.

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466 Section 20. Paragraph (p) of subsection (7) and paragraph
467 (a) of subsection (14) of section 213.053, Florida Statutes, are
468 amended to read:

469 213.053 Confidentiality and information sharing.--

470 (7) Notwithstanding any other provision of this section,
471 the department may provide:

472 (p) Information relative to ss. ~~199.1055~~, 220.1845, and
473 376.30781 to the Department of Environmental Protection in the
474 conduct of its official business.

475
476 Disclosure of information under this subsection shall be
477 pursuant to a written agreement between the executive director
478 and the agency. Such agencies, governmental or nongovernmental,
479 shall be bound by the same requirements of confidentiality as
480 the Department of Revenue. Breach of confidentiality is a
481 misdemeanor of the first degree, punishable as provided by s.
482 775.082 or s. 775.083.

483 (14)(a) Notwithstanding any other provision of this
484 section, the department shall, subject to the safeguards
485 specified in paragraph (c), disclose to the Division of
486 Corporations of the Department of State the name, address,
487 federal employer identification number, and duration of tax
488 filings with this state of all corporate or partnership entities
489 which are not on file or have a dissolved status with the
490 Division of Corporations and which have filed tax returns
491 pursuant to ~~either chapter 199 or~~ chapter 220.

492 Section 21. Section 213.054, Florida Statutes, is amended
493 to read:

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494 213.054 Persons claiming tax exemptions or deductions;
495 annual report.--The Department of Revenue shall be responsible
496 for monitoring the utilization of ~~tax exemptions and tax~~
497 deductions authorized pursuant to chapter 81-179, Laws of
498 Florida. On or before September 1 of each year, the department
499 shall report to the Chief Financial Officer the names and
500 addresses of all persons who have claimed ~~an exemption pursuant~~
501 ~~to s. 199.185(1)(i) or~~ a deduction pursuant to s. 220.63(5).

502 Section 22. Section 213.27, Florida Statutes, is amended
503 to read:

504 213.27 Contracts with debt collection agencies and certain
505 vendors.--

506 (1) The Department of Revenue may, for the purpose of
507 collecting any delinquent taxes due from a taxpayer, including
508 taxes for which a bill or notice has been generated, contract
509 with any debt collection agency or attorney doing business
510 within or without this state for the collection of such
511 delinquent taxes including penalties and interest thereon. The
512 department may also share confidential information pursuant to
513 the contract necessary for the collection of delinquent taxes
514 and taxes for which a billing or notice has been generated.
515 Contracts will be made pursuant to chapter 287. The taxpayer
516 must be notified by mail by the department, its employees, or
517 its authorized representative 30 days prior to commencing any
518 litigation to recover any delinquent taxes. The taxpayer must be
519 notified by mail by the department 30 days prior to the
520 department assigning the collection of any taxes to the debt
521 collection agency.

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522 ~~(2) The department may enter into contracts with any~~
 523 ~~individual or business for the purpose of identifying intangible~~
 524 ~~personal property tax liability. Contracts may provide for the~~
 525 ~~identification of assets subject to the tax on intangible~~
 526 ~~personal property, the determination of value of such property,~~
 527 ~~the requirement for filing a tax return and the collection of~~
 528 ~~taxes due, including applicable penalties and interest thereon.~~
 529 ~~The department may share confidential information pursuant to~~
 530 ~~the contract necessary for the identification of taxable~~
 531 ~~intangible personal property. Contracts shall be made pursuant~~
 532 ~~to chapter 287. The taxpayer must be notified by mail by the~~
 533 ~~department 30 days prior to the department assigning~~
 534 ~~identification of intangible personal property to an individual~~
 535 ~~or business.~~

536 (2)~~(3)~~ Any contract may provide, in the discretion of the
 537 executive director of the Department of Revenue, the manner in
 538 which the compensation for such services will be paid. Under
 539 standards established by the department, such compensation shall
 540 be added to the amount of the tax and collected as a part
 541 thereof by the agency or deducted from the amount of tax,
 542 penalty, and interest actually collected.

543 (3)~~(4)~~ All funds collected under the terms of the
 544 contract, less the fees provided in the contract, shall be
 545 remitted to the department within 30 days from the date of
 546 collection from a taxpayer. Forms to be used for such purpose
 547 shall be prescribed by the department.

548 (4)~~(5)~~ The department shall require a bond from the debt
 549 collection agency ~~or the individual or business contracted with~~

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550 ~~under subsection (2)~~ not in excess of \$100,000 guaranteeing
 551 compliance with the terms of the contract. However, a bond of
 552 \$10,000 is required from a debt collection agency if the agency
 553 does not actually collect and remit delinquent funds to the
 554 department.

555 (5)~~(6)~~ The department may, for the purpose of ascertaining
 556 the amount of or collecting any taxes due from a person doing
 557 mail order business in this state, contract with any auditing
 558 agency doing business within or without this state for the
 559 purpose of conducting an audit of such mail order business;
 560 however, such audit agency may not conduct an audit on behalf of
 561 the department of any person domiciled in this state, person
 562 registered for sales and use tax purposes in this state, or
 563 corporation filing a Florida corporate tax return, if any such
 564 person or corporation objects to such audit in writing to the
 565 department and the auditing agency. The department shall notify
 566 the taxpayer by mail at least 30 days before the department
 567 assigns the collection of such taxes.

568 (6)~~(7)~~ Confidential information shared by the department
 569 with debt collection or auditing agencies ~~or individuals or~~
 570 ~~businesses with which the department has contracted under~~
 571 ~~subsection (2)~~ is exempt from the provisions of s. 119.07(1),
 572 and debt collection or auditing agencies ~~and individuals or~~
 573 ~~businesses with which the department has contracted under~~
 574 ~~subsection (2)~~ shall be bound by the same requirements of
 575 confidentiality as the Department of Revenue. Breach of
 576 confidentiality is a misdemeanor of the first degree, punishable
 577 as provided by ss. 775.082 and 775.083.

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578 ~~(7)~~(8)(a) The executive director of the department may
579 enter into contracts with private vendors to develop and
580 implement systems to enhance tax collections where compensation
581 to the vendors is funded through increased tax collections. The
582 amount of compensation paid to a vendor shall be based on a
583 percentage of increased tax collections attributable to the
584 system after all administrative and judicial appeals are
585 exhausted, and the total amount of compensation paid to a vendor
586 shall not exceed the maximum amount stated in the contract.

587 (b) A person acting on behalf of the department under a
588 contract authorized by this subsection does not exercise any of
589 the powers of the department, except that the person is an agent
590 of the department for the purposes of developing and
591 implementing a system to enhance tax collection.

592 (c) Disclosure of information under this subsection shall
593 be pursuant to a written agreement between the executive
594 director and the private vendors. The vendors shall be bound by
595 the same requirements of confidentiality as the department.
596 Breach of confidentiality is a misdemeanor of the first degree,
597 punishable as provided in s. 775.082 or s. 775.083.

598 Section 23. Subsection (1) and paragraphs (b) and (c) of
599 subsection (3) of section 220.1845, Florida Statutes, are
600 amended to read:

601 220.1845 Contaminated site rehabilitation tax credit.--

602 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

603 (a) A credit in the amount of 35 percent of the costs of
604 voluntary cleanup activity that is integral to site

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605 rehabilitation at the following sites is available against any
606 tax due for a taxable year under this chapter:

607 1. A drycleaning-solvent-contaminated site eligible for
608 state-funded site rehabilitation under s. 376.3078(3);

609 2. A drycleaning-solvent-contaminated site at which
610 cleanup is undertaken by the real property owner pursuant to s.
611 376.3078(11), if the real property owner is not also, and has
612 never been, the owner or operator of the drycleaning facility
613 where the contamination exists; or

614 3. A brownfield site in a designated brownfield area under
615 s. 376.80.

616 (b) A tax credit applicant, or multiple tax credit
617 applicants working jointly to clean up a single site, may not be
618 granted more than \$250,000 per year in tax credits for each site
619 voluntarily rehabilitated. Multiple tax credit applicants shall
620 be granted tax credits in the same proportion as their
621 contribution to payment of cleanup costs. Subject to the same
622 conditions and limitations as provided in this section, a
623 municipality, county, or other tax credit applicant which
624 voluntarily rehabilitates a site may receive not more than
625 \$250,000 per year in tax credits which it can subsequently
626 transfer subject to the provisions in paragraph (g)~~(h)~~.

627 (c) If the credit granted under this section is not fully
628 used in any one year because of insufficient tax liability on
629 the part of the corporation, the unused amount may be carried
630 forward for a period not to exceed 5 years. The carryover credit
631 may be used in a subsequent year when the tax imposed by this
632 chapter for that year exceeds the credit for which the

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633 corporation is eligible in that year under this section after
 634 applying the other credits and unused carryovers in the order
 635 provided by s. 220.02(8). Five years after the date a credit is
 636 granted under this section, such credit expires and may not be
 637 used. However, if during the 5-year period the credit is
 638 transferred, in whole or in part, pursuant to paragraph (g)~~(h)~~,
 639 each transferee has 5 years after the date of transfer to use
 640 its credit.

641 (d) A taxpayer that files a consolidated return in this
 642 state as a member of an affiliated group under s. 220.131(1) may
 643 be allowed the credit on a consolidated return basis up to the
 644 amount of tax imposed upon the consolidated group.

645 ~~(e) A taxpayer that receives credit under s. 199.1055 is~~
 646 ~~ineligible to receive credit under this section in a given tax~~
 647 ~~year.~~

648 (e)~~(f)~~ A tax credit applicant that receives state-funded
 649 site rehabilitation under s. 376.3078(3) for rehabilitation of a
 650 drycleaning-solvent-contaminated site is ineligible to receive
 651 credit under this section for costs incurred by the tax credit
 652 applicant in conjunction with the rehabilitation of that site
 653 during the same time period that state-administered site
 654 rehabilitation was underway.

655 (f)~~(g)~~ The total amount of the tax credits which may be
 656 granted under this section ~~and s. 199.1055~~ is \$2 million
 657 annually.

658 (g)~~(h)~~1. Tax credits that may be available under this
 659 section to an entity eligible under s. 376.30781 may be
 660 transferred after a merger or acquisition to the surviving or

661 acquiring entity and used in the same manner and with the same
662 limitations.

663 2. The entity or its surviving or acquiring entity as
664 described in subparagraph 1., may transfer any unused credit in
665 whole or in units of no less than 25 percent of the remaining
666 credit. The entity acquiring such credit may use it in the same
667 manner and with the same limitation as described in this
668 section. Such transferred credits may not be transferred again
669 although they may succeed to a surviving or acquiring entity
670 subject to the same conditions and limitations as described in
671 this section.

672 3. In the event the credit provided for under this section
673 is reduced either as a result of a determination by the
674 Department of Environmental Protection or an examination or
675 audit by the Department of Revenue, such tax deficiency shall be
676 recovered from the first entity, or the surviving or acquiring
677 entity, to have claimed such credit up to the amount of credit
678 taken. Any subsequent deficiencies shall be assessed against any
679 entity acquiring and claiming such credit, or in the case of
680 multiple succeeding entities in the order of credit succession.

681 (h)(i) In order to encourage completion of site
682 rehabilitation at contaminated sites being voluntarily cleaned
683 up and eligible for a tax credit under this section, the tax
684 credit applicant may claim an additional 10 percent of the total
685 cleanup costs, not to exceed \$50,000, in the final year of
686 cleanup as evidenced by the Department of Environmental
687 Protection issuing a "No Further Action" order for that site.

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688 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
689 FORFEITURE.--

690 (b) In addition to its existing audit and investigation
691 authority relating to ~~chapter 199~~ and this chapter, the
692 Department of Revenue may perform any additional financial and
693 technical audits and investigations, including examining the
694 accounts, books, or records of the tax credit applicant, which
695 are necessary to verify the site rehabilitation costs included
696 in a tax credit return and to ensure compliance with this
697 section. The Department of Environmental Protection shall
698 provide technical assistance, when requested by the Department
699 of Revenue, on any technical audits performed pursuant to this
700 section.

701 (c) It is grounds for forfeiture of previously claimed and
702 received tax credits if the Department of Revenue determines, as
703 a result of either an audit or information received from the
704 Department of Environmental Protection, that a taxpayer received
705 tax credits pursuant to this section to which the taxpayer was
706 not entitled. In the case of fraud, the taxpayer shall be
707 prohibited from claiming any future tax credits under this
708 section ~~or s. 199.1055~~.

709 1. The taxpayer is responsible for returning forfeited tax
710 credits to the Department of Revenue, and such funds shall be
711 paid into the General Revenue Fund of the state.

712 2. The taxpayer shall file with the Department of Revenue
713 an amended tax return or such other report as the Department of
714 Revenue prescribes by rule and shall pay any required tax within
715 60 days after the taxpayer receives notification from the

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716 Department of Environmental Protection pursuant to s. 376.30781
 717 that previously approved tax credits have been revoked or
 718 modified, if uncontested, or within 60 days after a final order
 719 is issued following proceedings involving a contested revocation
 720 or modification order.

721 3. A notice of deficiency may be issued by the Department
 722 of Revenue at any time within 5 years after the date the
 723 taxpayer receives notification from the Department of
 724 Environmental Protection pursuant to s. 376.30781 that
 725 previously approved tax credits have been revoked or modified.
 726 If a taxpayer fails to notify the Department of Revenue of any
 727 change in its tax credit claimed, a notice of deficiency may be
 728 issued at any time. In either case, the amount of any proposed
 729 assessment set forth in such notice of deficiency shall be
 730 limited to the amount of any deficiency resulting under this
 731 section from the recomputation of the taxpayer's tax for the
 732 taxable year.

733 4. Any taxpayer that fails to report and timely pay any
 734 tax due as a result of the forfeiture of its tax credit is in
 735 violation of this section and is subject to applicable penalty
 736 and interest.

737 Section 24. Paragraph (a) of subsection (2) and
 738 subsections (3), (8), and (12) of section 376.30781, Florida
 739 Statutes, are amended to read:

740 376.30781 Partial tax credits for rehabilitation of
 741 drycleaning-solvent-contaminated sites and brownfield sites in
 742 designated brownfield areas; application process; rulemaking
 743 authority; revocation authority.--

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744 (2)(a) A credit in the amount of 35 percent of the costs
745 of voluntary cleanup activity that is integral to site
746 rehabilitation at the following sites is allowed pursuant to s.
747 ~~ss. 199.1055 and~~ 220.1845:

748 1. A drycleaning-solvent-contaminated site eligible for
749 state-funded site rehabilitation under s. 376.3078(3);

750 2. A drycleaning-solvent-contaminated site at which
751 cleanup is undertaken by the real property owner pursuant to s.
752 376.3078(11), if the real property owner is not also, and has
753 never been, the owner or operator of the drycleaning facility
754 where the contamination exists; or

755 3. A brownfield site in a designated brownfield area under
756 s. 376.80.

757 (3) The Department of Environmental Protection shall be
758 responsible for allocating the tax credits provided for in s.
759 ~~ss. 199.1055 and~~ 220.1845, not to exceed a total of \$2 million
760 in tax credits annually.

761 (8) On or before March 1, the Department of Environmental
762 Protection shall inform each eligible tax credit applicant of
763 the amount of its partial tax credit and provide each eligible
764 tax credit applicant with a tax credit certificate that must be
765 submitted with its tax return to the Department of Revenue to
766 claim the tax credit or be transferred pursuant to ~~s.~~
767 ~~199.1055(1)(g) or~~ s. 220.1845(1)(h). Credits will not result in
768 the payment of refunds if total credits exceed the amount of tax
769 owed.

770 (12) A tax credit applicant who receives state-funded site
771 rehabilitation under s. 376.3078(3) for rehabilitation of a

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772 drycleaning-solvent-contaminated site is ineligible to receive a
 773 tax credit under ~~s. 199.1055~~ or s. 220.1845 for costs incurred
 774 by the tax credit applicant in conjunction with the
 775 rehabilitation of that site during the same time period that
 776 state-administered site rehabilitation was underway.

777 Section 25. Subsection (13) of section 493.6102, Florida
 778 Statutes, is amended to read:

779 493.6102 Inapplicability of this chapter.--This chapter
 780 shall not apply to:

781 (13) Any individual employed as a security officer by a
 782 church or ecclesiastical or denominational organization having
 783 an established physical place of worship in this state at which
 784 nonprofit religious services and activities are regularly
 785 conducted or by a church cemetery ~~religious institution as~~
 786 ~~defined in s. 199.183(2)(a)~~ to provide security on the
 787 ~~institution~~ property of the organization or cemetery, and who
 788 does not carry a firearm in the course of her or his duties.

789 Section 26. Paragraph (a) of subsection (3) of section
 790 516.031, Florida Statutes, is amended to read:

791 516.031 Finance charge; maximum rates.--

792 (3) OTHER CHARGES.--

793 (a) In addition to the interest, delinquency, and
 794 insurance charges herein provided for, no further or other
 795 charges or amount whatsoever for any examination, service,
 796 commission, or other thing or otherwise shall be directly or
 797 indirectly charged, contracted for, or received as a condition
 798 to the grant of a loan, except:

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799 | 1. An amount not to exceed \$10 to reimburse a portion of
800 | the costs for investigating the character and credit of the
801 | person applying for the loan;

802 | 2. An annual fee of \$25 on the anniversary date of each
803 | line-of-credit account;

804 | 3. Charges paid for brokerage fee on a loan or line of
805 | credit of more than \$10,000, title insurance, and the appraisal
806 | of real property offered as security when paid to a third party
807 | and supported by an actual expenditure;

808 | ~~4. Intangible personal property tax on the loan note or~~
809 | ~~obligation when secured by a lien on real property;~~

810 | 4.5. The documentary excise tax and lawful fees, if any,
811 | actually and necessarily paid out by the licensee to any public
812 | officer for filing, recording, or releasing in any public office
813 | any instrument securing the loan, which fees may be collected
814 | when the loan is made or at any time thereafter;

815 | ~~5.6.~~ The premium payable for any insurance in lieu of
816 | perfecting any security interest otherwise required by the
817 | licensee in connection with the loan, if the premium does not
818 | exceed the fees which would otherwise be payable, which premium
819 | may be collected when the loan is made or at any time
820 | thereafter;

821 | ~~6.7.~~ Actual and reasonable attorney's fees and court costs
822 | as determined by the court in which suit is filed;

823 | ~~7.8.~~ Actual and commercially reasonable expenses of
824 | repossession, storing, repairing and placing in condition for
825 | sale, and selling of any property pledged as security; or

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826 8.9. A delinquency charge not to exceed \$10 for each
827 payment in default for a period of not less than 10 days, if the
828 charge is agreed upon, in writing, between the parties before
829 imposing the charge.

830
831 Any charges, including interest, in excess of the combined total
832 of all charges authorized and permitted by this chapter
833 constitute a violation of chapter 687 governing interest and
834 usury, and the penalties of that chapter apply. In the event of
835 a bona fide error, the licensee shall refund or credit the
836 borrower with the amount of the overcharge immediately but
837 within 20 days from the discovery of such error.

838 Section 27. Paragraph (b) of subsection (4) of section
839 650.05, Florida Statutes, is amended to read:

840 650.05 Plans for coverage of employees of political
841 subdivisions.--

842 (4)

843 (b) The grants-in-aid and other revenue referred to in
844 paragraph (a) specifically include, but are not limited to,
845 minimum foundation program grants to public school districts and
846 community colleges; gasoline, motor fuel, ~~intangible~~, cigarette,
847 racing, and insurance premium taxes distributed to political
848 subdivisions; and amounts specifically appropriated as grants-
849 in-aid for mental health, mental retardation, and mosquito
850 control programs.

851 Section 28. Subsection (1) of section 655.071, Florida
852 Statutes, is amended to read:

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853 655.071 International banking facilities; definitions;
854 notice before establishment.--

855 (1) "International banking facility" means a set of asset
856 and liability accounts segregated on the books and records of a
857 banking organization, as that term is defined in s. 201.23
858 ~~199.023~~, that includes only international banking facility
859 deposits, borrowings, and extensions of credit, as those terms
860 shall be defined by the commission pursuant to subsection (2).

861 Section 29. Effective January 1, 2008, subsections (5) and
862 (6) of section 733.702, Florida Statutes, are amended to read:

863 733.702 Limitations on presentation of claims.--

864 ~~(5) The Department of Revenue may file a claim against the~~
865 ~~estate of a decedent for taxes due under chapter 199 after the~~
866 ~~expiration of the time for filing claims provided in subsection~~
867 ~~(1), if the department files its claim within 30 days after the~~
868 ~~service of the inventory. Upon filing of the estate tax return~~
869 ~~with the department as provided in s. 198.13, or to the extent~~
870 ~~the inventory or estate tax return is amended or supplemented,~~
871 ~~the department has the right to file a claim or to amend its~~
872 ~~previously filed claim within 30 days after service of the~~
873 ~~estate tax return, or an amended or supplemented inventory or~~
874 ~~filing of an amended or supplemental estate tax return, as to~~
875 ~~the additional information disclosed.~~

876 (5)(6) Nothing in this section shall extend the
877 limitations period set forth in s. 733.710.

878 Section 30. Effective upon this act becoming a law, the
879 executive director of the Department of Revenue may adopt
880 emergency rules under ss. 120.536(1) and 120.54, Florida

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881 Statutes, to implement chapter 199, Florida Statutes, and all
882 conditions are deemed met for the adoption of such rules.
883 Notwithstanding any other provision of law, such emergency rules
884 shall remain effective for 6 months after the date of adoption
885 and may be renewed during the pendency of procedures to adopt
886 rules addressing the subject of the emergency rules.

887 Section 31. Except as otherwise provided herein, this act
888 shall take effect January 1, 2006.