

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, 199.133, 199.183, 199.218,
15 199.232, 199.282, 199.292, 212.02, 213.053, 213.054,
16 213.27, 220.1845, 376.30781, 493.6102, 650.05, 655.071,
17 and 733.702, F.S., to conform provisions to the repeal of
18 the annual intangible personal property tax; providing for
19 application of certain collection, administration, and
20 enforcement provisions to taxation of certain leaseholds;
21 authorizing the Department of Revenue to adopt emergency
22 implementing rules for a certain time; providing effective
23 dates.

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

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199.033, 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106, 199.175, and 199.185, Florida Statutes, are repealed.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

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

64 (4) THE RIGHT TO CONFIDENTIALITY.--

65 (a) The right to have information kept confidential,
 66 including federal tax information, ad valorem tax returns,
 67 social security numbers, all financial records produced by the
 68 taxpayer, Form DR-219 returns for documentary stamp tax
 69 information, and sworn statements of gross income, copies of
 70 federal income tax returns for the prior year, wage and earnings
 71 statements (W-2 forms), and other documents (see ss. 192.105,
 72 193.074, 193.114(5)~~(6)~~, 195.027(3) and (6), and 196.101(4)(c)).

73 Section 4. Subsections (5), (6), and (7) of section
 74 192.032, Florida Statutes, are amended to read:

75 192.032 Situs of property for assessment purposes.--All
 76 property shall be assessed according to its situs as follows:

77 ~~(5) Intangible personal property, according to the rules~~
 78 ~~laid down in chapter 199.~~

79 (5)~~(6)~~(a) Notwithstanding the provisions of subsection
80 (2), personal property used as a marine cargo container in the
81 conduct of foreign or interstate commerce shall not be deemed to
82 have acquired a taxable situs within a county when the property
83 is temporarily halted or stored within the state for a period
84 not exceeding 180 days.

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

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

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

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107 | 192.042 Date of assessment.--All property shall be
108 | assessed according to its just value as follows:

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

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

113 | 192.091 Commissions of property appraisers and tax
114 | collectors.--

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

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

133 | Section 7. Subsections (4), (5), and (6) of section
134 | 193.114, Florida Statutes, are amended to read:

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135 193.114 Preparation of assessment rolls.--

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

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

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

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163 | number submitted under s. 196.011(1) is confidential and exempt
 164 | from s. 24(a), Art. I of the State Constitution and the
 165 | provisions of s. 119.07(1). A copy of documents containing the
 166 | numbers furnished or sold by the property appraiser, except a
 167 | copy furnished to the department, or a copy of documents
 168 | containing social security numbers provided by the department or
 169 | any state or local agency for inspection or examination by the
 170 | public, must exclude those social security numbers.

171 | Section 8. Subsection (9) of section 196.015, Florida
 172 | Statutes, is amended to read:

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

183 | ~~(9) The previous filing of Florida intangible tax returns~~
 184 | ~~by the applicant.~~

185 | Section 9. Paragraph (b) of subsection (2) of section
 186 | 196.199, Florida Statutes, is amended to read:

187 | 196.199 Government property exemption.--

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

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191 (b) Except as provided in paragraph (c), the exemption
 192 provided by this subsection shall not apply to those portions of
 193 a leasehold or other interest defined by s. 199.023(1)(d),
 194 Florida Statutes 2005, subject to the provisions of subsection
 195 (7). Such leasehold or other interest shall be taxed only as
 196 intangible personal property pursuant to chapter 199, Florida
 197 Statutes 2005, if rental payments are due in consideration of
 198 such leasehold or other interest. All applicable collection,
 199 administration, and enforcement provisions of chapter 199,
 200 Florida Statutes 2005, shall apply to taxation of such
 201 leaseholds. If no rental payments are due pursuant to the
 202 agreement creating such leasehold or other interest, the
 203 leasehold or other interest shall be taxed as real property.
 204 Nothing in this paragraph shall be deemed to exempt personal
 205 property, buildings, or other real property improvements owned
 206 by the lessee from ad valorem taxation.

207 Section 10. Subsection (2) of section 199.133, Florida
 208 Statutes, is amended to read:

209 199.133 Levy of nonrecurring tax; ~~relationship to annual~~
 210 ~~tax~~.--

211 (2) The nonrecurring tax shall apply to a note, bond, or
 212 other obligation for payment of money only to the extent it is
 213 secured by mortgage, deed of trust, or other lien upon real
 214 property situated in this state. Where a note, bond, or other
 215 obligation is secured by personal property or by real property
 216 situated outside this state, as well as by mortgage, deed of
 217 trust, or other lien upon real property situated in this state,
 218 then the nonrecurring tax shall apply to that portion of the

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219 | note, bond, or other obligation which bears the same ratio to
 220 | the entire principal balance of the note, bond, or other
 221 | obligation as the value of the real property situated in this
 222 | state bears to the value of all of the security; however, if the
 223 | security is solely made up of personal property and real
 224 | property situated in this state, the taxpayer may elect to
 225 | apportion the taxes based upon the value of the collateral, if
 226 | any, to which the taxpayer by law or contract must look first
 227 | for collection. In no event shall the portion of the note, bond,
 228 | or other obligation which is subject to the nonrecurring tax
 229 | exceed in value the value of the real property situated in this
 230 | state which is the security. ~~The portion of a note, bond, or~~
 231 | ~~other obligation which is not subject to the nonrecurring tax~~
 232 | ~~shall be subject to the annual tax unless otherwise exempt.~~

233 | Section 11. Subsections (1), (3), and (4) of section
 234 | 199.183, Florida Statutes, are amended to read:

235 | 199.183 Taxpayers exempt from ~~annual and~~ nonrecurring
 236 | taxes.--

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

241 | (a) Any leasehold or other interest that is described in
 242 | s. 199.023(1)(d), Florida Statutes 2005; or-

243 | (b) Property related to the provision of two-way
 244 | telecommunications services to the public for hire by the use of
 245 | a telecommunications facility, as defined in s. 364.02(15), and
 246 | for which a certificate is required under chapter 364, when the

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247 service is provided by any county, municipality, or other
 248 political subdivision of the state. Any immunity of any
 249 political subdivision of the state or other entity of local
 250 government from taxation of the property used to provide
 251 telecommunication services that is taxed as a result of this
 252 paragraph is hereby waived. However, intangible personal
 253 property related to the provision of telecommunications services
 254 provided by the operator of a public-use airport, as defined in
 255 s. 332.004, for the operator's provision of telecommunications
 256 services for the airport or its tenants, concessionaires, or
 257 licensees, and intangible personal property related to the
 258 provision of telecommunications services provided by a public
 259 hospital, are exempt from taxation under this chapter.

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

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

272 Section 12. Section 199.218, Florida Statutes, is amended
 273 to read:

274 199.218 Books and records.--

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275 ~~(1)~~ Each taxpayer shall retain all books and other records
 276 necessary to identify the taxpayer's intangible personal
 277 property and to determine any tax due under this chapter, as
 278 well as all books and other records otherwise required by rule
 279 of the department with respect to any such tax, until the
 280 department's power to make an assessment with respect to such
 281 tax has terminated under s. 95.091(3).

282 ~~(2) Each broker subject to the provisions of s. 199.062~~
 283 ~~shall preserve all books and other records relating to the~~
 284 ~~information reported under s. 199.062 or otherwise required by~~
 285 ~~rule of the department for a period of 3 years from the due date~~
 286 ~~of the report.~~

287 Section 13. Paragraph (a) of subsection (1) and subsection
 288 (3) of section 199.232, Florida Statutes, are amended to read:

289 199.232 Powers of department.--

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

293 (3) With or without an audit, the department may assess
 294 any tax deficiency resulting from nonpayment or underpayment of
 295 the tax, as well as any applicable interest and penalties. The
 296 department shall assess on the basis of the best information
 297 available to it, including estimates based on the best
 298 information available to it if the taxpayer fails to permit
 299 inspection of the taxpayer's records, ~~fails to file an annual~~
 300 ~~return,~~ files a grossly incorrect return, or files a false and
 301 fraudulent return.

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302 Section 14. Subsections (2), (3), (4), (6), and (8) of
 303 section 199.282, Florida Statutes, are amended, and subsections
 304 (5), (7), and (9) of that section are renumbered as subsections
 305 (4), (5), and (7), respectively, to read:

306 199.282 Penalties for violation of this chapter.--

307 (2) If any ~~annual or~~ nonrecurring tax is not paid by the
 308 statutory due date, then despite any extension granted under s.
 309 199.232(6), interest shall run on the unpaid balance from such
 310 due date until paid at the rate of 12 percent per year.

311 (3)(a) If any ~~annual or~~ nonrecurring tax is not paid by
 312 the due date, a delinquency penalty shall be charged. The
 313 delinquency penalty shall be 10 percent of the delinquent tax
 314 for each calendar month or portion thereof from the due date
 315 until paid, up to a limit of 50 percent of the total tax not
 316 timely paid.

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

322
 323 ~~For any penalty assessed under this subsection, the combined~~
 324 ~~total for all penalties assessed under paragraphs (a) and (b)~~
 325 ~~shall not exceed 10 percent per calendar month, up to a limit of~~
 326 ~~50 percent of the total tax due.~~

327 ~~(4) If an annual tax return is filed and property is~~
 328 ~~either omitted from it or undervalued, then a specific penalty~~
 329 ~~shall be charged. The specific penalty shall be 10 percent of~~

330 ~~the tax attributable to each omitted item or to each~~
 331 ~~undervaluation. No delinquency or late filing penalty shall be~~
 332 ~~charged with respect to any undervaluation.~~

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

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

336 ~~(b) An initial penalty of \$10 per customer position~~
 337 ~~statement, plus an additional penalty of the greater of 1~~
 338 ~~percent of the initial penalty or \$50 for each month or portion~~
 339 ~~of a month, from the date due until filing is made, upon any~~
 340 ~~security dealer or investment adviser who does not timely file~~
 341 ~~or fails to file the statements required by s. 199.062(1). The~~
 342 ~~submission of a position statement that does not comply with the~~
 343 ~~department's specifications and instructions or the submission~~
 344 ~~of an inaccurate position statement is not a timely filing. The~~
 345 ~~department shall notify any security dealer or investment~~
 346 ~~adviser who fails to timely file the required statements. The~~
 347 ~~minimum penalty imposed upon a security dealer or investment~~
 348 ~~adviser under this paragraph is \$100.~~

349 ~~(6)(8)~~ (8) Any person who fails or refuses to file an annual
 350 ~~return, or who fails or refuses to make records available for~~
 351 ~~inspection, when requested to do so by the department is guilty~~
 352 ~~of a misdemeanor of the first degree, punishable as provided in~~
 353 ~~s. 775.082 or s. 775.083.~~

354 Section 15. Section 199.292, Florida Statutes, is amended
 355 to read:

356 199.292 Disposition of intangible personal property
 357 taxes.--All intangible personal property taxes collected

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358 | pursuant to this chapter, except for revenues derived from the
 359 | annual tax on a leasehold described in s. 199.023(1)(d), Florida
 360 | Statutes 2005, shall be deposited into the General Revenue Fund.
 361 | Revenues derived from the annual tax on a leasehold described in
 362 | s. 199.023(1)(d), Florida Statutes 2005, shall be returned to
 363 | the local school board for the county in which the property
 364 | subject to the leasehold is situated.

365 | Section 16. Subsection (3) is added to section 199.303,
 366 | Florida Statutes, to read:

367 | 199.303 Declaration of legislative intent.--

368 | (3) It is hereby declared to be the specific intent of the
 369 | Legislature that all annual intangible personal property taxes
 370 | imposed as provided by law for calendar years 2006 and prior
 371 | shall remain in full force and effect during the period
 372 | specified by s. 95.091 for the year in which the tax was due. It
 373 | is further the intent of the Legislature that the department
 374 | continue to assess and collect all taxes due to the state under
 375 | such provisions for all periods available for assessment, as
 376 | provided for the year in which tax was due by s. 95.091.

377 | Section 17. Subsection (19) of section 212.02, Florida
 378 | Statutes, is amended to read:

379 | 212.02 Definitions.--The following terms and phrases when
 380 | used in this chapter have the meanings ascribed to them in this
 381 | section, except where the context clearly indicates a different
 382 | meaning:

383 | (19) "Tangible personal property" means and includes
 384 | personal property which may be seen, weighed, measured, or
 385 | touched or is in any manner perceptible to the senses, including

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386 | electric power or energy, boats, motor vehicles and mobile homes
 387 | as defined in s. 320.01(1) and (2), aircraft as defined in s.
 388 | 330.27, and all other types of vehicles. The term "tangible
 389 | personal property" does not include stocks, bonds, notes,
 390 | insurance, or other obligations or securities; ~~intangibles as~~
 391 | ~~defined by the intangible tax law of the state;~~ or pari-mutuel
 392 | tickets sold or issued under the racing laws of the state.

393 | Section 18. Paragraph (p) of subsection (7) and paragraph
 394 | (a) of subsection (14) of section 213.053, Florida Statutes, are
 395 | amended to read:

396 | 213.053 Confidentiality and information sharing.--

397 | (7) Notwithstanding any other provision of this section,
 398 | the department may provide:

399 | (p) Information relative to ss. ~~199.1055~~, 220.1845, and
 400 | 376.30781 to the Department of Environmental Protection in the
 401 | conduct of its official business.

402 |
 403 | Disclosure of information under this subsection shall be
 404 | pursuant to a written agreement between the executive director
 405 | and the agency. Such agencies, governmental or nongovernmental,
 406 | shall be bound by the same requirements of confidentiality as
 407 | the Department of Revenue. Breach of confidentiality is a
 408 | misdemeanor of the first degree, punishable as provided by s.
 409 | 775.082 or s. 775.083.

410 | (14)(a) Notwithstanding any other provision of this
 411 | section, the department shall, subject to the safeguards
 412 | specified in paragraph (c), disclose to the Division of
 413 | Corporations of the Department of State the name, address,

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414 federal employer identification number, and duration of tax
 415 filings with this state of all corporate or partnership entities
 416 which are not on file or have a dissolved status with the
 417 Division of Corporations and which have filed tax returns
 418 pursuant to ~~either chapter 199 or~~ chapter 220.

419 Section 19. Section 213.054, Florida Statutes, is amended
 420 to read:

421 213.054 Persons claiming tax exemptions or deductions;
 422 annual report.--The Department of Revenue shall be responsible
 423 for monitoring the utilization of ~~tax exemptions and tax~~
 424 deductions authorized pursuant to chapter 81-179, Laws of
 425 Florida. On or before September 1 of each year, the department
 426 shall report to the Chief Financial Officer the names and
 427 addresses of all persons who have claimed ~~an exemption pursuant~~
 428 ~~to s. 199.185(1)(i) or~~ a deduction pursuant to s. 220.63(5).

429 Section 20. Section 213.27, Florida Statutes, is amended
 430 to read:

431 213.27 Contracts with debt collection agencies and certain
 432 vendors.--

433 (1) The Department of Revenue may, for the purpose of
 434 collecting any delinquent taxes due from a taxpayer, including
 435 taxes for which a bill or notice has been generated, contract
 436 with any debt collection agency or attorney doing business
 437 within or without this state for the collection of such
 438 delinquent taxes, including penalties and interest thereon. The
 439 department may also share confidential information pursuant to
 440 the contract necessary for the collection of delinquent taxes
 441 and taxes for which a billing or notice has been generated.

442 Contracts will be made pursuant to chapter 287. The taxpayer
 443 must be notified by mail by the department, its employees, or
 444 its authorized representative at least 30 days prior to
 445 commencing any litigation to recover any delinquent taxes. The
 446 taxpayer must be notified by mail by the department at least 30
 447 days prior to the initial assignment by the department of the
 448 taxpayer's account for the collection of any taxes by the debt
 449 collection agency.

450 ~~(2) The department may enter into contracts with any~~
 451 ~~individual or business for the purpose of identifying intangible~~
 452 ~~personal property tax liability. Contracts may provide for the~~
 453 ~~identification of assets subject to the tax on intangible~~
 454 ~~personal property, the determination of value of such property,~~
 455 ~~the requirement for filing a tax return and the collection of~~
 456 ~~taxes due, including applicable penalties and interest thereon.~~
 457 ~~The department may share confidential information pursuant to~~
 458 ~~the contract necessary for the identification of taxable~~
 459 ~~intangible personal property. Contracts shall be made pursuant~~
 460 ~~to chapter 287. The taxpayer must be notified by mail by the~~
 461 ~~department at least 30 days prior to the department assigning~~
 462 ~~identification of intangible personal property to an individual~~
 463 ~~or business.~~

464 (2)(3) Any contract may provide, in the discretion of the
 465 executive director of the Department of Revenue, the manner in
 466 which the compensation for such services will be paid. Under
 467 standards established by the department, such compensation shall
 468 be added to the amount of the tax and collected as a part

469 | thereof by the agency or deducted from the amount of tax,
470 | penalty, and interest actually collected.

471 | (3)~~(4)~~ All funds collected under the terms of the
472 | contract, less the fees provided in the contract, shall be
473 | remitted to the department within 30 days from the date of
474 | collection from a taxpayer. Forms to be used for such purpose
475 | shall be prescribed by the department.

476 | (4)~~(5)~~ The department shall require a bond from the debt
477 | collection agency ~~or the individual or business contracted with~~
478 | ~~under subsection (2)~~ not in excess of \$100,000 guaranteeing
479 | compliance with the terms of the contract. However, a bond of
480 | \$10,000 is required from a debt collection agency if the agency
481 | does not actually collect and remit delinquent funds to the
482 | department.

483 | (5)~~(6)~~ The department may, for the purpose of ascertaining
484 | the amount of or collecting any taxes due from a person doing
485 | mail order business in this state, contract with any auditing
486 | agency doing business within or without this state for the
487 | purpose of conducting an audit of such mail order business;
488 | however, such audit agency may not conduct an audit on behalf of
489 | the department of any person domiciled in this state, person
490 | registered for sales and use tax purposes in this state, or
491 | corporation filing a Florida corporate tax return, if any such
492 | person or corporation objects to such audit in writing to the
493 | department and the auditing agency. The department shall notify
494 | the taxpayer by mail at least 30 days before the department
495 | assigns the collection of such taxes.

496 (6)~~(7)~~ Confidential information shared by the department
 497 with debt collection or auditing agencies ~~or individuals or~~
 498 ~~businesses with which the department has contracted under~~
 499 ~~subsection (2)~~ is exempt from the provisions of s. 119.07(1),
 500 and debt collection or auditing agencies ~~and individuals or~~
 501 ~~businesses with which the department has contracted under~~
 502 ~~subsection (2)~~ shall be bound by the same requirements of
 503 confidentiality as the Department of Revenue. Breach of
 504 confidentiality is a misdemeanor of the first degree, punishable
 505 as provided by ss. 775.082 and 775.083.

506 (7)~~(8)~~(a) The executive director of the department may
 507 enter into contracts with private vendors to develop and
 508 implement systems to enhance tax collections where compensation
 509 to the vendors is funded through increased tax collections. The
 510 amount of compensation paid to a vendor shall be based on a
 511 percentage of increased tax collections attributable to the
 512 system after all administrative and judicial appeals are
 513 exhausted, and the total amount of compensation paid to a vendor
 514 shall not exceed the maximum amount stated in the contract.

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

520 (c) Disclosure of information under this subsection shall
 521 be pursuant to a written agreement between the executive
 522 director and the private vendors. The vendors shall be bound by
 523 the same requirements of confidentiality as the department.

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524 Breach of confidentiality is a misdemeanor of the first degree,
525 punishable as provided in s. 775.082 or s. 775.083.

526 Section 21. Subsection (1) and paragraphs (b) and (c) of
527 subsection (3) of section 220.1845, Florida Statutes, are
528 amended to read:

529 220.1845 Contaminated site rehabilitation tax credit.--

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

531 (a) A credit in the amount of 35 percent of the costs of
532 voluntary cleanup activity that is integral to site
533 rehabilitation at the following sites is available against any
534 tax due for a taxable year under this chapter:

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

537 2. A drycleaning-solvent-contaminated site at which
538 cleanup is undertaken by the real property owner pursuant to s.
539 376.3078(11), if the real property owner is not also, and has
540 never been, the owner or operator of the drycleaning facility
541 where the contamination exists; or

542 3. A brownfield site in a designated brownfield area under
543 s. 376.80.

544 (b) A tax credit applicant, or multiple tax credit
545 applicants working jointly to clean up a single site, may not be
546 granted more than \$250,000 per year in tax credits for each site
547 voluntarily rehabilitated. Multiple tax credit applicants shall
548 be granted tax credits in the same proportion as their
549 contribution to payment of cleanup costs. Subject to the same
550 conditions and limitations as provided in this section, a
551 municipality, county, or other tax credit applicant which

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552 voluntarily rehabilitates a site may receive not more than
553 \$250,000 per year in tax credits which it can subsequently
554 transfer subject to the provisions in paragraph (g)~~(h)~~.

555 (c) If the credit granted under this section is not fully
556 used in any one year because of insufficient tax liability on
557 the part of the corporation, the unused amount may be carried
558 forward for a period not to exceed 5 years. The carryover credit
559 may be used in a subsequent year when the tax imposed by this
560 chapter for that year exceeds the credit for which the
561 corporation is eligible in that year under this section after
562 applying the other credits and unused carryovers in the order
563 provided by s. 220.02(8). Five years after the date a credit is
564 granted under this section, such credit expires and may not be
565 used. However, if during the 5-year period the credit is
566 transferred, in whole or in part, pursuant to paragraph (g)~~(h)~~,
567 each transferee has 5 years after the date of transfer to use
568 its credit.

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

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

576 (e)~~(f)~~ A tax credit applicant that receives state-funded
577 site rehabilitation under s. 376.3078(3) for rehabilitation of a
578 drycleaning-solvent-contaminated site is ineligible to receive
579 credit under this section for costs incurred by the tax credit

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580 applicant in conjunction with the rehabilitation of that site
581 during the same time period that state-administered site
582 rehabilitation was underway.

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

586 (g)~~(h)~~1. Tax credits that may be available under this
587 section to an entity eligible under s. 376.30781 may be
588 transferred after a merger or acquisition to the surviving or
589 acquiring entity and used in the same manner and with the same
590 limitations.

591 2. The entity or its surviving or acquiring entity as
592 described in subparagraph 1., may transfer any unused credit in
593 whole or in units of no less than 25 percent of the remaining
594 credit. The entity acquiring such credit may use it in the same
595 manner and with the same limitation as described in this
596 section. Such transferred credits may not be transferred again
597 although they may succeed to a surviving or acquiring entity
598 subject to the same conditions and limitations as described in
599 this section.

600 3. In the event the credit provided for under this section
601 is reduced either as a result of a determination by the
602 Department of Environmental Protection or an examination or
603 audit by the Department of Revenue, such tax deficiency shall be
604 recovered from the first entity, or the surviving or acquiring
605 entity, to have claimed such credit up to the amount of credit
606 taken. Any subsequent deficiencies shall be assessed against any

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607 | entity acquiring and claiming such credit, or in the case of
608 | multiple succeeding entities in the order of credit succession.

609 | (h)~~(i)~~ In order to encourage completion of site
610 | rehabilitation at contaminated sites being voluntarily cleaned
611 | up and eligible for a tax credit under this section, the tax
612 | credit applicant may claim an additional 10 percent of the total
613 | cleanup costs, not to exceed \$50,000, in the final year of
614 | cleanup as evidenced by the Department of Environmental
615 | Protection issuing a "No Further Action" order for that site.

616 | (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
617 | FORFEITURE.--

618 | (b) In addition to its existing audit and investigation
619 | authority relating to ~~chapter 199~~ and this chapter, the
620 | Department of Revenue may perform any additional financial and
621 | technical audits and investigations, including examining the
622 | accounts, books, or records of the tax credit applicant, which
623 | are necessary to verify the site rehabilitation costs included
624 | in a tax credit return and to ensure compliance with this
625 | section. The Department of Environmental Protection shall
626 | provide technical assistance, when requested by the Department
627 | of Revenue, on any technical audits performed pursuant to this
628 | section.

629 | (c) It is grounds for forfeiture of previously claimed and
630 | received tax credits if the Department of Revenue determines, as
631 | a result of either an audit or information received from the
632 | Department of Environmental Protection, that a taxpayer received
633 | tax credits pursuant to this section to which the taxpayer was
634 | not entitled. In the case of fraud, the taxpayer shall be

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635 prohibited from claiming any future tax credits under this
636 section ~~or s. 199.1055.~~

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

640 2. The taxpayer shall file with the Department of Revenue
641 an amended tax return or such other report as the Department of
642 Revenue prescribes by rule and shall pay any required tax within
643 60 days after the taxpayer receives notification from the
644 Department of Environmental Protection pursuant to s. 376.30781
645 that previously approved tax credits have been revoked or
646 modified, if uncontested, or within 60 days after a final order
647 is issued following proceedings involving a contested revocation
648 or modification order.

649 3. A notice of deficiency may be issued by the Department
650 of Revenue at any time within 5 years after the date the
651 taxpayer receives notification from the Department of
652 Environmental Protection pursuant to s. 376.30781 that
653 previously approved tax credits have been revoked or modified.
654 If a taxpayer fails to notify the Department of Revenue of any
655 change in its tax credit claimed, a notice of deficiency may be
656 issued at any time. In either case, the amount of any proposed
657 assessment set forth in such notice of deficiency shall be
658 limited to the amount of any deficiency resulting under this
659 section from the recomputation of the taxpayer's tax for the
660 taxable year.

661 4. Any taxpayer that fails to report and timely pay any
662 tax due as a result of the forfeiture of its tax credit is in

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663 violation of this section and is subject to applicable penalty
664 and interest.

665 Section 22. Paragraph (a) of subsection (2) and
666 subsections (3), (8), and (12) of section 376.30781, Florida
667 Statutes, are amended to read:

668 376.30781 Partial tax credits for rehabilitation of
669 drycleaning-solvent-contaminated sites and brownfield sites in
670 designated brownfield areas; application process; rulemaking
671 authority; revocation authority.--

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

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

678 2. A drycleaning-solvent-contaminated site at which
679 cleanup is undertaken by the real property owner pursuant to s.
680 376.3078(11), if the real property owner is not also, and has
681 never been, the owner or operator of the drycleaning facility
682 where the contamination exists; or

683 3. A brownfield site in a designated brownfield area under
684 s. 376.80.

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

689 (8) On or before March 1, the Department of Environmental
690 Protection shall inform each eligible tax credit applicant of

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691 the amount of its partial tax credit and provide each eligible
 692 tax credit applicant with a tax credit certificate that must be
 693 submitted with its tax return to the Department of Revenue to
 694 claim the tax credit or be transferred pursuant to ~~s.~~
 695 ~~199.1055(1)(g)~~ or s. 220.1845(1)(h). Credits will not result in
 696 the payment of refunds if total credits exceed the amount of tax
 697 owed.

698 (12) A tax credit applicant who receives state-funded site
 699 rehabilitation under s. 376.3078(3) for rehabilitation of a
 700 drycleaning-solvent-contaminated site is ineligible to receive a
 701 tax credit under ~~s. 199.1055~~ or s. 220.1845 for costs incurred
 702 by the tax credit applicant in conjunction with the
 703 rehabilitation of that site during the same time period that
 704 state-administered site rehabilitation was underway.

705 Section 23. Subsection (13) of section 493.6102, Florida
 706 Statutes, is amended to read:

707 493.6102 Inapplicability of this chapter.--This chapter
 708 shall not apply to:

709 (13) Any individual employed as a security officer by a
 710 church or ecclesiastical or denominational organization having
 711 an established physical place of worship in this state at which
 712 nonprofit religious services and activities are regularly
 713 conducted or by a church cemetery ~~religious institution as~~
 714 ~~defined in s. 199.183(2)(a)~~ to provide security on the
 715 institution property of the organization or cemetery, and who
 716 does not carry a firearm in the course of her or his duties.

717 Section 24. Paragraph (b) of subsection (4) of section
 718 650.05, Florida Statutes, is amended to read:

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719 650.05 Plans for coverage of employees of political
720 subdivisions.--

721 (4)

722 (b) The grants-in-aid and other revenue referred to in
723 paragraph (a) specifically include, but are not limited to,
724 minimum foundation program grants to public school districts and
725 community colleges; gasoline, motor fuel, ~~intangible~~, cigarette,
726 racing, and insurance premium taxes distributed to political
727 subdivisions; and amounts specifically appropriated as grants-
728 in-aid for mental health, mental retardation, and mosquito
729 control programs.

730 Section 25. Subsection (1) of section 655.071, Florida
731 Statutes, is amended to read:

732 655.071 International banking facilities; definitions;
733 notice before establishment.--

734 (1) "International banking facility" means a set of asset
735 and liability accounts segregated on the books and records of a
736 banking organization, as that term is defined in s. 201.23
737 ~~199.023~~, that includes only international banking facility
738 deposits, borrowings, and extensions of credit, as those terms
739 shall be defined by the commission pursuant to subsection (2).

740 Section 26. Effective January 1, 2009, subsections (5) and
741 (6) of section 733.702, Florida Statutes, are amended to read:

742 733.702 Limitations on presentation of claims.--

743 ~~(5) The Department of Revenue may file a claim against the~~
744 ~~estate of a decedent for taxes due under chapter 199 after the~~
745 ~~expiration of the time for filing claims provided in subsection~~
746 ~~(1), if the department files its claim within 30 days after the~~

747 ~~service of the inventory. Upon filing of the estate tax return~~
 748 ~~with the department as provided in s. 198.13, or to the extent~~
 749 ~~the inventory or estate tax return is amended or supplemented,~~
 750 ~~the department has the right to file a claim or to amend its~~
 751 ~~previously filed claim within 30 days after service of the~~
 752 ~~estate tax return, or an amended or supplemented inventory or~~
 753 ~~filing of an amended or supplemental estate tax return, as to~~
 754 ~~the additional information disclosed.~~

755 (5)~~(6)~~ Nothing in this section shall extend the
 756 limitations period set forth in s. 733.710.

757 Section 27. Effective upon this act becoming a law, the
 758 executive director of the Department of Revenue may adopt
 759 emergency rules under ss. 120.536(1) and 120.54, Florida
 760 Statutes, to implement chapter 199, Florida Statutes, and all
 761 conditions are deemed met for the adoption of such rules.
 762 Notwithstanding any other provision of law, such emergency rules
 763 shall remain effective for 6 months after the date of adoption
 764 and may be renewed during the pendency of procedures to adopt
 765 rules addressing the subject of the emergency rules.

766 Section 28. Except as otherwise expressly provided in this
 767 act, this act shall take effect January 1, 2007.