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 HB 209, Engrossed 1

2006 Legislature

1 A bill to be entitled
 2 An act relating to the annual intangible personal property
 3 tax; repealing ss. 199.012, 199.023, 199.032, 199.033,
 4 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055,
 5 199.106, 199.175, and 199.185, F.S., relating to the
 6 annual intangible personal property tax; amending s.
 7 199.303, F.S.; providing additional legislative intent
 8 relating to the annual intangible personal property tax;
 9 amending ss. 28.35, 192.0105, 192.032, 192.042, 192.091,
 10 193.114, 196.015, 196.199, 199.133, 199.183, 199.218,
 11 199.232, 199.282, 199.292, 212.02, 213.053, 213.054,
 12 213.27, 220.1845, 376.30781, 493.6102, 650.05, 655.071,
 13 and 733.702, F.S., to conform provisions to the repeal of
 14 the annual intangible personal property tax; providing for
 15 application of certain collection, administration, and
 16 enforcement provisions to taxation of certain leaseholds;
 17 authorizing the Department of Revenue to adopt emergency
 18 implementing rules for a certain time; providing effective
 19 dates.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Sections 199.012, 199.023, 199.032, 199.033,
 24 199.042, 199.052, 199.057, 199.062, 199.103, 199.1055, 199.106,
 25 199.175, and 199.185, Florida Statutes, are repealed.

26 Section 2. Paragraph (c) of subsection (1) of section
 27 28.35, Florida Statutes, is amended to read:

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28 28.35 Florida Clerks of Court Operations Corporation.--

29 (1)

30 (c) ~~For the purposes of s. 199.183(1),~~ The corporation
31 shall be considered a political subdivision of the state and
32 shall be exempt from the corporate income tax. The corporation
33 is not subject to the procurement provisions of chapter 287 and
34 policies and decisions of the corporation relating to incurring
35 debt, levying assessments, and the sale, issuance, continuation,
36 terms, and claims under corporation policies, and all services
37 relating thereto, are not subject to the provisions of chapter
38 120.

39 Section 3. Paragraph (a) of subsection (4) of section
40 192.0105, Florida Statutes, is amended to read:

41 192.0105 Taxpayer rights.--There is created a Florida
42 Taxpayer's Bill of Rights for property taxes and assessments to
43 guarantee that the rights, privacy, and property of the
44 taxpayers of this state are adequately safeguarded and protected
45 during tax levy, assessment, collection, and enforcement
46 processes administered under the revenue laws of this state. The
47 Taxpayer's Bill of Rights compiles, in one document, brief but
48 comprehensive statements that summarize the rights and
49 obligations of the property appraisers, tax collectors, clerks
50 of the court, local governing boards, the Department of Revenue,
51 and taxpayers. Additional rights afforded to payors of taxes and
52 assessments imposed under the revenue laws of this state are
53 provided in s. 213.015. The rights afforded taxpayers to assure
54 that their privacy and property are safeguarded and protected

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55 | during tax levy, assessment, and collection are available only
 56 | insofar as they are implemented in other parts of the Florida
 57 | Statutes or rules of the Department of Revenue. The rights so
 58 | guaranteed to state taxpayers in the Florida Statutes and the
 59 | departmental rules include:

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

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

69 | Section 4. Subsections (5), (6), and (7) of section
 70 | 192.032, Florida Statutes, are amended to read:

71 | 192.032 Situs of property for assessment purposes.--All
 72 | property shall be assessed according to its situs as follows:

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

75 | (5)~~(6)~~(a) Notwithstanding the provisions of subsection
 76 | (2), personal property used as a marine cargo container in the
 77 | conduct of foreign or interstate commerce shall not be deemed to
 78 | have acquired a taxable situs within a county when the property
 79 | is temporarily halted or stored within the state for a period
 80 | not exceeding 180 days.

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

91 (6)~~(7)~~ Notwithstanding any other provision of this
92 section, tangible personal property used in traveling shows such
93 as carnivals, ice shows, or circuses shall be deemed to be
94 physically present or habitually located or typically present
95 only to the extent the value of such property is multiplied by a
96 fraction, the numerator of which is the number of days such
97 property is present in Florida during the taxable year and the
98 denominator of which is the number of days in the taxable year.
99 However, railroad property of such traveling shows shall be
100 taxable under s. 193.085(4)(b) and not under this section.

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

103 192.042 Date of assessment.--All property shall be
104 assessed according to its just value as follows:

105 ~~(3) Intangible personal property, according to the rules~~
106 ~~laid down in chapter 199.~~

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107 Section 6. Subsections (5) and (6) of section 192.091,
 108 Florida Statutes, are amended to read:

109 192.091 Commissions of property appraisers and tax
 110 collectors.--

111 (5) ~~Provided, that~~ The provisions of this section shall
 112 not apply to commissions on ~~intangible property taxes or~~
 113 drainage district or drainage subdistrict taxes, and

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

129 Section 7. Subsections (4), (5), and (6) of section
 130 193.114, Florida Statutes, are amended to read:

131 193.114 Preparation of assessment rolls.--

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

135 (4)~~(5)~~ For every change made to the assessed or taxable
 136 value of a parcel on an assessment roll subsequent to the
 137 mailing of the notice provided for in s. 200.069, the property
 138 appraiser shall document the reason for such change in the
 139 public records of the office of the property appraiser in a
 140 manner acceptable to the executive director or the executive
 141 director's designee. For every change that decreases the
 142 assessed or taxable value of a parcel on an assessment roll
 143 between the time of complete submission of the tax roll pursuant
 144 to s. 193.1142(3) and mailing of the notice provided for in s.
 145 200.069, the property appraiser shall document the reason for
 146 such change in the public records of the office of the property
 147 appraiser in a manner acceptable to the executive director or
 148 the executive director's designee. Changes made by the value
 149 adjustment board are not subject to the requirements of this
 150 subsection.

151 (5)~~(6)~~ For proprietary purposes, including the furnishing
 152 or sale of copies of the tax roll under s. 119.07(1), the
 153 property appraiser is the custodian of the tax roll and the
 154 copies of it which are maintained by any state agency. The
 155 department or any state or local agency may use copies of the
 156 tax roll received by it for official purposes and shall permit
 157 inspection and examination thereof under s. 119.07(1), but is
 158 not required to furnish copies of the records. A social security

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

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

169 196.015 Permanent residency; factual determination by
 170 property appraiser.--Intention to establish a permanent
 171 residence in this state is a factual determination to be made,
 172 in the first instance, by the property appraiser. Although any
 173 one factor is not conclusive of the establishment or
 174 nonestablishment of permanent residence, the following are
 175 relevant factors that may be considered by the property
 176 appraiser in making his or her determination as to the intent of
 177 a person claiming a homestead exemption to establish a permanent
 178 residence in this state:

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

181 Section 9. Paragraph (b) of subsection (2) of section
 182 196.199, Florida Statutes, is amended to read:

183 196.199 Government property exemption.--

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

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

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

205 199.133 Levy of nonrecurring tax; ~~relationship to annual~~
 206 ~~tax~~. --

207 (2) The nonrecurring tax shall apply to a note, bond, or
 208 other obligation for payment of money only to the extent it is
 209 secured by mortgage, deed of trust, or other lien upon real
 210 property situated in this state. Where a note, bond, or other

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211 obligation is secured by personal property or by real property
 212 situated outside this state, as well as by mortgage, deed of
 213 trust, or other lien upon real property situated in this state,
 214 then the nonrecurring tax shall apply to that portion of the
 215 note, bond, or other obligation which bears the same ratio to
 216 the entire principal balance of the note, bond, or other
 217 obligation as the value of the real property situated in this
 218 state bears to the value of all of the security; however, if the
 219 security is solely made up of personal property and real
 220 property situated in this state, the taxpayer may elect to
 221 apportion the taxes based upon the value of the collateral, if
 222 any, to which the taxpayer by law or contract must look first
 223 for collection. In no event shall the portion of the note, bond,
 224 or other obligation which is subject to the nonrecurring tax
 225 exceed in value the value of the real property situated in this
 226 state which is the security. ~~The portion of a note, bond, or~~
 227 ~~other obligation which is not subject to the nonrecurring tax~~
 228 ~~shall be subject to the annual tax unless otherwise exempt.~~

229 Section 11. Subsections (1), (3), and (4) of section
 230 199.183, Florida Statutes, are amended to read:

231 199.183 Taxpayers exempt from ~~annual and~~ nonrecurring
 232 taxes.--

233 (1) Intangible personal property owned by this state or
 234 any of its political subdivisions or municipalities shall be
 235 exempt from taxation under this chapter. This exemption does not
 236 apply to:

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

239 (b) Property related to the provision of two-way
240 telecommunications services to the public for hire by the use of
241 a telecommunications facility, as defined in s. 364.02(15), and
242 for which a certificate is required under chapter 364, when the
243 service is provided by any county, municipality, or other
244 political subdivision of the state. Any immunity of any
245 political subdivision of the state or other entity of local
246 government from taxation of the property used to provide
247 telecommunication services that is taxed as a result of this
248 paragraph is hereby waived. However, intangible personal
249 property related to the provision of telecommunications services
250 provided by the operator of a public-use airport, as defined in
251 s. 332.004, for the operator's provision of telecommunications
252 services for the airport or its tenants, concessionaires, or
253 licensees, and intangible personal property related to the
254 provision of telecommunications services provided by a public
255 hospital, are exempt from taxation under this chapter.

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

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

268 Section 12. Section 199.218, Florida Statutes, is amended
269 to read:

270 199.218 Books and records.--

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

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

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

285 199.232 Powers of department.--

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

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

298 Section 14. Subsections (2), (3), (4), (6), and (8) of
 299 section 199.282, Florida Statutes, are amended, and subsections
 300 (5), (7), and (9) of that section are renumbered as subsections
 301 (4), (5), and (7), respectively, to read:

302 199.282 Penalties for violation of this chapter.--

303 (2) If any ~~annual~~ or nonrecurring tax is not paid by the
 304 statutory due date, then despite any extension granted under s.
 305 199.232(6), interest shall run on the unpaid balance from such
 306 due date until paid at the rate of 12 percent per year.

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

313 ~~(b) If any annual tax return required by this chapter is~~
 314 ~~not filed by the due date, a penalty of 10 percent of the tax~~
 315 ~~due with the return shall be charged for each calendar month or~~

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316 ~~portion thereof during which the return remains unfiled, up to a~~
 317 ~~limit of 50 percent of the total tax due.~~

318
 319 ~~For any penalty assessed under this subsection, the combined~~
 320 ~~total for all penalties assessed under paragraphs (a) and (b)~~
 321 ~~shall not exceed 10 percent per calendar month, up to a limit of~~
 322 ~~50 percent of the total tax due.~~

323 ~~(4) If an annual tax return is filed and property is~~
 324 ~~either omitted from it or undervalued, then a specific penalty~~
 325 ~~shall be charged. The specific penalty shall be 10 percent of~~
 326 ~~the tax attributable to each omitted item or to each~~
 327 ~~undervaluation. No delinquency or late filing penalty shall be~~
 328 ~~charged with respect to any undervaluation.~~

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

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

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

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343 ~~minimum penalty imposed upon a security dealer or investment~~
 344 ~~adviser under this paragraph is \$100.~~

345 ~~(6)-(8)~~ Any person who fails or refuses to ~~file an annual~~
 346 ~~return, or who fails or refuses to~~ make records available for
 347 inspection, when requested to do so by the department is guilty
 348 of a misdemeanor of the first degree, punishable as provided in
 349 s. 775.082 or s. 775.083.

350 Section 15. Section 199.292, Florida Statutes, is amended
 351 to read:

352 199.292 Disposition of intangible personal property
 353 taxes.--All intangible personal property taxes collected
 354 pursuant to this chapter, except for revenues derived from the
 355 annual tax on a leasehold described in s. 199.023(1)(d), Florida
 356 Statutes 2005, shall be deposited into the General Revenue Fund.
 357 Revenues derived from the annual tax on a leasehold described in
 358 s. 199.023(1)(d), Florida Statutes 2005, shall be returned to
 359 the local school board for the county in which the property
 360 subject to the leasehold is situated.

361 Section 16. Subsection (3) is added to section 199.303,
 362 Florida Statutes, to read:

363 199.303 Declaration of legislative intent.--

364 (3) It is hereby declared to be the specific intent of the
 365 Legislature that all annual intangible personal property taxes
 366 imposed as provided by law for calendar years 2006 and prior
 367 shall remain in full force and effect during the period
 368 specified by s. 95.091 for the year in which the tax was due. It
 369 is further the intent of the Legislature that the department

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370 continue to assess and collect all taxes due to the state under
 371 such provisions for all periods available for assessment, as
 372 provided for the year in which tax was due by s. 95.091.

373 Section 17. Subsection (19) of section 212.02, Florida
 374 Statutes, is amended to read:

375 212.02 Definitions.--The following terms and phrases when
 376 used in this chapter have the meanings ascribed to them in this
 377 section, except where the context clearly indicates a different
 378 meaning:

379 (19) "Tangible personal property" means and includes
 380 personal property which may be seen, weighed, measured, or
 381 touched or is in any manner perceptible to the senses, including
 382 electric power or energy, boats, motor vehicles and mobile homes
 383 as defined in s. 320.01(1) and (2), aircraft as defined in s.
 384 330.27, and all other types of vehicles. The term "tangible
 385 personal property" does not include stocks, bonds, notes,
 386 insurance, or other obligations or securities; ~~intangibles as~~
 387 ~~defined by the intangible tax law of the state;~~ or pari-mutuel
 388 tickets sold or issued under the racing laws of the state.

389 Section 18. Paragraph (p) of subsection (7) and paragraph
 390 (a) of subsection (14) of section 213.053, Florida Statutes, are
 391 amended to read:

392 213.053 Confidentiality and information sharing.--

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

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395 (p) Information relative to ss. ~~199.1055~~, 220.1845, and
 396 376.30781 to the Department of Environmental Protection in the
 397 conduct of its official business.

398
 399 Disclosure of information under this subsection shall be
 400 pursuant to a written agreement between the executive director
 401 and the agency. Such agencies, governmental or nongovernmental,
 402 shall be bound by the same requirements of confidentiality as
 403 the Department of Revenue. Breach of confidentiality is a
 404 misdemeanor of the first degree, punishable as provided by s.
 405 775.082 or s. 775.083.

406 (14) (a) Notwithstanding any other provision of this
 407 section, the department shall, subject to the safeguards
 408 specified in paragraph (c), disclose to the Division of
 409 Corporations of the Department of State the name, address,
 410 federal employer identification number, and duration of tax
 411 filings with this state of all corporate or partnership entities
 412 which are not on file or have a dissolved status with the
 413 Division of Corporations and which have filed tax returns
 414 pursuant to ~~either chapter 199 or~~ chapter 220.

415 Section 19. Section 213.054, Florida Statutes, is amended
 416 to read:

417 213.054 Persons claiming tax exemptions or deductions;
 418 annual report.--The Department of Revenue shall be responsible
 419 for monitoring the utilization of ~~tax exemptions and tax~~
 420 deductions authorized pursuant to chapter 81-179, Laws of
 421 Florida. On or before September 1 of each year, the department

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422 shall report to the Chief Financial Officer the names and
 423 addresses of all persons who have claimed ~~an exemption pursuant~~
 424 ~~to s. 199.185(1)(i) or~~ a deduction pursuant to s. 220.63(5).

425 Section 20. Section 213.27, Florida Statutes, is amended
 426 to read:

427 213.27 Contracts with debt collection agencies and certain
 428 vendors.--

429 (1) The Department of Revenue may, for the purpose of
 430 collecting any delinquent taxes due from a taxpayer, including
 431 taxes for which a bill or notice has been generated, contract
 432 with any debt collection agency or attorney doing business
 433 within or without this state for the collection of such
 434 delinquent taxes, including penalties and interest thereon. The
 435 department may also share confidential information pursuant to
 436 the contract necessary for the collection of delinquent taxes
 437 and taxes for which a billing or notice has been generated.
 438 Contracts will be made pursuant to chapter 287. The taxpayer
 439 must be notified by mail by the department, its employees, or
 440 its authorized representative at least 30 days prior to
 441 commencing any litigation to recover any delinquent taxes. The
 442 taxpayer must be notified by mail by the department at least 30
 443 days prior to the initial assignment by the department of the
 444 taxpayer's account for the collection of any taxes by the debt
 445 collection agency.

446 ~~(2) The department may enter into contracts with any~~
 447 ~~individual or business for the purpose of identifying intangible~~
 448 ~~personal property tax liability. Contracts may provide for the~~

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

460 (2)~~(3)~~ Any contract may provide, in the discretion of the
461 executive director of the Department of Revenue, the manner in
462 which the compensation for such services will be paid. Under
463 standards established by the department, such compensation shall
464 be added to the amount of the tax and collected as a part
465 thereof by the agency or deducted from the amount of tax,
466 penalty, and interest actually collected.

467 (3)~~(4)~~ All funds collected under the terms of the
468 contract, less the fees provided in the contract, shall be
469 remitted to the department within 30 days from the date of
470 collection from a taxpayer. Forms to be used for such purpose
471 shall be prescribed by the department.

472 (4)~~(5)~~ The department shall require a bond from the debt
473 collection agency ~~or the individual or business contracted with~~
474 ~~under subsection (2)~~ not in excess of \$100,000 guaranteeing
475 compliance with the terms of the contract. However, a bond of

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476 \$10,000 is required from a debt collection agency if the agency
 477 does not actually collect and remit delinquent funds to the
 478 department.

479 (5)~~(6)~~ The department may, for the purpose of ascertaining
 480 the amount of or collecting any taxes due from a person doing
 481 mail order business in this state, contract with any auditing
 482 agency doing business within or without this state for the
 483 purpose of conducting an audit of such mail order business;
 484 however, such audit agency may not conduct an audit on behalf of
 485 the department of any person domiciled in this state, person
 486 registered for sales and use tax purposes in this state, or
 487 corporation filing a Florida corporate tax return, if any such
 488 person or corporation objects to such audit in writing to the
 489 department and the auditing agency. The department shall notify
 490 the taxpayer by mail at least 30 days before the department
 491 assigns the collection of such taxes.

492 (6)~~(7)~~ Confidential information shared by the department
 493 with debt collection or auditing agencies ~~or individuals or~~
 494 ~~businesses with which the department has contracted under~~
 495 ~~subsection (2)~~ is exempt from the provisions of s. 119.07(1),
 496 and debt collection or auditing agencies ~~and individuals or~~
 497 ~~businesses with which the department has contracted under~~
 498 ~~subsection (2)~~ shall be bound by the same requirements of
 499 confidentiality as the Department of Revenue. Breach of
 500 confidentiality is a misdemeanor of the first degree, punishable
 501 as provided by ss. 775.082 and 775.083.

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502 ~~(7)-(8)~~(a) The executive director of the department may
 503 enter into contracts with private vendors to develop and
 504 implement systems to enhance tax collections where compensation
 505 to the vendors is funded through increased tax collections. The
 506 amount of compensation paid to a vendor shall be based on a
 507 percentage of increased tax collections attributable to the
 508 system after all administrative and judicial appeals are
 509 exhausted, and the total amount of compensation paid to a vendor
 510 shall not exceed the maximum amount stated in the contract.

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

516 (c) Disclosure of information under this subsection shall
 517 be pursuant to a written agreement between the executive
 518 director and the private vendors. The vendors shall be bound by
 519 the same requirements of confidentiality as the department.
 520 Breach of confidentiality is a misdemeanor of the first degree,
 521 punishable as provided in s. 775.082 or s. 775.083.

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

525 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

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

533 2. A drycleaning-solvent-contaminated site at which
 534 cleanup is undertaken by the real property owner pursuant to s.
 535 376.3078(11), if the real property owner is not also, and has
 536 never been, the owner or operator of the drycleaning facility
 537 where the contamination exists; or

538 3. A brownfield site in a designated brownfield area under
 539 s. 376.80.

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

551 (c) If the credit granted under this section is not fully
 552 used in any one year because of insufficient tax liability on
 553 the part of the corporation, the unused amount may be carried
 554 forward for a period not to exceed 5 years. The carryover credit
 555 may be used in a subsequent year when the tax imposed by this

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556 | chapter for that year exceeds the credit for which the
 557 | corporation is eligible in that year under this section after
 558 | applying the other credits and unused carryovers in the order
 559 | provided by s. 220.02(8). Five years after the date a credit is
 560 | granted under this section, such credit expires and may not be
 561 | used. However, if during the 5-year period the credit is
 562 | transferred, in whole or in part, pursuant to paragraph (g)~~(h)~~,
 563 | each transferee has 5 years after the date of transfer to use
 564 | its credit.

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

569 | ~~(e) A taxpayer that receives credit under s. 199.1055 is~~
 570 | ~~ineligible to receive credit under this section in a given tax~~
 571 | ~~year.~~

572 | (e)~~(f)~~ A tax credit applicant that receives state-funded
 573 | site rehabilitation under s. 376.3078(3) for rehabilitation of a
 574 | drycleaning-solvent-contaminated site is ineligible to receive
 575 | credit under this section for costs incurred by the tax credit
 576 | applicant in conjunction with the rehabilitation of that site
 577 | during the same time period that state-administered site
 578 | rehabilitation was underway.

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

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

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

596 3. In the event the credit provided for under this section
597 is reduced either as a result of a determination by the
598 Department of Environmental Protection or an examination or
599 audit by the Department of Revenue, such tax deficiency shall be
600 recovered from the first entity, or the surviving or acquiring
601 entity, to have claimed such credit up to the amount of credit
602 taken. Any subsequent deficiencies shall be assessed against any
603 entity acquiring and claiming such credit, or in the case of
604 multiple succeeding entities in the order of credit succession.

605 ~~(h)~~(i) In order to encourage completion of site
606 rehabilitation at contaminated sites being voluntarily cleaned
607 up and eligible for a tax credit under this section, the tax
608 credit applicant may claim an additional 10 percent of the total

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609 cleanup costs, not to exceed \$50,000, in the final year of
 610 cleanup as evidenced by the Department of Environmental
 611 Protection issuing a "No Further Action" order for that site.

612 (3) ADMINISTRATION; AUDIT AUTHORITY; TAX CREDIT
 613 FORFEITURE.--

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

625 (c) It is grounds for forfeiture of previously claimed and
 626 received tax credits if the Department of Revenue determines, as
 627 a result of either an audit or information received from the
 628 Department of Environmental Protection, that a taxpayer received
 629 tax credits pursuant to this section to which the taxpayer was
 630 not entitled. In the case of fraud, the taxpayer shall be
 631 prohibited from claiming any future tax credits under this
 632 section ~~or s. 199.1055~~.

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

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636 2. The taxpayer shall file with the Department of Revenue
637 an amended tax return or such other report as the Department of
638 Revenue prescribes by rule and shall pay any required tax within
639 60 days after the taxpayer receives notification from the
640 Department of Environmental Protection pursuant to s. 376.30781
641 that previously approved tax credits have been revoked or
642 modified, if uncontested, or within 60 days after a final order
643 is issued following proceedings involving a contested revocation
644 or modification order.

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

657 4. Any taxpayer that fails to report and timely pay any
658 tax due as a result of the forfeiture of its tax credit is in
659 violation of this section and is subject to applicable penalty
660 and interest.

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

664 376.30781 Partial tax credits for rehabilitation of
 665 drycleaning-solvent-contaminated sites and brownfield sites in
 666 designated brownfield areas; application process; rulemaking
 667 authority; revocation authority.--

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

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

674 2. A drycleaning-solvent-contaminated site at which
 675 cleanup is undertaken by the real property owner pursuant to s.
 676 376.3078(11), if the real property owner is not also, and has
 677 never been, the owner or operator of the drycleaning facility
 678 where the contamination exists; or

679 3. A brownfield site in a designated brownfield area under
 680 s. 376.80.

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

685 (8) On or before March 1, the Department of Environmental
 686 Protection shall inform each eligible tax credit applicant of
 687 the amount of its partial tax credit and provide each eligible

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688 tax credit applicant with a tax credit certificate that must be
 689 submitted with its tax return to the Department of Revenue to
 690 claim the tax credit or be transferred pursuant to ~~s.~~
 691 ~~199.1055(1)(g)~~ or s. 220.1845(1)(h). Credits will not result in
 692 the payment of refunds if total credits exceed the amount of tax
 693 owed.

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

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

703 493.6102 Inapplicability of this chapter.--This chapter
 704 shall not apply to:

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

713 Section 24. Paragraph (b) of subsection (4) of section
 714 650.05, Florida Statutes, is amended to read:

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715 650.05 Plans for coverage of employees of political
716 subdivisions.--

717 (4)

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

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

728 655.071 International banking facilities; definitions;
729 notice before establishment.--

730 (1) "International banking facility" means a set of asset
731 and liability accounts segregated on the books and records of a
732 banking organization, as that term is defined in s. 201.23
733 ~~199.023~~, that includes only international banking facility
734 deposits, borrowings, and extensions of credit, as those terms
735 shall be defined by the commission pursuant to subsection (2).

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

738 733.702 Limitations on presentation of claims.--

739 ~~(5) The Department of Revenue may file a claim against the~~
740 ~~estate of a decedent for taxes due under chapter 199 after the~~
741 ~~expiration of the time for filing claims provided in subsection~~

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742 ~~(1), if the department files its claim within 30 days after the~~
743 ~~service of the inventory. Upon filing of the estate tax return~~
744 ~~with the department as provided in s. 198.13, or to the extent~~
745 ~~the inventory or estate tax return is amended or supplemented,~~
746 ~~the department has the right to file a claim or to amend its~~
747 ~~previously filed claim within 30 days after service of the~~
748 ~~estate tax return, or an amended or supplemented inventory or~~
749 ~~filing of an amended or supplemental estate tax return, as to~~
750 ~~the additional information disclosed.~~

751 (5)~~(6)~~ Nothing in this section shall extend the
752 limitations period set forth in s. 733.710.

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

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