

HB 1261

2007

1                   A bill to be entitled  
2           An act relating to tax administration; amending s. 72.011,  
3           F.S.; revising criteria for venue of tax matter actions in  
4           circuit courts; amending s. 194.011, F.S.; providing for  
5           admissibility and consideration of certain evidence;  
6           amending s. 194.181, F.S.; revising criteria for  
7           plaintiffs in a tax suit; amending s. 194.301, F.S.;  
8           revising criteria for a presumption of correctness of a  
9           property appraiser's assessment of ad valorem tax value;  
10          amending s. 196.196, F.S.; providing legislative intent  
11          relating to certain property owned by certain limited  
12          liability companies; amending s. 198.13, F.S.; providing  
13          additional criteria for filing returns in connection with  
14          certain estates; providing for nonapplication of certain  
15          provisions to certain estates; amending s. 212.07, F.S.;  
16          providing additional circumstances for taxpayer provision  
17          of certain evidence to the Department of Revenue; amending  
18          s. 213.015, F.S.; revising provisions specifying taxpayer  
19          rights; authorizing the department to adopt rules;  
20          providing additional rights; amending s. 213.255, F.S.;  
21          revising requirements, procedures, and criteria for  
22          payment of interest; amending s. 213.756, F.S.; revising  
23          provisions and providing additional criteria relating to  
24          refunds of state taxes; amending s. 215.26, F.S.;  
25          authorizing dealers or purchasers to apply to the  
26          department for a refund of certain taxes; providing an  
27          effective date.  
28

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

30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55

Section 1. Subsection (4) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.--

(4) (a) Except as provided in paragraph (b), an action initiated in circuit court pursuant to subsection (1) shall be filed in the Second Judicial Circuit Court in and for Leon County or in the circuit court in the county where the taxpayer resides or has an office, store, or other fixed place of business, ~~maintains its principal commercial domicile in this state, or, in the ordinary course of business, regularly maintains its books and records~~ in this state.

(b) Venue in an action initiated in circuit court pursuant to subsection (1) by a taxpayer that is not a resident of this state or does not have an office, store, or other fixed place of business ~~or that does not maintain a commercial domicile~~ in this state shall be in Leon County. Venue in an action contesting the legality of an assessment or refund denial arising under chapter 198 shall be in the circuit court having jurisdiction over the administration of the estate.

Section 2. Paragraph (c) is added to subsection (4) of section 194.011, Florida Statutes, to read:

194.011 Assessment notice; objections to assessments.--

(4)

56           (c) Any evidence produced pursuant to this subsection  
 57 shall be admissible and must be considered by the special  
 58 magistrate and by the board whether or not such evidence was  
 59 previously produced at the request of the petitioner or property  
 60 appraiser.

61           Section 3. Subsection (1) of section 194.181, Florida  
 62 Statutes, is amended to read:

63           194.181 Parties to a tax suit.--

64           (1) The plaintiff in any tax suit shall be:

65           (a) The taxpayer or other person contesting the assessment  
 66 of any tax, the payment of which he or she is responsible for  
 67 under a statute or ~~a person who is responsible for the entire~~  
 68 ~~tax payment pursuant to a contract and has the written consent~~  
 69 ~~of the property owner,~~ or the condominium association,  
 70 cooperative association, or homeowners' association as defined  
 71 in s. 723.075 which operates the units subject to the  
 72 assessment; or

73           (b) The property appraiser pursuant to s. 194.036.

74           Section 4. Section 194.301, Florida Statutes, is amended  
 75 to read:

76           194.301 Presumption of correctness.--In any administrative  
 77 or judicial action in which a taxpayer challenges an ad valorem  
 78 tax assessment of value, the property appraiser's assessment  
 79 shall be presumed correct. This presumption of correctness is  
 80 lost if the taxpayer shows by a preponderance of the evidence  
 81 that either the property appraiser has failed to comply with  
 82 uniform standards of professional appraisal practice in his or  
 83 her consideration of ~~consider properly~~ the criteria in s.

HB 1261

2007

84 193.011 or if the property appraiser's assessment is arbitrarily  
 85 based on appraisal practices which are different from the  
 86 appraisal practices generally applied by the property appraiser  
 87 to comparable property within the same class and within the same  
 88 county. If the presumption of correctness is lost, the property  
 89 appraiser taxpayer shall have the burden of proving by a  
 90 preponderance of the evidence that the appraiser's assessment is  
 91 not in excess of just value. If the presumption of correctness  
 92 is retained, the taxpayer shall have the burden of proving by a  
 93 preponderance of the clear and convincing evidence that the  
 94 appraiser's assessment is in excess of just value. In no case  
 95 shall the taxpayer have the burden of proving that the property  
 96 appraiser's assessment is not supported by any reasonable  
 97 hypothesis of a legal assessment. If the property appraiser's  
 98 assessment is determined to be erroneous, the Value Adjustment  
 99 Board or the court can establish the assessment if there exists  
 100 competent, substantial evidence in the record, which  
 101 cumulatively meets the requirements of s. 193.011. If the record  
 102 lacks competent, substantial evidence meeting the just value  
 103 criteria of s. 193.011, the matter shall be remanded to the  
 104 property appraiser with appropriate directions from the Value  
 105 Adjustment Board or the court.

106 Section 5. Subsection (4) is added to section 196.196,  
 107 Florida Statutes, to read:

108 196.196 Determining whether property is entitled to  
 109 charitable, religious, scientific, or literary exemption.--

110 (4) For purposes of the exemption provided in this section  
 111 for property used predominantly for charitable, religious,

HB 1261

2007

112 scientific, or literary purposes, the Legislature intends that  
 113 any property owned by a limited liability company that is  
 114 disregarded as an entity for federal income tax purposes  
 115 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be  
 116 treated as owned by its sole member.

117 Section 6. Subsection (4) is added to section 198.13,  
 118 Florida Statutes, to read:

119 198.13 Tax return to be made in certain cases; certificate  
 120 of nonliability.--

121 (4) Notwithstanding any other provisions of this section,  
 122 if a state death tax credit or a state generation-skipping  
 123 transfer tax credit is not allowable pursuant to the Internal  
 124 Revenue Code of 1986, as amended, as of the decedent's death,  
 125 the following provisions shall apply:

126 (a) If a state death tax credit is not allowable pursuant  
 127 to the Internal Revenue Code of 1986, as amended, as of the  
 128 decedent's death, the personal representative of an estate shall  
 129 not be required to file a return pursuant to subsection (1) in  
 130 connection with such estate.

131 (b) If a state generation-skipping transfer tax credit is  
 132 not allowable pursuant to the Internal Revenue Code of 1986, as  
 133 amended, as of the decedent's death, the person who would  
 134 otherwise be required to file a return pursuant to subsection  
 135 (3) shall not be required to file such a return in connection  
 136 with such estate.

137  
 138 Notwithstanding paragraphs (a) and (b), this subsection shall  
 139 not apply to estates of decedents dying after December 31, 2010.

HB 1261

2007

140 Section 7. Paragraph (b) of subsection (1) of section  
141 212.07, Florida Statutes, is amended to read:

142 212.07 Sales, storage, use tax; tax added to purchase  
143 price; dealer not to absorb; liability of purchasers who cannot  
144 prove payment of the tax; penalties; general exemptions.--

145 (1)

146 (b) A resale must be in strict compliance with s. 212.18  
147 and the rules and regulations, and any dealer who makes a sale  
148 for resale which is not in strict compliance with s. 212.18 and  
149 the rules and regulations shall himself or herself be liable for  
150 and pay the tax. Any dealer who makes a sale for resale shall  
151 document the exempt nature of the transaction, as established by  
152 rules promulgated by the department, by retaining a copy of the  
153 purchaser's resale certificate. In lieu of maintaining a copy of  
154 the certificate, a dealer may document, prior to the time of  
155 sale, an authorization number provided telephonically or  
156 electronically by the department, or by such other means  
157 established by rule of the department. The dealer may rely on a  
158 resale certificate issued pursuant to s. 212.18(3)(c), valid at  
159 the time of receipt from the purchaser, without seeking annual  
160 verification of the resale certificate if the dealer makes  
161 recurring sales to a purchaser in the normal course of business  
162 on a continual basis. For purposes of this paragraph, "recurring  
163 sales to a purchaser in the normal course of business" refers to  
164 a sale in which the dealer extends credit to the purchaser and  
165 records the debt as an account receivable, or in which the  
166 dealer sells to a purchaser who has an established cash or  
167 C.O.D. account, similar to an open credit account. For purposes

HB 1261

2007

168 of this paragraph, purchases are made from a selling dealer on a  
 169 continual basis if the selling dealer makes, in the normal  
 170 course of business, sales to the purchaser no less frequently  
 171 than once in every 12-month period. A dealer may, through the  
 172 informal protest provided for in s. 213.21 or in any proceeding  
 173 under chapter 120 or circuit court action instituted under  
 174 chapter 72 and the rules of the Department of Revenue, provide  
 175 the department with evidence of the exempt status of a sale.  
 176 Consumer certificates of exemption executed by those exempt  
 177 entities that were registered with the department at the time of  
 178 sale, resale certificates provided by purchasers who were active  
 179 dealers at the time of sale, and verification by the department  
 180 of a purchaser's active dealer status at the time of sale in  
 181 lieu of a resale certificate shall be accepted by the  
 182 department, administrative law judge, or circuit court when  
 183 submitted during the protest period, ~~but may not be accepted in~~  
 184 any proceeding under chapter 120, or any circuit court action  
 185 instituted under chapter 72.

186 Section 8. Section 213.015, Florida Statutes, is amended  
 187 to read:

188 213.015 Taxpayer rights.--There is created a Florida  
 189 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
 190 and property of Florida taxpayers are adequately safeguarded and  
 191 protected during tax assessment, collection, and enforcement  
 192 processes administered under the revenue laws of this state. The  
 193 Taxpayer's Bill of Rights compiles, in one document, brief but  
 194 comprehensive statements which explain, in simple, nontechnical  
 195 terms, the rights and obligations of the Department of Revenue

196 and taxpayers. Section 192.0105 provides additional rights  
 197 afforded to payors of property taxes and assessments. The  
 198 Department of Revenue shall adopt any rules necessary to  
 199 implement the rights specified in this section, including ~~The~~  
 200 ~~rights afforded taxpayers to ensure that their privacy and~~  
 201 ~~property are safeguarded and protected during tax assessment and~~  
 202 ~~collection are available only insofar as they are implemented in~~  
 203 ~~other parts of the Florida Statutes or rules of the Department~~  
 204 ~~of Revenue. The rights so guaranteed Florida taxpayers in the~~  
 205 ~~Florida Statutes and the departmental rules are:~~

206 (1) The right to available information and prompt,  
 207 accurate responses to questions and requests for tax assistance.

208 (2) The right to request assistance from a taxpayers'  
 209 rights advocate of the department, who shall be responsible for  
 210 facilitating the resolution of taxpayer complaints and problems  
 211 not resolved through the normal administrative channels within  
 212 the department, including any taxpayer complaints regarding  
 213 unsatisfactory treatment by department employees. The taxpayers'  
 214 rights advocate may issue a stay order if a taxpayer has  
 215 suffered or is about to suffer irreparable loss as a result of  
 216 an action by the department (see ss. 20.21(3) and 213.018).

217 (3) The right to be represented or advised by counsel or  
 218 other qualified representatives at any time in administrative  
 219 interactions with the department, the right to procedural  
 220 safeguards with respect to recording of interviews during tax  
 221 determination or collection processes conducted by the  
 222 department, the right to be treated in a professional manner by  
 223 department personnel, and the right to have audits, inspections



224 of records, and interviews conducted at a reasonable time and  
 225 place except in criminal and internal investigations (see ss.  
 226 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),  
 227 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (13),  
 228 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

229 (4) The right to freedom from penalty attributable to any  
 230 taxes administered by the Department of Revenue; freedom from  
 231 payment of uncollected sales, use, motor or diesel fuel, or  
 232 other transaction-based excise taxes administered by the  
 233 Department of Revenue; and to abatement of interest attributable  
 234 to any taxes administered by the Department of Revenue, when the  
 235 taxpayer reasonably relies upon binding written advice furnished  
 236 to the taxpayer by the department through authorized  
 237 representatives in response to the taxpayer's specific written  
 238 request which provided adequate and accurate information (see  
 239 ss. 120.565 and 213.22).

240 (5) The right to obtain simple, nontechnical statements  
 241 which explain the reason for audit selection and the procedures,  
 242 remedies, and rights available during audit, appeals, and  
 243 collection proceedings, including, but not limited to, the  
 244 rights pursuant to this Taxpayer's Bill of Rights and the right  
 245 to be provided with a narrative description which explains the  
 246 basis of audit changes, proposed assessments, assessments, and  
 247 denials of refunds; identifies any amount of tax, interest, or  
 248 penalty due; and states the consequences of the taxpayer's  
 249 failure to comply with the notice.

250 (6) The right to be informed of impending collection  
 251 actions which require sale or seizure of property or freezing of

252 assets, except jeopardy assessments, and the right to at least  
 253 30 days' notice in which to pay the liability or seek further  
 254 review (see ss. 198.20, 199.262, 201.16, 206.075, 206.24,  
 255 211.125(5), 212.03(5), 212.0305(3)(j), 212.04(7), 212.14(1),  
 256 213.73(3), 213.731, and 220.739).

257 (7) The right to have all other collection actions  
 258 attempted before a jeopardy assessment unless delay will  
 259 endanger collection and, after a jeopardy assessment, the right  
 260 to have an immediate review of the jeopardy assessment (see ss.  
 261 212.15, 213.73(3), 213.732, and 220.719(2)).

262 (8) The right to seek review, through formal or informal  
 263 proceedings, of any adverse decisions relating to determinations  
 264 in the audit or collections processes and the right to seek a  
 265 reasonable administrative stay of enforcement actions while the  
 266 taxpayer pursues other administrative remedies available under  
 267 Florida law (see ss. 120.80(14)(b), 213.21(1), 220.717, and  
 268 220.719(2)).

269 (9) The right to have the taxpayer's tax information kept  
 270 confidential unless otherwise specified by law (see s. 213.053).

271 (10) The right to procedures for retirement of tax  
 272 obligations by installment payment agreements which recognize  
 273 both the taxpayer's financial condition and the best interests  
 274 of the state, provided that the taxpayer gives accurate, current  
 275 information and meets all other tax obligations on schedule (see  
 276 s. 213.21(4)).

277 (11) The right to procedures for requesting cancellation,  
 278 release, or modification of liens filed by the department and  
 279 for requesting that any lien which is filed in error be so noted

HB 1261

2007

280 on the lien cancellation filed by the department, in public  
281 notice, and in notice to any credit agency at the taxpayer's  
282 request (see ss. 198.22, 199.262, 212.15(4), 213.733, and  
283 220.819).

284 (12) The right to procedures which assure that the  
285 individual employees of the department are not paid, evaluated,  
286 or promoted on the basis of the amount of assessments or  
287 collections from taxpayers (see s. 213.30(2)).

288 (13) The right to an action at law within the limitations  
289 of s. 768.28, relating to sovereign immunity, to recover damages  
290 against the state or the Department of Revenue for injury caused  
291 by the wrongful or negligent act or omission of a department  
292 officer or employee (see s. 768.28).

293 (14) The right of the taxpayer or the department, as the  
294 prevailing party in a judicial or administrative action brought  
295 or maintained without the support of justiciable issues of fact  
296 or law, to recover all costs of the administrative or judicial  
297 action, including reasonable attorney's fees, and of the  
298 department and taxpayer to settle such claims through  
299 negotiations (see ss. 57.105 and 57.111).

300 (15) The right to have the department begin and complete  
301 its audits in a timely and expeditious manner after notification  
302 of intent to audit (see s. 95.091).

303 (16) The right to have the department actively identify  
304 and review multistate proposals that offer more efficient and  
305 effective methods for administering the revenue sources of this  
306 state (see s. 213.256).

307 (17) The right to have the department actively investigate  
 308 and, where appropriate, implement automated or electronic  
 309 business methods that enable the department to more efficiently  
 310 and effectively administer the revenue sources of this state at  
 311 less cost and effort for taxpayers.

312 (18) The right to waiver of interest that accrues as the  
 313 result of errors or delays caused by a department employee (see  
 314 s. 213.21(3)).

315 (19) The right to participate in free educational  
 316 activities that help the taxpayer successfully comply with the  
 317 revenue laws of this state.

318 (20) The right to pay a reasonable fine or percentage of  
 319 tax, whichever is less, to reinstate an exemption from any tax  
 320 which a taxpayer would have been entitled to receive but which  
 321 was lost because the taxpayer failed to properly register as a  
 322 tax dealer in this state or obtain the necessary certificates  
 323 entitling the taxpayer to the exemption (see s. 212.07(9)).

324 (21) The right to fair and consistent application of the  
 325 tax laws of this state by the Department of Revenue.

326 (22) The right to have the Department of Revenue refrain  
 327 from collecting more taxes than are lawfully due and, as a  
 328 fundamental concomitant of such right, to have the department,  
 329 in conducting audits, look for and identify any overpayments  
 330 made by the taxpayer.

331 (23) The right to a prompt refund, directly from the  
 332 department, of taxes paid to a dealer on the purported authority  
 333 of chapter 202 or 212 when such taxes were not due, were paid in  
 334 error, or constituted an overpayment. No taxpayer shall be

HB 1261

2007

335 required, in connection with such refund, to provide records or  
336 documentation that are in the possession or control of the  
337 dealer to whom the taxpayer paid such taxes, and no refund shall  
338 be denied to the taxpayer on the absence of such dealer records  
339 or documentation. Proof that the taxes were charged and  
340 collected by the dealer shall be sufficient. The Department of  
341 Revenue shall look solely to the dealer, as the state's tax  
342 collection agent, for any taxes, interest, or penalties  
343 attributable to the dealer's failure to remit taxes collected  
344 from the taxpayer.

345 (24) The right to have the Department of Revenue maintain  
346 and make available for public use an electronic database of the  
347 final judgments or partial final judgments in all litigation  
348 pursuant to chapters 72 and 194. Such database shall allow users  
349 to research and retrieve the full texts of such judgments by  
350 devising an ad hoc indexing system employing any logical search  
351 terms in common usage that are composed by the user and that are  
352 contained in such judgments or by descriptive information about  
353 a judgment which may not be specifically contained in a  
354 judgment.

355 Section 9. Subsections (2), (3), (4), (5), (7), (9), and  
356 (11) of section 213.255, Florida Statutes, are amended to read:  
357 213.255 Interest.--Interest shall be paid on overpayments  
358 of taxes, payment of taxes not due, or taxes paid in error,  
359 subject to the following conditions:

360 (2) A refund application shall ~~not~~ be filed on a permitted  
361 form and shall contain ~~processed until it is determined~~

HB 1261

2007

362 ~~complete. A refund application is complete if it is filed on a~~  
363 ~~permitted form and contains:~~

364 (a) The taxpayer's name, address, identifying number, and  
365 signature.

366 ~~(b) Sufficient information, whether on the application or~~  
367 ~~attachments, to permit mathematical verification of the amount~~  
368 ~~of the refund.~~

369 (b)(e) The amount claimed.

370 (c)(d) The specific grounds upon which the refund is  
371 claimed.

372 (d)(e) The taxable years or periods involved.

373 (3) Within 30 days after receipt of the refund  
374 application, the department shall examine the application and  
375 notify the applicant of any records or documentation needed to  
376 substantiate the refund claimed ~~apparent errors or omissions and~~  
377 ~~request any additional information the department is permitted~~  
378 ~~by law to require. An application shall be considered complete~~  
379 ~~upon receipt of all requested information and correction of any~~  
380 ~~error or omission for which the applicant was timely notified,~~  
381 ~~or when the time for such notification has expired, whichever is~~  
382 ~~later.~~

383 (4) Interest shall accrue from the date the refund  
384 application is filed, but no interest shall be allowed if the  
385 refund is paid within 90 days after the date the refund  
386 application is filed ~~not commence until 90 days after a complete~~  
387 ~~refund application has been filed and the amount of overpayment~~  
388 ~~has not been refunded to the taxpayer or applied as a credit to~~  
389 ~~the taxpayer's account. However, if there is a prohibition~~

390 against refunding a tax overpayment before the first day of the  
 391 state fiscal year, interest on the tax overpayment shall not  
 392 commence until August 1 of the year the tax was due. ~~If the~~  
 393 ~~department and the taxpayer mutually agree that an audit or~~  
 394 ~~verification is necessary in order to determine the taxpayer's~~  
 395 ~~entitlement to the refund, interest shall not commence until the~~  
 396 ~~audit or verification of the claim is final.~~

397 (5) If a tax is adjudicated unconstitutional and refunds  
 398 are ordered by the court, interest shall accrue from the date  
 399 the taxpayer filed the refund application with the department  
 400 or, in the case of a taxpayer who files a lawsuit seeking a tax  
 401 refund and is not required to file a refund application with the  
 402 department, from the date such taxpayer filed a claim with the  
 403 court ~~not commence on complete applications until 90 days after~~  
 404 ~~the adjudication becomes final and unappealable or 90 days after~~  
 405 ~~a complete application has been filed, whichever is later.~~

406 (7) If the department intends to pay a refund claim prior  
 407 to completion of an audit, the department may condition its  
 408 payment of the refund claim upon the person filing a cash bond  
 409 or surety bond in the amount of the refund claimed or making  
 410 such other security arrangements satisfactory to protect the  
 411 state's interests. The department may impose this condition only  
 412 when it has reasonable cause to believe that it could not  
 413 recover the amount of any refund paid in error from the person  
 414 claiming the refund. The cash or surety bond shall be endorsed  
 415 by a surety company authorized to do business in this state and  
 416 shall be conditioned upon payment in full of the amount of any  
 417 refund paid in error for any reason. The department shall

418 provide a written notice of its determination that a cash or  
 419 surety bond is required as a condition of payment prior to  
 420 audit, ~~in which event interest shall not commence until the~~  
 421 ~~person filing the claim satisfies this requirement.~~ Such bond  
 422 shall remain in place while the department retains a right  
 423 pursuant to s. 95.091(3) to audit the refund claim. Upon  
 424 completion of an audit of the claim, the department shall agree  
 425 to a reduction in the bond amount equal to the portion of the  
 426 refund claim approved by the department.

427 (9) In the event that the department pays a refund claim  
 428 that is later determined to have been paid in error, the person  
 429 to whom the refund was paid shall be assessed interest on the  
 430 amount of the erroneous refund payment, commencing with the date  
 431 of the erroneous payment and continuing until the erroneous  
 432 payment amount is repaid to the department. In such case, the  
 433 rate of interest assessed shall be 4 percentage points less than  
 434 the interest rate established pursuant to s. 213.235. Unless ~~if~~  
 435 the department determines that the erroneous refund claim was  
 436 ~~not~~ due to fraud, no penalty shall be assessed on reasonable  
 437 ~~cause, there shall be added a penalty in the amount of 10~~  
 438 ~~percent of the erroneously refunded tax.~~ If the department  
 439 determines that the erroneous refund claim was due to fraud,  
 440 there shall be added a penalty in the amount of 100 percent of  
 441 the erroneously refunded tax.

442 (11) The department is authorized to adopt such rules, not  
 443 inconsistent with the provisions of this section, as are  
 444 necessary for the implementation of this section including, but  
 445 not limited to, rules establishing the information necessary for



446 verifying a ~~complete~~ refund application, the procedures for  
 447 denying an ~~incomplete~~ application, and the standards and  
 448 guidelines to be applied in determining when to require a bond  
 449 under the provisions of subsection (7).

450 Section 10. Subsection (1) of section 213.756, Florida  
 451 Statutes, is amended to read:

452 213.756 Funds collected are state tax funds.--

453 (1) Funds collected from a purchaser under the  
 454 representation that they are taxes provided for under the state  
 455 revenue laws are state funds from the moment of collection and  
 456 are not subject to refund absent proof that such funds have been  
 457 refunded previously to the purchaser or that the funds will be  
 458 promptly refunded to the purchaser following payment of the  
 459 refund by the taxing authority. Nothing in this section shall  
 460 require a purchaser to seek a refund of amounts collected from  
 461 the purchaser as taxes from the person who collected such  
 462 amounts. In such instances, the purchaser shall be entitled to  
 463 seek a refund directly from the taxing authority on whose behalf  
 464 the funds were collected.

465 Section 11. Subsection (1) of section 215.26, Florida  
 466 Statutes, is amended to read:

467 215.26 Repayment of funds paid into State Treasury through  
 468 error.--

469 (1) The Chief Financial Officer may refund to the person  
 470 who paid same, or his or her heirs, personal representatives, or  
 471 assigns, any moneys paid into the State Treasury which  
 472 constitute:

473 (a) An overpayment of any tax, license, or account due;

HB 1261

2007

474 (b) A payment where no tax, license, or account is due;  
475 and  
476 (c) Any payment made into the State Treasury in error;  
477  
478 and if any such payment has been credited to an appropriation,  
479 such appropriation shall at the time of making any such refund,  
480 be charged therewith. There are appropriated from the proper  
481 respective funds from time to time such sums as may be necessary  
482 for such refunds. In the case of taxes collected under the  
483 authority of chapter 202 or 212, the dealer or the purchaser  
484 from whom the taxes were collected may apply to the Department  
485 of Revenue for a refund.

486 Section 12. This act shall take effect July 1, 2007.