

1                   A bill to be entitled  
 2           An act relating to payment card transaction exactions;  
 3           amending s. 212.12, F.S.; specifying absence of dealer  
 4           liability to the state for certain payment card  
 5           transaction rates, charges, or fees; specifying such  
 6           rates, charges, or fees as a credit against and deduction  
 7           from certain sales and use tax requirements; providing a  
 8           return requirement; providing an effective date.

9

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

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12           Section 1. Paragraph (c) of subsection (1) of section  
 13           212.12, Florida Statutes, is amended, and paragraph (d) is added  
 14           to that subsection, to read:

15           212.12 Dealer's credit for collecting tax; penalties for  
 16           noncompliance; powers of Department of Revenue in dealing with  
 17           delinquents; brackets applicable to taxable transactions;  
 18           records required.--

19           (1) Notwithstanding any other provision of law and for the  
 20           purpose of compensating persons granting licenses for and the  
 21           lessors of real and personal property taxed hereunder, for the  
 22           purpose of compensating dealers in tangible personal property,  
 23           for the purpose of compensating dealers providing communication  
 24           services and taxable services, for the purpose of compensating  
 25           owners of places where admissions are collected, and for the  
 26           purpose of compensating remitters of any taxes or fees reported  
 27           on the same documents utilized for the sales and use tax, as  
 28           compensation for the keeping of prescribed records, filing

29 | timely tax returns, and the proper accounting and remitting of  
30 | taxes by them, such seller, person, lessor, dealer, owner, and  
31 | remitter (except dealers who make mail order sales) shall be  
32 | allowed 2.5 percent of the amount of the tax due and accounted  
33 | for and remitted to the department, in the form of a deduction  
34 | in submitting his or her report and paying the amount due by him  
35 | or her; the department shall allow such deduction of 2.5 percent  
36 | of the amount of the tax to the person paying the same for  
37 | remitting the tax and making of tax returns in the manner herein  
38 | provided, for paying the amount due to be paid by him or her,  
39 | and as further compensation to dealers in tangible personal  
40 | property for the keeping of prescribed records and for  
41 | collection of taxes and remitting the same. However, if the  
42 | amount of the tax due and remitted to the department for the  
43 | reporting period exceeds \$1,200, no allowance shall be allowed  
44 | for all amounts in excess of \$1,200. The executive director of  
45 | the department is authorized to negotiate a collection  
46 | allowance, pursuant to rules promulgated by the department, with  
47 | a dealer who makes mail order sales. The rules of the department  
48 | shall provide guidelines for establishing the collection  
49 | allowance based upon the dealer's estimated costs of collecting  
50 | the tax, the volume and value of the dealer's mail order sales  
51 | to purchasers in this state, and the administrative and legal  
52 | costs and likelihood of achieving collection of the tax absent  
53 | the cooperation of the dealer. However, in no event shall the  
54 | collection allowance negotiated by the executive director exceed  
55 | 10 percent of the tax remitted for a reporting period.

56 | (c)1. A dealer entitled to the collection allowance

57 provided in this section may elect to forego the collection  
58 allowance and direct that said amount be transferred into the  
59 Educational Enhancement Trust Fund. Such an election must be  
60 made with the timely filing of a return and may not be rescinded  
61 once made. If a dealer who makes such an election files a  
62 delinquent return, underpays the tax, or files an incomplete  
63 return, the amount transferred into the Educational Enhancement  
64 Trust Fund shall be the amount of the collection allowance  
65 remaining after resolution of liability for all of the tax,  
66 interest, and penalty due on that return or underpayment of tax.  
67 The Department of Education shall distribute the remaining  
68 amount from the trust fund to the school districts that have  
69 adopted resolutions stating that those funds will be used to  
70 ensure that up-to-date technology is purchased for the  
71 classrooms in the district and that teachers are trained in the  
72 use of that technology. Revenues collected in districts that do  
73 not adopt such a resolution shall be equally distributed to  
74 districts that have adopted such resolutions.

75 2. This paragraph applies to all taxes, surtaxes, and any  
76 local option taxes administered under this chapter and remitted  
77 directly to the department. This paragraph does not apply to any  
78 locally imposed and self-administered convention development  
79 tax, tourist development tax, or tourist impact tax administered  
80 under this chapter.

81 3. Revenues from the dealer-collection allowances shall be  
82 transferred quarterly from the General Revenue Fund to the  
83 Educational Enhancement Trust Fund. The Department of Revenue  
84 shall provide to the Department of Education quarterly

HB 17

2007

85 information about such revenues by county to which the  
86 collection allowance was attributed.

87 4. Notwithstanding any provision of chapter 120 to the  
88 contrary, the Department of Revenue may adopt rules to carry out  
89 the provisions of the amendment made by chapter 2006-52, Laws of  
90 Florida, to this paragraph section.

91 (d) A dealer as described in this subsection is not liable  
92 to the state for any discount rate, transaction charge,  
93 interchange rate, or any other rate, charge, or fee charged to  
94 the dealer by an issuer or deducted from a payment card sale for  
95 processing a payment card transaction for which the rate,  
96 charge, or fee is a flat rate, charge, or fee or a percentage  
97 multiplied by the gross dollar amount of the payment card  
98 transaction. Such rate, charge, or fee is a lawful credit  
99 against and shall be deducted from any sales and use tax  
100 required to be remitted by the dealer to the state. The dealer  
101 shall separately state the credit on any required return.

102 Section 2. This act shall take effect July 1, 2007.