

By the Committee on Finance and Tax; and Senator Haridopolos

593-2584-07

1 A bill to be entitled
2 An act relating to tax administration; amending
3 s. 45.032, F.S.; including a tax warrant as a
4 subordinate lienholder for purposes of the
5 disbursement of surplus funds after a judicial
6 sale; amending s. 193.1551, F.S.; providing for
7 provisions governing the assessment of
8 homestead property damaged in certain named
9 storms to apply to properties in which repairs
10 are commenced by January 1, 2008; amending s.
11 196.192, F.S.; specifying that ownership of
12 property by a tax-exempt organization's sole
13 member limited liability company has the same
14 status for property tax purposes as direct
15 ownership by the tax-exempt organization;
16 amending s. 196.193, F.S.; requiring the
17 property appraiser to explain to a nonprofit
18 organization the legal and factual basis for
19 denying a property tax exemption to the
20 nonprofit organization; amending s. 196.196,
21 F.S.; providing that property owned by an
22 exempt entity shall be deemed to be used for
23 religious purposes if the institution has taken
24 affirmative steps to prepare the property for
25 use as a public house of worship; providing
26 definitions; amending s. 197.572, F.S.;
27 providing for easements for conservation
28 purposes; amending s. 198.13, F.S.; exempting
29 certain representatives of an estate from the
30 requirement to file certain returns if there is
31 no tax on estates of decedents or no tax on

1 generation-skipping transfers; amending s.
2 202.16, F.S.; requiring dealers to document
3 exempt sales for resale; providing requirements
4 and procedures; providing a definition;
5 providing construction; providing for dealer
6 provision of evidence of the exempt status of
7 certain sales through an informal protest
8 process; requiring the Department of Revenue to
9 accept certain evidence during the protest
10 period; providing limitations; requiring the
11 department to establish a toll-free telephone
12 number for the purpose of verifying
13 registration numbers and resale certificates;
14 requiring the department to establish a system
15 for receiving information from dealers
16 regarding certificate numbers; amending s.
17 220.18, F.S.; providing for adjustments in
18 communications services tax distributions to
19 correct for misallocations between
20 jurisdictions; amending s. 202.20, F.S.;
21 limiting local governmental authority to make
22 certain rate adjustments in the tax under
23 certain circumstances; providing for a
24 determination of completeness of certain data;
25 amending s. 202.28, F.S.; providing
26 requirements for the Department of Revenue with
27 respect to distributing proceeds of the
28 communications services tax and allocating
29 certain penalties; amending s. 202.30, F.S.;
30 reducing the threshold tax amount over a
31 specified period under which a dealer of

1 communications services is required to remit
2 taxes electronically; amending ss. 206.02 and
3 206.021, F.S.; authorizing the Department of
4 Revenue to issue temporary fuel licenses during
5 a declared state of emergency or a declared
6 disaster; amending s. 206.9943, F.S.;
7 authorizing the department to issue a temporary
8 pollutant tax license during a declared state
9 of emergency or a declared disaster; amending
10 s. 211.3103, F.S.; providing for the annual
11 producer price index to apply to the tax on the
12 severance of phosphate rock; amending s.
13 212.02, F.S.; adding leases of certain aircraft
14 to the definition of the term "qualified
15 aircraft"; amending ss. 212.05 and 212.0515,
16 F.S.; authorizing the department to adopt
17 additional divisors for calculating the sales
18 tax on vending machines when a county imposes a
19 sales surtax rate that is not listed in
20 statute; amending s. 212.0506, F.S.; clarifying
21 that the definition of the term "service
22 warranty" excludes certain contracts; amending
23 s. 212.08, F.S., relating to exemptions from
24 the sales tax; deleting provisions exempting
25 certain building materials and business
26 property from application of certain
27 requirements for refunds; providing a sales tax
28 exemption for certain delivery charges;
29 repealing s. 212.095, F.S., relating to a sales
30 tax refund permit for certain organizations;
31 amending s. 212.10, F.S.; authorizing the

1 Department of Revenue to transfer tax liability
2 to certain entities upon the transfer of a
3 dealer's assets or liabilities; authorizing the
4 department to require that the liability be
5 paid or a bond be posted; providing that
6 transfer of the liability does not extinguish
7 the liability of the seller or former owner;
8 providing a penalty; providing circumstances
9 under which an unrelated entity is not
10 responsible for the tax liability; amending s.
11 212.12, F.S.; providing that a person is liable
12 for failure to register a business or collect
13 the required taxes; providing penalties;
14 providing exceptions to certain penalties;
15 amending s. 212.14, F.S.; providing for the
16 department to require a bond or other security
17 as a condition of obtaining a tax certificate
18 or registration at its discretion; amending s.
19 212.18, F.S., relating to dealer registrations;
20 deleting obsolete provisions governing informal
21 conferences; authorizing the Department of
22 Revenue, in conjunction with financial
23 institutions, to design a pilot program for
24 identifying certain account holders against
25 whose property the department has a tax
26 warrant; authorizing the department to enter
27 into agreements with financial institutions for
28 developing and operating a data match system;
29 requiring the department to pay a fee to
30 participating financial institutions; requiring
31 the department to submit a report to the

1 | Legislature; amending s. 213.053, F.S.;
2 | authorizing the department to provide
3 | information to certain financial institutions
4 | and to the child support enforcement program;
5 | amending s. 213.21, F.S.; providing for a
6 | taxpayer's liability for a service fee to be
7 | waived due to unintentional error; creating s.
8 | 213.32, F.S.; providing legislative intent with
9 | respect to the integration of the enforcement
10 | authority of the Department of Revenue;
11 | authorizing the department to issue warrants
12 | and file judgment lien certificates evidencing
13 | a taxpayer's total liability for all taxes,
14 | fees, or surcharges; providing procedures for
15 | the department in revoking a certificate of
16 | registration, permit, or license; authorizing
17 | the department to require cash deposits, surety
18 | bonds, or irrevocable letters of credit as a
19 | condition to a taxpayer obtaining, renewing, or
20 | retaining a certificate of registration,
21 | permit, or license; providing definitions;
22 | prohibiting the amount of required security
23 | from exceeding the taxpayer's estimated
24 | liability; requiring that a taxpayer be given
25 | prior notice; providing for the department to
26 | require additional security under certain
27 | circumstances; providing for a release or
28 | refund of security; authorizing the department
29 | to request that the Department of Legal Affairs
30 | obtain an injunction to prevent the taxpayer
31 | from engaging in business activity under

1 certain circumstances; authorizing the
2 department to sell any security to recover
3 taxes, fees, or surcharges that are due;
4 providing for garnishment proceedings;
5 authorizing the department to transfer
6 liabilities to responsible corporate officers;
7 providing for jeopardy assessments; authorizing
8 the department to adopt rules; amending s.
9 213.755, F.S.; reducing the threshold tax
10 amount over a specified period under which a
11 taxpayer may be required to remit taxes
12 electronically; amending s. 220.21, F.S.;
13 requiring a taxpayer that is required to file
14 its federal income tax return electronically to
15 also file its state corporate income tax
16 electronically; providing a penalty for failure
17 to do so; authorizing the department to adopt
18 rules; providing for applicability; amending s.
19 220.803, F.S., relating to the determination of
20 certain tax deficiencies; deleting provisions
21 imposing a penalty for tax deficiencies due to
22 negligence or intentional disregard of rules
23 and regulations; amending s. 443.1216, F.S.;
24 authorizing the Agency for Workforce Innovation
25 and the agency that collects unemployment taxes
26 to adopt rules; clarifying that certain senior
27 management positions are excluded from
28 unemployment compensation provisions; amending
29 s. 443.1316, F.S.; providing for certain
30 provisions of ch. 213, F.S., relating to
31 taxpayers rights, to apply to the collection of

1 unemployment taxes; deleting a limitation on
2 the amount the department may charge for the
3 costs of collection services; amending s.
4 443.141, F.S.; authorizing the department to
5 impose a penalty for erroneous, incomplete, or
6 insufficient reports with respect to
7 unemployment contributions and reimbursements;
8 requiring that the penalties be paid into the
9 Special Employment Security Administration
10 Trust Fund; amending s. 443.163, F.S.; revising
11 the threshold number of employees for which an
12 employer must report and remit contributions
13 and reimbursements electronically; amending s.
14 624.511, F.S.; authorizing the Department of
15 Revenue to refund an overpayment of insurance
16 premium tax under certain circumstances;
17 amending s. 832.062, F.S.; providing for prima
18 facie evidence of intent to defraud or
19 knowledge of insufficient funds with respect to
20 an electronic transfer to the Department of
21 Revenue which is not honored or refused;
22 providing requirements for notice; providing
23 for the department to recover court costs and
24 attorney's fees; providing procedures for
25 establishing prima facie evidence; providing
26 for refunds of certain property taxes for
27 residential property damaged or destroyed by a
28 tornado during a specified period; providing
29 effective dates.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Paragraph (b) of subsection (1) and
2 paragraph (a) of subsection (3) of section 45.032, Florida
3 Statutes, are amended to read:

4 45.032 Disbursement of surplus funds after judicial
5 sale.--

6 (1) For purposes of ss. 45.031-45.035, the term:

7 (b) "Subordinate lienholder" means the holder of a
8 subordinate lien shown on the face of the pleadings as an
9 encumbrance on the property. The lien held by the party filing
10 the foreclosure lawsuit is not a subordinate lien. A
11 subordinate lienholder includes, but is not limited to, a
12 subordinate mortgage, judgment, tax warrant, assessment lien,
13 or construction lien. However, the holder of a subordinate
14 lien shall not be deemed a subordinate lienholder if the
15 holder was paid in full from the proceeds of the sale.

16 (3) During the 60 days after the clerk issues a
17 certificate of disbursements, the clerk shall hold the surplus
18 pending a court order.

19 (a) If the owner of record claims the surplus during
20 the 60-day period and there is no subordinate lienholder, the
21 court shall order the clerk to deduct any applicable service
22 charges from the surplus and pay the remainder to the owner of
23 record. The clerk may establish a reasonable requirement that
24 the owner of record prove his or her identity before receiving
25 the disbursement. The clerk may assist an owner of record in
26 making a claim. An owner of record may use the following form
27 in making a claim:

28
29 (Caption of Action)

30
31 OWNER'S CLAIM FOR

MORTGAGE FORECLOSURE SURPLUS

1
2
3 State of

4 County of

5 Under penalty of perjury, I (we) hereby certify that:

6 1. I was (we were) the owner of the following
7 described real property in County, Florida, prior to the
8 foreclosure sale and as of the date of the filing of the lis
9 pendens:

10
11 ...(Legal description of real property)...

12
13 2. I (we) do not owe any money on any mortgage on the
14 property that was foreclosed other than the one that was paid
15 off by the foreclosure.

16 3. I (we) do not owe any money that is the subject of
17 an unpaid judgment, tax warrant, condominium lien, cooperative
18 lien, or homeowners' association.

19 4. I am (we are) not currently in bankruptcy.

20 5. I (we) have not sold or assigned my (our) right to
21 the mortgage surplus.

22 6. My (our) new address is:

23 7. If there is more than one owner entitled to the
24 surplus, we have agreed that the surplus should be paid
25 jointly, or to:, at the following address:

26 8. I (WE) UNDERSTAND THAT I (WE) AM (ARE) NOT REQUIRED
27 TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND I (WE) DO NOT
28 HAVE TO ASSIGN MY (OUR) RIGHTS TO ANYONE ELSE IN ORDER TO
29 CLAIM ANY MONEY TO WHICH I (WE) MAY BE ENTITLED.

1 9. I (WE) UNDERSTAND THAT THIS STATEMENT IS GIVEN
2 UNDER OATH, AND IF ANY STATEMENTS ARE UNTRUE THAT I (WE) MAY
3 BE PROSECUTED CRIMINALLY FOR PERJURY.

4
5 ...(Signatures)...

6
7 Sworn to (or affirmed) and subscribed before me this
8 day of, ...(year)...., by ...(name of person making
9 statement)....

10 ...(Signature of Notary Public - State of Florida)...
11 ...(Print, Type, or Stamp Commissioned Name of Notary
12 Public)...

13
14 Personally Known OR Produced Identification
15 Type of Identification Produced.....

16
17 Section 2. Section 193.1551, Florida Statutes, is
18 amended to read:

19 193.1551 Assessment of certain homestead property
20 damaged in 2004 named storms.--Notwithstanding the provisions
21 of s. 193.155(4), the assessment at just value for changes,
22 additions, or improvements to homestead property rendered
23 uninhabitable in one or more of the named storms of 2004 shall
24 be limited to the square footage exceeding 110 percent of the
25 homestead property's total square footage. Additionally, homes
26 having square footage of 1,350 square feet or less which were
27 rendered uninhabitable may rebuild up to 1,500 total square
28 feet and the increase in square footage shall not be
29 considered as a change, an addition, or an improvement that is
30 subject to assessment at just value. The provisions of this
31 section are limited to homestead properties in which repairs

1 are commenced ~~completed~~ by January 1, 2008, and apply
2 retroactively to January 1, 2005.

3 Section 3. Section 196.192, Florida Statutes, is
4 amended to read:

5 196.192 Exemptions from ad valorem taxation.--Subject
6 to the provisions of this chapter:

7 (1) All property owned by an exempt entity and used
8 exclusively for exempt purposes shall be totally exempt from
9 ad valorem taxation.

10 (2) All property owned by an exempt entity and used
11 predominantly for exempt purposes shall be exempted from ad
12 valorem taxation to the extent of the ratio that such
13 predominant use bears to the nonexempt use.

14 (3) All tangible personal property loaned or leased by
15 a natural person, by a trust holding property for a natural
16 person, or by an exempt entity to an exempt entity for public
17 display or exhibition on a recurrent schedule is exempt from
18 ad valorem taxation if the property is loaned or leased for no
19 consideration or for nominal consideration.

20
21 For purposes of this section, each use to which the property
22 is being put must be considered in granting an exemption from
23 ad valorem taxation, including any economic use in addition to
24 any physical use. For purposes of this section, property owned
25 by a limited liability company, the sole member of which is an
26 exempt entity, shall be treated as if the property were owned
27 directly by the exempt entity. This section ~~does~~ shall not
28 apply in determining the exemption for property owned by
29 governmental units pursuant to s. 196.199.

30 Section 4. Subsection (5) of section 196.193, Florida
31 Statutes, is amended to read:

1 196.193 Exemption applications; review by property
2 appraiser.--

3 (5)(a) ~~If in the event~~ the property appraiser
4 determines ~~shall determine~~ that any property claimed as wholly
5 or partially exempt under this section is not entitled to any
6 exemption or is entitled to an exemption to an extent other
7 than that requested in the application, he or she shall notify
8 the person or organization filing the application on such
9 property of that determination in writing on or before July 1
10 of the year for which the application was filed.

11 (b) The notification must state in clear and
12 unambiguous language the specific requirements of the state
13 statutes which the property appraiser relied upon to deny the
14 applicant the exemption with respect to the subject property.
15 The notification must be drafted in such a way that a
16 reasonable person can understand specific attributes of the
17 applicant or the applicant's use of the subject property which
18 formed the basis for the denial. The notice must also include
19 the specific facts the property appraiser used to determine
20 that the applicant failed to meet the statutory requirements.
21 If a property appraiser fails to provide a notice that
22 complies with this subsection, any denial of an exemption or
23 an attempted denial of an exemption is invalid.

24 (c) All notifications must specify the right to appeal
25 to the value adjustment board and the procedures to follow in
26 obtaining such an appeal. Thereafter, the person or
27 organization filing such application, or a duly designated
28 representative, may appeal that determination by the property
29 appraiser to the board at the time of its regular hearing. In
30 the event of an appeal, the property appraiser or the property
31 appraiser's representative shall appear at the board hearing

1 and present his or her findings of fact. If the applicant is
2 not present or represented at the hearing, the board may make
3 a determination on the basis of information supplied by the
4 property appraiser or such other information on file with the
5 board.

6 Section 5. Present subsection (3) of section 196.196,
7 Florida Statutes, is redesignated as subsection (4), and a new
8 subsection (3) is added to that section, to read:

9 196.196 Determining whether property is entitled to
10 charitable, religious, scientific, or literary exemption.--

11 (3) Property owned by an exempt organization is used
12 for a religious purpose if the institution has taken
13 affirmative steps to prepare the property for use as a house
14 of public worship. The term "affirmative steps" means
15 environmental or land use permitting activities, creation of
16 architectural plans or schematic drawings, land clearing or
17 site preparation, construction or renovation activities, or
18 other similar activities that demonstrate a commitment of the
19 property to a religious use as a house of public worship. For
20 purposes of this subsection, the term "public worship" means
21 religious worship services and those other activities that are
22 incidental to religious worship services, such as educational
23 activities, parking, recreation, partaking of meals, and
24 fellowship.

25 Section 6. Section 197.572, Florida Statutes, is
26 amended to read:

27 197.572 Easements for conservation purposes, or for
28 public service purposes or for drainage or ingress and egress
29 survive tax sales and deeds.--When any lands are sold for the
30 nonpayment of taxes, or any tax certificate is issued thereon
31 by a governmental unit or agency or pursuant to any tax lien

1 foreclosure proceeding, the title to the lands shall continue
2 to be subject to any easement for conservation purposes as
3 provided in s. 704.06 or telephone, telegraph, pipeline, power
4 transmission, or other public service purpose and shall
5 continue to be subject to any easement for the purposes of
6 drainage or of ingress and egress to and from other land. The
7 easement and the rights of the owner of it shall survive and
8 be enforceable after the execution, delivery, and recording of
9 a tax deed, a master's deed, or a clerk's certificate of title
10 pursuant to foreclosure of a tax deed, tax certificate, or tax
11 lien, to the same extent as though the land had been conveyed
12 by voluntary deed. The easement must be evidenced by written
13 instrument recorded in the office of the clerk of the circuit
14 court in the county where such land is located before the
15 recording of such tax deed or master's deed, or, if not
16 recorded, an easement for a public service purpose must be
17 evidenced by wires, poles, or other visible occupation, an
18 easement for drainage must be evidenced by a waterway, water
19 bed, or other visible occupation, and an easement for the
20 purpose of ingress and egress must be evidenced by a road or
21 other visible occupation to be entitled to the benefit of this
22 section; however, this shall apply only to tax deeds issued
23 after the effective date of this act.

24 Section 7. Subsection (4) is added to section 198.13,
25 Florida Statutes, to read:

26 198.13 Tax return to be made in certain cases;
27 certificate of nonliability.--

28 (4) Notwithstanding any other provisions of this
29 section and applicable to the estate of a decedent who dies
30 after December 31, 2004, if, upon the death of the decedent, a
31 state death tax credit or a generation-skipping transfer

1 credit is not allowable pursuant to the Internal Revenue Code
2 of 1986, as amended:

3 (a) The personal representative of the estate is not
4 required to file a return under subsection (1) in connection
5 with the estate.

6 (b) The person who would otherwise be required to file
7 a return reporting a generation-skipping transfer under
8 subsection (3) is not required to file such a return in
9 connection with the estate.

10
11 The provisions of this subsection do not apply to estates of
12 descendents dying after December 31, 2010.

13 Section 8. Effective January 1, 2008, subsection (2)
14 of section 202.16, Florida Statutes, is amended to read:

15 202.16 Payment.--The taxes imposed or administered
16 under this chapter and chapter 203 shall be collected from all
17 dealers of taxable communications services on the sale at
18 retail in this state of communications services taxable under
19 this chapter and chapter 203. The full amount of the taxes on
20 a credit sale, installment sale, or sale made on any kind of
21 deferred payment plan is due at the moment of the transaction
22 in the same manner as a cash sale.

23 (2)(a) A sale of communications services that are used
24 as a component part of or integrated into a communications
25 service or prepaid calling arrangement for resale, including,
26 but not limited to, carrier-access charges, interconnection
27 charges paid by providers of mobile communication services or
28 other communication services, charges paid by cable service
29 providers for the transmission of video or other programming
30 by another dealer of communications services, charges for the
31 sale of unbundled network elements, and any other intercompany

1 | charges for the use of facilities for providing communications
2 | services for resale, must be made in compliance with the rules
3 | of the department. Any person who makes a sale for resale
4 | which is not in compliance with these rules is liable for any
5 | tax, penalty, and interest due for failing to comply, to be
6 | calculated pursuant to s. 202.28(2)(a).

7 | **(b)1. Any dealer who makes a sale for resale shall**
8 | **document the exempt nature of the transaction, as established**
9 | **by rules adopted by the department, by retaining a copy of the**
10 | **purchaser's initial or annual resale certificate issued**
11 | **pursuant to s. 202.17(6). In lieu of maintaining a copy of the**
12 | **certificate, a dealer may document, prior to the time of sale,**
13 | **an authorization number provided telephonically or**
14 | **electronically by the department or by such other means**
15 | **established by rule of the department. The dealer may rely on**
16 | **an initial or annual resale certificate issued pursuant to s.**
17 | **202.17(6), valid at the time of receipt from the purchaser,**
18 | **without seeking additional annual resale certificates from**
19 | **such purchaser, if the dealer makes recurring sales to the**
20 | **purchaser in the normal course of business on a continual**
21 | **basis. For purposes of this paragraph, the term "recurring**
22 | **sales to a purchaser in the normal course of business" means**
23 | **sales in which the dealer extends credit to the purchaser and**
24 | **records the debt as an account receivable, or in which the**
25 | **dealer sells to a purchaser who has an established cash**
26 | **account, similar to an open credit account. For purposes of**
27 | **this paragraph, purchases are made from a selling dealer on a**
28 | **continual basis if the selling dealer makes, in the normal**
29 | **course of business, sales to the purchaser no less frequently**
30 | **than once in every 12-month period.**
31 |

1 2. A dealer may, through the informal conference
2 procedures provided for in s. 213.21 and the rules of the
3 department, provide the department with evidence of the exempt
4 status of a sale. Exemption certificates executed by entities
5 that were exempt at the time of sale, resale certificates
6 provided by purchasers who were active dealers at the time of
7 sale, and verification by the department of a purchaser's
8 active dealer status at the time of sale in lieu of a resale
9 certificate shall be accepted by the department when submitted
10 during the protest period but may not be accepted in any
11 proceeding under chapter 120 or any circuit court action
12 instituted under chapter 72.

13 Section 9. Effective January 1, 2008, the Department
14 of Revenue shall establish a toll-free telephone number for
15 the verification of valid dealer registration numbers and
16 resale certificates issued under chapter 202, Florida
17 Statutes. The system must be adequate to guarantee a low busy
18 rate, must respond to keypad inquiries, and must provide data
19 that is updated daily.

20 Section 10. Effective January 1, 2008, the Department
21 of Revenue shall establish a system for receiving information
22 from dealers regarding certificate numbers of purchasers who
23 are seeking to make purchases for resale under chapter 202,
24 Florida Statutes. The department shall provide such dealers,
25 free of charge, with verification of those numbers that are
26 canceled or invalid.

27 Section 11. Paragraph (c) of subsection (3) of section
28 202.18, Florida Statutes, is amended to read:

29 202.18 Allocation and disposition of tax
30 proceeds.--The proceeds of the communications services taxes
31 remitted under this chapter shall be treated as follows:

1 (3)

2 (c)1. Except as otherwise provided in this paragraph,
3 proceeds of the taxes levied pursuant to s. 202.19, less
4 amounts deducted for costs of administration in accordance
5 with paragraph (b), shall be distributed monthly to the
6 appropriate jurisdictions. The proceeds of taxes imposed
7 pursuant to s. 202.19(5) shall be distributed in the same
8 manner as discretionary surtaxes are distributed, in
9 accordance with ss. 212.054 and 212.055.

10 2. The department shall make any adjustments to the
11 distributions pursuant to this ~~section paragraph~~ which are
12 necessary to reflect the proper amounts due to individual
13 jurisdictions or trust funds. In the event that the department
14 adjusts amounts due to reflect a correction in the situsing of
15 a customer, such adjustment shall be limited to the amount of
16 tax actually collected from such customer by the dealer of
17 communication services.

18 3.a. Notwithstanding the time period specified in s.
19 202.22(5), adjustments in distributions which are necessary to
20 correct misallocations between jurisdictions shall be governed
21 by this subparagraph. If the department determines that
22 misallocations between jurisdictions occurred, it shall
23 provide written notice of such determination to all affected
24 jurisdictions. The notice shall include the amount of the
25 misallocations, the basis upon which the determination was
26 made, data supporting the determination, and the identity of
27 each affected jurisdiction. The notice shall also inform all
28 affected jurisdictions of their authority to enter into a
29 written agreement establishing a method of adjustment as
30 described in sub-subparagraph c.

31

1 b. An adjustment affecting a distribution to a
2 jurisdiction which is less than 90 percent of the average
3 monthly distribution to that jurisdiction for the 6 months
4 immediately preceding the department's determination, as
5 reported by all communications services dealers, shall be made
6 in the month immediately following the department's
7 determination that misallocations occurred.

8 c. If an adjustment affecting a distribution to a
9 jurisdiction equals or exceeds 90 percent of the average
10 monthly distribution to that jurisdiction for the 6 months
11 immediately preceding the department's determination, as
12 reported by all communications services dealers, the affected
13 jurisdictions may enter into a written agreement establishing
14 a method of adjustment. If the agreement establishing a method
15 of adjustment provides for payments of local communications
16 services tax monthly distributions, the amount of any such
17 payment agreed to may not exceed the local communications
18 services tax monthly distributions available to the
19 jurisdiction that was allocated amounts in excess of those to
20 which it was entitled. If affected jurisdictions execute a
21 written agreement specifying a method of adjustment, a copy of
22 the written agreement shall be provided to the department no
23 later than the first day of the month following 90 days after
24 the date the department transmits notice of the misallocation.
25 If the department does not receive a copy of the written
26 agreement within the specified time period, an adjustment
27 affecting a distribution to a jurisdiction made pursuant to
28 this sub-subparagraph shall be prorated over a time period
29 that equals the time period over which the misallocations
30 occurred.

1 Section 12. Paragraph (a) of subsection (2) of section
2 202.20, Florida Statutes, is amended to read:

3 202.20 Local communications services tax conversion
4 rates.--

5 (2)(a)1. With respect to any local taxing
6 jurisdiction, if, for the periods ending December 31, 2001;
7 March 31, 2002; June 30, 2002; or September 30, 2002, the
8 revenues received by that local government from the local
9 communications services tax imposed under subsection (1) are
10 less than the revenues received from the replaced revenue
11 sources for the corresponding 2000-2001 period; plus
12 reasonably anticipated growth in such revenues over the
13 preceding 1-year period, based on the average growth of such
14 revenues over the immediately preceding 5-year period; plus an
15 amount representing the revenues from the replaced revenue
16 sources for the 1-month period that the local taxing
17 jurisdiction was required to forego, the governing authority
18 may adjust the rate of the local communications services tax
19 upward to the extent necessary to generate the entire
20 shortfall in revenues within 1 year after the rate adjustment
21 and by an amount necessary to generate the expected amount of
22 revenue on an ongoing basis.

23 2. If complete data are not available at the time of
24 determining whether the revenues received by a local
25 government from the local communications services tax imposed
26 under subsection (1) are less than the revenues received from
27 the replaced revenue sources for the corresponding 2000-2001
28 period, as set forth in subparagraph 1., the local government
29 shall use the best data available for the corresponding
30 2000-2001 period in making such determination. Complete data
31 shall be deemed available to all local governments after the

1 department audits, including the redistribution of local tax,
2 dealers who account for no less than 80 percent of the amount
3 of communications services tax revenues received for fiscal
4 year 2005-2006.

5 3. The adjustment permitted under subparagraph 1. may
6 be made by emergency ordinance or resolution and may be made
7 notwithstanding the maximum rate established under s.
8 202.19(2) and notwithstanding any schedules or timeframes or
9 any other limitations contained in this chapter. Beginning
10 July 1, 2007, a local government may make such adjustment only
11 if the department or a dealer allocates or reallocates
12 revenues away from the local government. However, any such
13 adjustment shall be made no later than 6 months following the
14 date the department notifies the local governments in writing
15 that complete data is available. The emergency ordinance or
16 resolution shall specify an effective date for the adjusted
17 rate, which shall be no less than 60 days after the date of
18 adoption of the ordinance or resolution and shall be effective
19 with respect to taxable services included on bills that are
20 dated on the first day of a month subsequent to the expiration
21 of the 60-day period. At the end of 1 year following the
22 effective date of such adjusted rate, the local governing
23 authority shall, as soon as is consistent with s. 202.21,
24 reduce the rate by that portion of the emergency rate which
25 was necessary to recoup the amount of revenues not received
26 prior to the implementation of the emergency rate.

27 4. If, for the period October 1, 2001, through
28 September 30, 2002, the revenues received by a local
29 government from the local communications services tax
30 conversion rate established under subsection (1), adjusted
31 upward for the difference in rates between paragraphs (1)(a)

1 and (b) or any other rate adjustments or base changes, are
2 above the threshold of 10 percent more than the revenues
3 received from the replaced revenue sources for the
4 corresponding 2000-2001 period plus reasonably anticipated
5 growth in such revenues over the preceding 1-year period,
6 based on the average growth of such revenues over the
7 immediately preceding 5-year period, the governing authority
8 must adjust the rate of the local communications services tax
9 to the extent necessary to reduce revenues to the threshold by
10 emergency ordinance or resolution within the timeframes
11 established in subparagraph 3. The foregoing rate adjustment
12 requirement shall not apply to a local government that adopts
13 a local communications services tax rate by resolution or
14 ordinance. If complete data are not available at the time of
15 determining whether the revenues exceed the threshold, the
16 local government shall use the best data available for the
17 corresponding 2000-2001 period in making such determination.
18 This subparagraph shall not be construed as establishing a
19 right of action for any person to enforce this subparagraph or
20 challenge a local government's implementation of this
21 subparagraph.

22 Section 13. Paragraph (d) of subsection (2) of section
23 202.28, Florida Statutes, is amended to read:

24 202.28 Credit for collecting tax; penalties.--

25 (2)

26 (d) If a dealer fails to separately report and
27 identify local communications services taxes on the
28 appropriate return schedule, the dealer shall be subject to a
29 penalty of \$5,000 per return. If the department is unable to
30 obtain appropriate return schedules, any penalty imposed by
31

1 this paragraph shall be allocated in the same manner as
2 provided in s. 202.18(2).

3 Section 14. Effective January 1, 2008, subsection (1)
4 of section 203.30, Florida Statutes, is amended to read:

5 202.30 Payment of taxes by electronic funds transfer;
6 filing of returns by electronic data interchange.--

7 (1) A dealer of communications services is required to
8 remit taxes by electronic funds transfer, in the manner
9 prescribed by the department, when the amount of tax paid by
10 the dealer under this chapter, chapter 203, or chapter 212 in
11 the previous state fiscal year was ~~\$20,000~~\$50,000 or more;
12 \$10,000 or more, effective January 1, 2009; and \$5,000 or
13 more, effective January 1, 2010.

14 Section 15. Subsection (8) is added to section 206.02,
15 Florida Statutes, to read:

16 206.02 Application for license; temporary license;
17 terminal suppliers, importers, exporters, blenders, biodiesel
18 manufacturers, and wholesalers.--

19 (8)(a) Notwithstanding any provision to the contrary
20 contained in this chapter, the department may grant a
21 temporary fuel license for immediate use if:

22 1. The Governor has declared a state of emergency
23 under s. 252.36; or

24 2. The President of the United States has declared a
25 major disaster in this state or in any other state or
26 territory of the United States.

27 (b) Notwithstanding the provisions of this chapter
28 requiring a license tax and a bond or criminal background
29 check, the department may issue a temporary license as an
30 importer or exporter to a person who holds a valid Florida
31 wholesaler license or to a person who is an unlicensed dealer.

1 A license may be issued under this subsection only to a
2 business that has a physical location in this state and holds
3 a valid Florida sales and use tax certificate of registration
4 or that holds a valid fuel license issued by another state.

5 (c) A temporary license expires on the last day of the
6 month following the month in which the temporary license was
7 issued. The department may extend any temporary license on a
8 month-to-month basis during the period of a declared state of
9 emergency or major disaster as provided in this subsection. If
10 the department extends a temporary license, the extended
11 license expires on the last day of the month in which the
12 temporary license was extended.

13 (d) In order to procure a temporary license, a
14 nonresident business must provide to the department the
15 information required in subsection (4); the federal
16 identification number of the business or, if such number is
17 unavailable, the social security number of the owner; and any
18 other information that is required by the department.

19 (e) A temporary license authorized by this subsection
20 may not be renewed if the licensee has not filed the required
21 returns or made payment of the taxes required under this
22 chapter.

23 Section 16. Subsection (5) is added to section
24 206.021, Florida Statutes, to read:

25 206.021 Application for license; carriers.--

26 (5)(a) Notwithstanding any provision to the contrary
27 contained in this chapter, the department may grant a
28 temporary fuel license for immediate use if:

29 1. The Governor has declared a state of emergency
30 under s. 252.36; or
31

1 2. The President of the United States has declared a
2 major disaster in this state or in any other state or
3 territory of the United States.

4 (b) Notwithstanding the provisions of this chapter
5 requiring a license tax and a bond or criminal background
6 check, the department may issue a temporary license as a
7 carrier to a person who holds a valid Florida wholesaler,
8 importer, exporter, or blender license or to a person who is
9 an unlicensed dealer. A license may be issued under this
10 subsection only to a business that has a physical location in
11 this state and holds a valid Florida sales and use tax
12 certificate of registration or that holds a valid fuel license
13 issued by another state.

14 (c) A temporary license expires on the last day of the
15 month following the month in which the temporary license was
16 issued. The department may extend any temporary license on a
17 month-to-month basis during the period of a declared state of
18 emergency or major disaster as provided in this subsection. If
19 the department extends a temporary license, the extended
20 license expires on the last day of the month in which the
21 temporary license was extended.

22 (d) In order to procure a temporary license, a
23 nonresident business must provide to the department the
24 information required in subsection (2); the federal
25 identification number of the business or, if such number is
26 unavailable, the social security number of the owner; and any
27 other information that is required by the department.

28 (e) A temporary license authorized by this subsection
29 may not be renewed if the licensee has not filed the required
30 returns or made payment of the taxes required under this
31 chapter.

1 Section 17. Subsection (4) is added to section
2 206.9943, Florida Statutes, to read:

3 206.9943 Pollutant tax license.--

4 (4) A temporary pollutant tax license may be issued to
5 a holder of a valid Florida temporary importer, temporary
6 wholesaler, or temporary exporter license issued under s.
7 206.02. A temporary pollutant tax license is subject to the
8 provisions set forth in s. 206.02(8).

9 Section 18. Paragraphs (d) and (e) of subsection (9)
10 of section 211.3103, Florida Statutes, are amended to read:

11 211.3103 Levy of tax on severance of phosphate rock;
12 rate, basis, and distribution of tax.--

13 (9)

14 (d) If the producer price index for phosphate rock
15 ~~chemical and fertilizer mineral mining~~ is substantially
16 revised, the department shall make appropriate adjustment in
17 the method used to compute the base rate adjustment under this
18 subsection which will produce results reasonably consistent
19 with the result that ~~which~~ would have been obtained if the
20 producer price index for phosphate rock ~~primary products~~ had
21 not been revised. However, the tax rate shall not be less than
22 \$1.56 per ton severed.

23 (e) ~~If in the event~~ the producer price index for
24 phosphate rock ~~primary products~~ is discontinued, ~~then~~ a
25 comparable index shall be selected by the department and
26 adopted by rule.

27 Section 19. Subsection (33) of section 212.02, Florida
28 Statutes, is amended to read:

29 212.02 Definitions.--The following terms and phrases
30 when used in this chapter have the meanings ascribed to them
31

1 in this section, except where the context clearly indicates a
2 different meaning:

3 (33) "Qualified aircraft" means any aircraft having a
4 maximum certified takeoff weight of less than 10,000 pounds
5 and equipped with twin turbofan engines that meet Stage IV
6 noise requirements that is used by a business operating as an
7 on-demand air carrier under Federal Aviation Administration
8 Regulation Title 14, chapter I, part 135, Code of Federal
9 Regulations, that owns or leases and operates a fleet of at
10 least 25 of such aircraft in this state.

11 Section 20. Paragraph (h) of subsection (1) of section
12 212.05, Florida Statutes, is amended to read:

13 212.05 Sales, storage, use tax.--It is hereby declared
14 to be the legislative intent that every person is exercising a
15 taxable privilege who engages in the business of selling
16 tangible personal property at retail in this state, including
17 the business of making mail order sales, or who rents or
18 furnishes any of the things or services taxable under this
19 chapter, or who stores for use or consumption in this state
20 any item or article of tangible personal property as defined
21 herein and who leases or rents such property within the state.

22 (1) For the exercise of such privilege, a tax is
23 levied on each taxable transaction or incident, which tax is
24 due and payable as follows:

25 (h)1. ~~Beginning January 1, 1995,~~ A tax is imposed at
26 the rate of 4 percent on the charges for the use of
27 coin-operated amusement machines. The tax shall be calculated
28 by dividing the gross receipts from such charges for the
29 applicable reporting period by a divisor, determined as
30 provided in this subparagraph, to compute gross taxable sales,
31 and then subtracting gross taxable sales from gross receipts

1 to arrive at the amount of tax due. For counties that do not
2 impose a discretionary sales surtax, the divisor is equal to
3 1.04;~~except that~~ for counties that impose a 0.5 percent
4 discretionary sales surtax, with a ~~6.5 percent sales tax rate~~
5 the divisor ~~is shall be~~ equal to 1.045;~~and~~ for counties that
6 impose a 1 percent discretionary sales surtax, with a ~~7.0~~
7 ~~percent sales tax rate~~ the divisor ~~is shall be~~ equal to 1.050;
8 and for counties that impose a 2 percent sales surtax, the
9 divisor is equal to 1.060. If a county imposes a discretionary
10 sales surtax that is not listed in this subparagraph, the
11 department shall make the applicable divisor available in an
12 electronic format or otherwise. Additional divisors shall bear
13 the same mathematical relationship to the next higher and next
14 lower divisors as the new surtax rate bears to the next higher
15 and next lower surtax rates for which divisors have been
16 established. When a machine is activated by a slug, token,
17 coupon, or any similar device which has been purchased, the
18 tax is on the price paid by the user of the device for such
19 device.

20 2. As used in this paragraph, the term "operator"
21 means any person who possesses a coin-operated amusement
22 machine for the purpose of generating sales through that
23 machine and who is responsible for removing the receipts from
24 the machine.

25 a. If the owner of the machine is also the operator of
26 it, he or she shall be liable for payment of the tax without
27 any deduction for rent or a license fee paid to a location
28 owner for the use of any real property on which the machine is
29 located.

30 b. If the owner or lessee of the machine is also its
31 operator, he or she shall be liable for payment of the tax on

1 | the purchase or lease of the machine, as well as the tax on
2 | sales generated through the machine.

3 | c. If the proprietor of the business where the machine
4 | is located does not own the machine, he or she shall be deemed
5 | to be the lessee and operator of the machine and is
6 | responsible for the payment of the tax on sales, unless such
7 | responsibility is otherwise provided for in a written
8 | agreement between him or her and the machine owner.

9 | 3.a. An operator of a coin-operated amusement machine
10 | may not operate or cause to be operated in this state any such
11 | machine until the operator has registered with the department
12 | and has conspicuously displayed an identifying certificate
13 | issued by the department. The identifying certificate shall
14 | be issued by the department upon application from the
15 | operator. The identifying certificate shall include a unique
16 | number, and the certificate shall be permanently marked with
17 | the operator's name, the operator's sales tax number, and the
18 | maximum number of machines to be operated under the
19 | certificate. An identifying certificate shall not be
20 | transferred from one operator to another. The identifying
21 | certificate must be conspicuously displayed on the premises
22 | where the coin-operated amusement machines are being operated.

23 | b. The operator of the machine must obtain an
24 | identifying certificate before the machine is first operated
25 | in the state and by July 1 of each year thereafter. The annual
26 | fee for each certificate shall be based on the number of
27 | machines identified on the application times \$30 and is due
28 | and payable upon application for the identifying device. The
29 | application shall contain the operator's name, sales tax
30 | number, business address where the machines are being
31 | operated, and the number of machines in operation at that

1 place of business by the operator. No operator may operate
2 more machines than are listed on the certificate. A new
3 certificate is required if more machines are being operated at
4 that location than are listed on the certificate. The fee for
5 the new certificate shall be based on the number of additional
6 machines identified on the application form times \$30.

7 c. A penalty of \$250 per machine is imposed on the
8 operator for failing to properly obtain and display the
9 required identifying certificate. A penalty of \$250 is imposed
10 on the lessee of any machine placed in a place of business
11 without a proper current identifying certificate. Such
12 penalties shall apply in addition to all other applicable
13 taxes, interest, and penalties.

14 d. Operators of coin-operated amusement machines must
15 obtain a separate sales and use tax certificate of
16 registration for each county in which such machines are
17 located. One sales and use tax certificate of registration is
18 sufficient for all of the operator's machines within a single
19 county.

20 4. The provisions of this paragraph do not apply to
21 coin-operated amusement machines owned and operated by
22 churches or synagogues.

23 5. In addition to any other penalties imposed by this
24 chapter, a person who knowingly and willfully violates any
25 provision of this paragraph commits a misdemeanor of the
26 second degree, punishable as provided in s. 775.082 or s.
27 775.083.

28 6. The department may adopt rules necessary to
29 administer the provisions of this paragraph.

30 Section 21. Subsection (3) of section 212.0506,
31 Florida Statutes, is amended to read:

1 212.0506 Taxation of service warranties.--

2 (3) For purposes of this section, "service warranty"
3 means any contract or agreement which indemnifies the holder
4 of the contract or agreement for the cost of maintaining,
5 repairing, or replacing tangible personal property. The term
6 "service warranty" does not include contracts or agreements to
7 repair, maintain, or replace tangible personal property if
8 such property when sold at retail in this state would not be
9 subject to the tax imposed by this chapter or if the parts and
10 labor to repair tangible personal property qualify for an
11 exemption under this chapter, nor does it include such
12 contracts or agreements covering tangible personal property
13 which becomes a part of real property.

14 Section 22. Subsection (2) of section 212.0515,
15 Florida Statutes, is amended to read:

16 212.0515 Sales from vending machines; sales to vending
17 machine operators; special provisions; registration;
18 penalties.--

19 (2) Notwithstanding any other provision of law, the
20 amount of the tax to be paid on food, beverages, or other
21 items of tangible personal property that are sold in vending
22 machines shall be calculated by dividing the gross receipts
23 from such sales for the applicable reporting period by a
24 divisor, determined as provided in this subsection, to compute
25 gross taxable sales, and then subtracting gross taxable sales
26 from gross receipts to arrive at the amount of tax due. For
27 counties that do not impose a discretionary sales surtax, the
28 divisor is equal to the sum of 1.0645 for beverage and food
29 items, or 1.0659 for other items of tangible personal
30 property. ~~., except that~~ For counties with a 0.5 percent sales
31 surtax rate the divisor is equal to the sum of 1.0686 for

1 beverage and food items or 1.0707 for other items of tangible
2 personal property; for counties with a 0.75 percent sales
3 surtax rate the divisor is equal to the sum of 1.0706 for
4 beverage and food items or 1.0727 for other items of tangible
5 personal property; for counties with a 1 percent sales surtax
6 rate the divisor is equal to the sum of 1.0726 for beverage
7 and food items or 1.0749 for other items of tangible personal
8 property; ~~and~~ for counties with a 1.5 percent sales surtax
9 rate the divisor is equal to the sum of 1.0767 for beverage
10 and food items or 1.0791 for other items of tangible personal
11 property; and for counties with a 2 percent sales surtax rate
12 the divisor is equal to the sum of 1.0808 for beverage and
13 food items or 1.0833 for other items of tangible personal
14 property. When a county imposes a surtax rate that is not
15 listed in this subparagraph, the department shall make the
16 applicable divisor available in an electronic format or
17 otherwise. Additional divisors shall bear the same
18 mathematical relationship to the next higher and next lower
19 divisors as the new surtax rate bears to the next higher and
20 next lower surtax rates for which divisors have been
21 established. If an operator cannot account for each type of
22 item sold through a vending machine, the highest tax rate
23 shall be used for all products sold through that machine.

24 Section 23. Paragraphs (g), (h), (n), and (o) of
25 subsection (5) of section 212.08, Florida Statutes, are
26 amended, and paragraph (eee) is added to subsection (7), to
27 read:

28 212.08 Sales, rental, use, consumption, distribution,
29 and storage tax; specified exemptions.--The sale at retail,
30 the rental, the use, the consumption, the distribution, and
31 the storage to be used or consumed in this state of the

1 following are hereby specifically exempt from the tax imposed
2 by this chapter.

3 (5) EXEMPTIONS; ACCOUNT OF USE.--

4 (g) Building materials used in the rehabilitation of
5 real property located in an enterprise zone.--

6 1. Building materials used in the rehabilitation of
7 real property located in an enterprise zone shall be exempt
8 from the tax imposed by this chapter upon an affirmative
9 showing to the satisfaction of the department that the items
10 have been used for the rehabilitation of real property located
11 in an enterprise zone. Except as provided in subparagraph 2.,
12 this exemption inures to the owner, lessee, or lessor of the
13 rehabilitated real property located in an enterprise zone only
14 through a refund of previously paid taxes. To receive a refund
15 pursuant to this paragraph, the owner, lessee, or lessor of
16 the rehabilitated real property located in an enterprise zone
17 must file an application under oath with the governing body or
18 enterprise zone development agency having jurisdiction over
19 the enterprise zone where the business is located, as
20 applicable, which includes:

21 a. The name and address of the person claiming the
22 refund.

23 b. An address and assessment roll parcel number of the
24 rehabilitated real property in an enterprise zone for which a
25 refund of previously paid taxes is being sought.

26 c. A description of the improvements made to
27 accomplish the rehabilitation of the real property.

28 d. A copy of the building permit issued for the
29 rehabilitation of the real property.

30 e. A sworn statement, under the penalty of perjury,
31 from the general contractor licensed in this state with whom

1 | the applicant contracted to make the improvements necessary to
2 | accomplish the rehabilitation of the real property, which
3 | statement lists the building materials used in the
4 | rehabilitation of the real property, the actual cost of the
5 | building materials, and the amount of sales tax paid in this
6 | state on the building materials. In the event that a general
7 | contractor has not been used, the applicant shall provide this
8 | information in a sworn statement, under the penalty of
9 | perjury. Copies of the invoices which evidence the purchase of
10 | the building materials used in such rehabilitation and the
11 | payment of sales tax on the building materials shall be
12 | attached to the sworn statement provided by the general
13 | contractor or by the applicant. Unless the actual cost of
14 | building materials used in the rehabilitation of real property
15 | and the payment of sales taxes due thereon is documented by a
16 | general contractor or by the applicant in this manner, the
17 | cost of such building materials shall be an amount equal to 40
18 | percent of the increase in assessed value for ad valorem tax
19 | purposes.

20 | f. The identifying number assigned pursuant to s.
21 | 290.0065 to the enterprise zone in which the rehabilitated
22 | real property is located.

23 | g. A certification by the local building code
24 | inspector that the improvements necessary to accomplish the
25 | rehabilitation of the real property are substantially
26 | completed.

27 | h. Whether the business is a small business as defined
28 | by s. 288.703(1).

29 | i. If applicable, the name and address of each
30 | permanent employee of the business, including, for each
31 | employee who is a resident of an enterprise zone, the

1 identifying number assigned pursuant to s. 290.0065 to the
2 enterprise zone in which the employee resides.

3 2. This exemption inures to a city, county, other
4 governmental agency, or nonprofit community-based organization
5 through a refund of previously paid taxes if the building
6 materials used in the rehabilitation of real property located
7 in an enterprise zone are paid for from the funds of a
8 community development block grant, State Housing Initiatives
9 Partnership Program, or similar grant or loan program. To
10 receive a refund pursuant to this paragraph, a city, county,
11 other governmental agency, or nonprofit community-based
12 organization must file an application which includes the same
13 information required to be provided in subparagraph 1. by an
14 owner, lessee, or lessor of rehabilitated real property. In
15 addition, the application must include a sworn statement
16 signed by the chief executive officer of the city, county,
17 other governmental agency, or nonprofit community-based
18 organization seeking a refund which states that the building
19 materials for which a refund is sought were paid for from the
20 funds of a community development block grant, State Housing
21 Initiatives Partnership Program, or similar grant or loan
22 program.

23 3. Within 10 working days after receipt of an
24 application, the governing body or enterprise zone development
25 agency shall review the application to determine if it
26 contains all the information required pursuant to subparagraph
27 1. or subparagraph 2. and meets the criteria set out in this
28 paragraph. The governing body or agency shall certify all
29 applications that contain the information required pursuant to
30 subparagraph 1. or subparagraph 2. and meet the criteria set
31 out in this paragraph as eligible to receive a refund. If

1 applicable, the governing body or agency shall also certify if
2 20 percent of the employees of the business are residents of
3 an enterprise zone, excluding temporary and part-time
4 employees. The certification shall be in writing, and a copy
5 of the certification shall be transmitted to the executive
6 director of the Department of Revenue. The applicant shall be
7 responsible for forwarding a certified application to the
8 department within the time specified in subparagraph 4.

9 4. An application for a refund pursuant to this
10 paragraph must be submitted to the department within 6 months
11 after the rehabilitation of the property is deemed to be
12 substantially completed by the local building code inspector
13 or by September 1 after the rehabilitated property is first
14 subject to assessment.

15 ~~5. The provisions of s. 212.095 do not apply to any~~
16 ~~refund application made pursuant to this paragraph.~~ Not more
17 than one exemption through a refund of previously paid taxes
18 for the rehabilitation of real property shall be permitted for
19 any single parcel of property unless there is a change in
20 ownership, a new lessor, or a new lessee of the real property.
21 No refund shall be granted pursuant to this paragraph unless
22 the amount to be refunded exceeds \$500. No refund granted
23 pursuant to this paragraph shall exceed the lesser of 97
24 percent of the Florida sales or use tax paid on the cost of
25 the building materials used in the rehabilitation of the real
26 property as determined pursuant to sub-subparagraph 1.e. or
27 \$5,000, or, if no less than 20 percent of the employees of the
28 business are residents of an enterprise zone, excluding
29 temporary and part-time employees, the amount of refund
30 granted pursuant to this paragraph shall not exceed the lesser
31 of 97 percent of the sales tax paid on the cost of such

1 building materials or \$10,000. A refund approved pursuant to
2 this paragraph shall be made within 30 days of formal approval
3 by the department of the application for the refund. This
4 subparagraph shall apply retroactively to July 1, 2005.

5 6. The department shall adopt rules governing the
6 manner and form of refund applications and may establish
7 guidelines as to the requisites for an affirmative showing of
8 qualification for exemption under this paragraph.

9 7. The department shall deduct an amount equal to 10
10 percent of each refund granted under the provisions of this
11 paragraph from the amount transferred into the Local
12 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
13 s. 212.20 for the county area in which the rehabilitated real
14 property is located and shall transfer that amount to the
15 General Revenue Fund.

16 8. For the purposes of the exemption provided in this
17 paragraph:

18 a. "Building materials" means tangible personal
19 property which becomes a component part of improvements to
20 real property.

21 b. "Real property" has the same meaning as provided in
22 s. 192.001(12).

23 c. "Rehabilitation of real property" means the
24 reconstruction, renovation, restoration, rehabilitation,
25 construction, or expansion of improvements to real property.

26 d. "Substantially completed" has the same meaning as
27 provided in s. 192.042(1).

28 9. This paragraph expires on the date specified in s.
29 290.016 for the expiration of the Florida Enterprise Zone Act.

30 (h) Business property used in an enterprise zone.--
31

1 1. Business property purchased for use by businesses
2 located in an enterprise zone which is subsequently used in an
3 enterprise zone shall be exempt from the tax imposed by this
4 chapter. This exemption inures to the business only through a
5 refund of previously paid taxes. A refund shall be authorized
6 upon an affirmative showing by the taxpayer to the
7 satisfaction of the department that the requirements of this
8 paragraph have been met.

9 2. To receive a refund, the business must file under
10 oath with the governing body or enterprise zone development
11 agency having jurisdiction over the enterprise zone where the
12 business is located, as applicable, an application which
13 includes:

14 a. The name and address of the business claiming the
15 refund.

16 b. The identifying number assigned pursuant to s.
17 290.0065 to the enterprise zone in which the business is
18 located.

19 c. A specific description of the property for which a
20 refund is sought, including its serial number or other
21 permanent identification number.

22 d. The location of the property.

23 e. The sales invoice or other proof of purchase of the
24 property, showing the amount of sales tax paid, the date of
25 purchase, and the name and address of the sales tax dealer
26 from whom the property was purchased.

27 f. Whether the business is a small business as defined
28 by s. 288.703(1).

29 g. If applicable, the name and address of each
30 permanent employee of the business, including, for each
31 employee who is a resident of an enterprise zone, the

1 identifying number assigned pursuant to s. 290.0065 to the
2 enterprise zone in which the employee resides.

3 3. Within 10 working days after receipt of an
4 application, the governing body or enterprise zone development
5 agency shall review the application to determine if it
6 contains all the information required pursuant to subparagraph
7 2. and meets the criteria set out in this paragraph. The
8 governing body or agency shall certify all applications that
9 contain the information required pursuant to subparagraph 2.
10 and meet the criteria set out in this paragraph as eligible to
11 receive a refund. If applicable, the governing body or agency
12 shall also certify if 20 percent of the employees of the
13 business are residents of an enterprise zone, excluding
14 temporary and part-time employees. The certification shall be
15 in writing, and a copy of the certification shall be
16 transmitted to the executive director of the Department of
17 Revenue. The business shall be responsible for forwarding a
18 certified application to the department within the time
19 specified in subparagraph 4.

20 4. An application for a refund pursuant to this
21 paragraph must be submitted to the department within 6 months
22 after the tax is due on the business property that is
23 purchased.

24 5. ~~The provisions of s. 212.095 do not apply to any~~
25 ~~refund application made pursuant to this paragraph.~~ The amount
26 refunded on purchases of business property under this
27 paragraph shall be the lesser of 97 percent of the sales tax
28 paid on such business property or \$5,000, or, if no less than
29 20 percent of the employees of the business are residents of
30 an enterprise zone, excluding temporary and part-time
31 employees, the amount refunded on purchases of business

1 | property under this paragraph shall be the lesser of 97
2 | percent of the sales tax paid on such business property or
3 | \$10,000. A refund approved pursuant to this paragraph shall be
4 | made within 30 days of formal approval by the department of
5 | the application for the refund. No refund shall be granted
6 | under this paragraph unless the amount to be refunded exceeds
7 | \$100 in sales tax paid on purchases made within a 60-day time
8 | period.

9 | 6. The department shall adopt rules governing the
10 | manner and form of refund applications and may establish
11 | guidelines as to the requisites for an affirmative showing of
12 | qualification for exemption under this paragraph.

13 | 7. If the department determines that the business
14 | property is used outside an enterprise zone within 3 years
15 | from the date of purchase, the amount of taxes refunded to the
16 | business purchasing such business property shall immediately
17 | be due and payable to the department by the business, together
18 | with the appropriate interest and penalty, computed from the
19 | date of purchase, in the manner provided by this chapter.
20 | Notwithstanding this subparagraph, business property used
21 | exclusively in:

- 22 | a. Licensed commercial fishing vessels,
- 23 | b. Fishing guide boats, or
- 24 | c. Ecotourism guide boats

25 |
26 | that leave and return to a fixed location within an area
27 | designated under s. 370.28 are eligible for the exemption
28 | provided under this paragraph if all requirements of this
29 | paragraph are met. Such vessels and boats must be owned by a
30 | business that is eligible to receive the exemption provided
31 |

1 | under this paragraph. This exemption does not apply to the
2 | purchase of a vessel or boat.

3 | 8. The department shall deduct an amount equal to 10
4 | percent of each refund granted under the provisions of this
5 | paragraph from the amount transferred into the Local
6 | Government Half-cent Sales Tax Clearing Trust Fund pursuant to
7 | s. 212.20 for the county area in which the business property
8 | is located and shall transfer that amount to the General
9 | Revenue Fund.

10 | 9. For the purposes of this exemption, "business
11 | property" means new or used property defined as "recovery
12 | property" in s. 168(c) of the Internal Revenue Code of 1954,
13 | as amended, except:

14 | a. Property classified as 3-year property under s.
15 | 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

16 | b. Industrial machinery and equipment as defined in
17 | sub-subparagraph (b)6.a. and eligible for exemption under
18 | paragraph (b);

19 | c. Building materials as defined in sub-subparagraph
20 | (g)8.a.; and

21 | d. Business property having a sales price of under
22 | \$5,000 per unit.

23 | 10. This paragraph expires on the date specified in s.
24 | 290.016 for the expiration of the Florida Enterprise Zone Act.

25 | (n) Materials for construction of single-family homes
26 | in certain areas.--

27 | 1. As used in this paragraph, the term:

28 | a. "Building materials" means tangible personal
29 | property that becomes a component part of a qualified home.

30 | b. "Qualified home" means a single-family home having
31 | an appraised value of no more than \$160,000 which is located

1 | in an enterprise zone, empowerment zone, or Front Porch
2 | Florida Community and which is constructed and occupied by the
3 | owner thereof for residential purposes.

4 | c. "Substantially completed" has the same meaning as
5 | provided in s. 192.042(1).

6 | 2. Building materials used in the construction of a
7 | qualified home and the costs of labor associated with the
8 | construction of a qualified home are exempt from the tax
9 | imposed by this chapter upon an affirmative showing to the
10 | satisfaction of the department that the requirements of this
11 | paragraph have been met. This exemption inures to the owner
12 | through a refund of previously paid taxes. To receive this
13 | refund, the owner must file an application under oath with the
14 | department which includes:

15 | a. The name and address of the owner.

16 | b. The address and assessment roll parcel number of
17 | the home for which a refund is sought.

18 | c. A copy of the building permit issued for the home.

19 | d. A certification by the local building code
20 | inspector that the home is substantially completed.

21 | e. A sworn statement, under penalty of perjury, from
22 | the general contractor licensed in this state with whom the
23 | owner contracted to construct the home, which statement lists
24 | the building materials used in the construction of the home
25 | and the actual cost thereof, the labor costs associated with
26 | such construction, and the amount of sales tax paid on these
27 | materials and labor costs. If a general contractor was not
28 | used, the owner shall provide this information in a sworn
29 | statement, under penalty of perjury. Copies of invoices
30 | evidencing payment of sales tax must be attached to the sworn
31 | statement.

1 f. A sworn statement, under penalty of perjury, from
2 the owner affirming that he or she is occupying the home for
3 residential purposes.

4 3. An application for a refund under this paragraph
5 must be submitted to the department within 6 months after the
6 date the home is deemed to be substantially completed by the
7 local building code inspector. Within 30 working days after
8 receipt of the application, the department shall determine if
9 it meets the requirements of this paragraph. A refund approved
10 pursuant to this paragraph shall be made within 30 days after
11 formal approval of the application by the department. ~~The~~
12 ~~provisions of s. 212.095 do not apply to any refund~~
13 ~~application made under this paragraph.~~

14 4. The department shall establish by rule an
15 application form and criteria for establishing eligibility for
16 exemption under this paragraph.

17 5. The exemption shall apply to purchases of materials
18 on or after July 1, 2000.

19 (o) Building materials in redevelopment projects.--

20 1. As used in this paragraph, the term:

21 a. "Building materials" means tangible personal
22 property that becomes a component part of a housing project or
23 a mixed-use project.

24 b. "Housing project" means the conversion of an
25 existing manufacturing or industrial building to housing units
26 in an urban high-crime area, enterprise zone, empowerment
27 zone, Front Porch Community, designated brownfield area, or
28 urban infill area and in which the developer agrees to set
29 aside at least 20 percent of the housing units in the project
30 for low-income and moderate-income persons or the construction
31 in a designated brownfield area of affordable housing for

1 persons described in s. 420.0004(8), (10), (11), or (15) or in
2 s. 159.603(7).

3 c. "Mixed-use project" means the conversion of an
4 existing manufacturing or industrial building to mixed-use
5 units that include artists' studios, art and entertainment
6 services, or other compatible uses. A mixed-use project must
7 be located in an urban high-crime area, enterprise zone,
8 empowerment zone, Front Porch Community, designated brownfield
9 area, or urban infill area, and the developer must agree to
10 set aside at least 20 percent of the square footage of the
11 project for low-income and moderate-income housing.

12 d. "Substantially completed" has the same meaning as
13 provided in s. 192.042(1).

14 2. Building materials used in the construction of a
15 housing project or mixed-use project are exempt from the tax
16 imposed by this chapter upon an affirmative showing to the
17 satisfaction of the department that the requirements of this
18 paragraph have been met. This exemption inures to the owner
19 through a refund of previously paid taxes. To receive this
20 refund, the owner must file an application under oath with the
21 department which includes:

22 a. The name and address of the owner.

23 b. The address and assessment roll parcel number of
24 the project for which a refund is sought.

25 c. A copy of the building permit issued for the
26 project.

27 d. A certification by the local building code
28 inspector that the project is substantially completed.

29 e. A sworn statement, under penalty of perjury, from
30 the general contractor licensed in this state with whom the
31 owner contracted to construct the project, which statement

1 lists the building materials used in the construction of the
2 project and the actual cost thereof, and the amount of sales
3 tax paid on these materials. If a general contractor was not
4 used, the owner shall provide this information in a sworn
5 statement, under penalty of perjury. Copies of invoices
6 evidencing payment of sales tax must be attached to the sworn
7 statement.

8 3. An application for a refund under this paragraph
9 must be submitted to the department within 6 months after the
10 date the project is deemed to be substantially completed by
11 the local building code inspector. Within 30 working days
12 after receipt of the application, the department shall
13 determine if it meets the requirements of this paragraph. A
14 refund approved pursuant to this paragraph shall be made
15 within 30 days after formal approval of the application by the
16 department. ~~The provisions of s. 212.095 do not apply to any~~
17 ~~refund application made under this paragraph.~~

18 4. The department shall establish by rule an
19 application form and criteria for establishing eligibility for
20 exemption under this paragraph.

21 5. The exemption shall apply to purchases of materials
22 on or after July 1, 2000.

23 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to
24 any entity by this chapter do not inure to any transaction
25 that is otherwise taxable under this chapter when payment is
26 made by a representative or employee of the entity by any
27 means, including, but not limited to, cash, check, or credit
28 card, even when that representative or employee is
29 subsequently reimbursed by the entity. In addition, exemptions
30 provided to any entity by this subsection do not inure to any
31 transaction that is otherwise taxable under this chapter

1 unless the entity has obtained a sales tax exemption
2 certificate from the department or the entity obtains or
3 provides other documentation as required by the department.
4 Eligible purchases or leases made with such a certificate must
5 be in strict compliance with this subsection and departmental
6 rules, and any person who makes an exempt purchase with a
7 certificate that is not in strict compliance with this
8 subsection and the rules is liable for and shall pay the tax.
9 The department may adopt rules to administer this subsection.

10 (eee) Certain delivery charges.--Separately stated
11 charges that can be avoided at the option of the purchaser for
12 the delivery, inspection, placement, or removal from packaging
13 or shipping materials of furniture or appliances by the
14 selling dealer at the premises of the purchaser or the removal
15 of similar items from the premises of the purchaser are
16 exempt. If any charge for delivery, inspection, placement, or
17 removal of furniture or appliances includes the modification,
18 assembly, or construction of such furniture or appliances,
19 then all of the charges are taxable.

20 Section 24. Section 212.095, Florida Statutes, is
21 repealed.

22 Section 25. Section 212.10, Florida Statutes, is
23 amended to read:

24 212.10 Sale of business; liability for tax, procedure,
25 penalty for violation.--

26 (1)(a) If any dealer liable for any tax, interest, or
27 penalty levied hereunder sells ~~shall sell~~ out his or her
28 business or stock of goods, transfers substantially all of the
29 dealer's assets or liabilities to another entity or person, or
30 otherwise quits or ceases to conduct business:

31

1 1. The dealer shall make a final return and payment
2 within 15 days after the date of selling or otherwise
3 transferring the business; and

4 2. The dealer's purchaser, transferee, successor,
5 ~~successors,~~ or assignee assigns shall withhold a sufficient
6 portion of the consideration purchase money to safely cover
7 the account of such taxes, interest, or penalties due and
8 unpaid until the ~~such~~ former owner produces ~~shall produce~~ a
9 receipt from the department showing that he or she has ~~they~~
10 ~~have been~~ paid or a certificate stating that no taxes,
11 interest, or penalty are due.

12 (b) If the purchase or transfer is for less than fair
13 market value, or if a purchaser, transferee, successor, or
14 assignee purchasers of a business or stock of goods fails
15 ~~shall fail~~ to withhold a sufficient amount of the
16 consideration purchase money as ~~above~~ provided in paragraph
17 (a), he or she is ~~shall be~~ personally liable for the payment
18 of the taxes, interest, and penalties accruing and unpaid on
19 account of the operation of the business by any former owner,
20 owners, or assigns as follows:-

21 1. If the purchaser fails or refuses to provide
22 competent substantial evidence of the consideration paid, the
23 purchaser is liable for the full amount of any liability for
24 tax, interest, and penalties accruing and unpaid on account of
25 the operation of the business by any former owner, owners, or
26 assigns and the same shall be assessed.

27 2. If the purchaser, transferee, successor, or
28 assignee of a business or stock of goods expressly assumed the
29 debt of the selling dealer, or other preexisting liabilities
30 are otherwise assumed, the purchaser is liable for the full
31 amount of any liability for tax, interest, and penalties

1 accruing and unpaid on account of the operation of the
2 business by any former owner, owners, or assigns and the same
3 shall be assessed.

4 3. If assets are transferred for consideration
5 determined to be less than fair market value, the transferee
6 is liable for the full amount of any liability for tax,
7 interest, and penalties accruing and unpaid on account of the
8 operation of the business by any former owner, owners, or
9 assigns and the same shall be assessed up to the fair market
10 value of the assets transferred.

11 4. If a successor entity is created that, upon
12 transfer, acts to continue the dealer's business without a
13 material change to the persons managing or controlling the
14 original business or entity, the full amount of any unpaid
15 liability for tax, interest, and penalties shall be assessed
16 against the successor entity. If, at the time of the transfer,
17 the liability was recorded as a warrant, the persons managing
18 or controlling the successor entity are liable, in addition to
19 other penalties provided by law, for a specific penalty of 100
20 percent of the tax, penalties, and interest due as established
21 by the warrant and the same shall be assessed.

22 (c) Protection from transferee liability may be
23 secured only by an audit of the seller's or former owner's or
24 operator's books and records. The seller or purchaser,
25 transferee, successor, or assignee under this subsection may
26 request an audit of the seller's books and records. Any
27 receipt or certificate from the department does not, without
28 an audit of the selling dealer's books and records by the
29 department, guarantee that there is not a tax deficiency owed
30 the state from operation of the seller's or former owner's or
31 operator's business. To secure protection from transferee

1 ~~liability under this section, the seller or purchaser may~~
2 ~~request an audit of the seller's books and records.~~ The
3 department may contract with private auditors pursuant to s.
4 213.28 to perform the audit. The department may charge the
5 cost of the audit to the person requesting the audit.

6 1. For the purposes of the personal liability imposed
7 by this subsection, in the case of a business requiring
8 registration with the department, in addition to any other
9 enforcement action the department may take, the department may
10 require:

11 a. Payment of the liability or a written agreement
12 with the department to pay such liability; and

13 b. Posting of a bond equal to or greater than three
14 times the estimated average monthly liability of the
15 transferee for all taxes, fees, and surcharges administered by
16 the department.

17 2. The imposition of personal liability upon a
18 transferee under this paragraph does not extinguish the
19 liability of the seller, former owner, or former operator.

20 ~~(2) If any dealer liable for any tax, interest, or~~
21 ~~penalty shall quit the business without the benefit of a~~
22 ~~purchaser and there is no successor, successors, or assigns,~~
23 ~~he or she shall make a final return and payment within 15~~
24 ~~days. Any person failing to file such final return and make~~
25 ~~payment shall be denied the right to engage in any business in~~
26 ~~the state until the person has filed such final return and~~
27 ~~paid any moneys due; and~~

28 (d) At the request of the department, the Department
29 of Legal Affairs is hereby authorized to proceed by
30 injunction, when requested by the department to do so, to
31 prevent by injunction any activity in the performance of

1 further business activity until such tax is paid; and a
2 temporary injunction enjoining further business activity shall
3 be granted without notice by any judge or chancellor
4 authorized by law to grant injunctions with regard to:-

5 1. Any dealer who fails to make a final return and
6 payment in the time and manner required by this subsection;
7 and

8 2. Any taxpayer who is subject to personal liability
9 under this subsection.

10 (e) An unrelated purchaser, transferee, successor, or
11 assignee of a business, stock of goods, or other assets or
12 liabilities of a dealer has no responsibility or personal
13 liability under this section if the unrelated purchaser,
14 transferee, successor, or assignee acquires the business,
15 stock of goods, or other assets or liabilities of a dealer and
16 the acquisition:

17 1. Is the result of an enforcement of a lien or
18 security interest on real or personal property;

19 2. Is in exchange for a reduction or other change in
20 the terms of indebtedness owed to the acquiring person; or

21 3. Is the result of a bankruptcy, reorganization for
22 the benefit of creditors, assignment for the benefit of
23 creditors, or a similar proceeding for the benefit of
24 creditors.

25 (2)(3) In the event any dealer is delinquent in the
26 payment of the tax herein provided for, the department may
27 give notice of the amount of such delinquency by registered
28 mail to all persons having in their possession or under their
29 control any credits or other personal property belonging to
30 such dealer or owing any debts to such dealer at the time of
31 receipt by them of such notice. All persons so notified shall

1 | within 5 days after receipt of the notice advise the
2 | department of all such credits, other personal property, or
3 | debts in their possession, under their control, or owing by
4 | them. After receiving the notice, the persons so notified
5 | shall neither transfer nor make any other disposition of the
6 | credits, other personal property, or debts in their possession
7 | or under their control at the time they receive the notice
8 | until the department consents to a transfer or disposition or
9 | until 60 days elapse after the receipt of the notice,
10 | whichever period expires the earlier, except that the credits,
11 | other personal property, or debts which exceed the delinquent
12 | amount stipulated in the notice shall not be subject to the
13 | provisions of this section, wherever held, in any case in
14 | which such dealer does not have a prior history of sales tax
15 | delinquencies. All persons notified shall likewise within 5
16 | days advise the department of any subsequent credits or other
17 | personal property belonging to such dealer or any debts
18 | incurred and owing to such dealer which may come within their
19 | possession or under their control during the time prescribed
20 | by the notice or until the department consents to a transfer
21 | or disposition, whichever expires the earlier. If such notice
22 | seeks to prevent the transfer or other disposition of a
23 | deposit in a bank or other credits or personal property in the
24 | possession or under the control of a bank, the notice to be
25 | effective shall be delivered or mailed to the office of such
26 | bank at which such deposit is carried or at which such credits
27 | or personal property is held. If, during the effective period
28 | of the notice to withhold, any person so notified makes any
29 | transfer or disposition of the property or debts required to
30 | be withheld hereunder, he or she shall be liable to the state
31 | for any indebtedness due under this chapter from the person

1 with respect to whose obligation the notice was given to the
2 extent of the value of the property or the amount of the debts
3 thus transferred or paid if, solely by reason of such transfer
4 or disposition, the state is unable to recover the
5 indebtedness of the person with respect to whose obligation
6 the notice was given. All such credits or other personal
7 property or debts are subject to garnishment by the department
8 for satisfaction of the delinquent tax due.

9 ~~(3)(4)~~ After notice by the department of a transferee
10 liability under this section, the dealer shall have 60 days
11 within which to file an action as provided in chapter 72.

12 ~~(4)(5)~~ Any violation of the provisions of this section
13 is a misdemeanor of the first degree, punishable as provided
14 in s. 775.082 or s. 775.083.

15 Section 26. Paragraph (d) of subsection (2) of section
16 212.12, Florida Statutes, is amended to read:

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

21 (2)

22 (d) Any person who makes a false or fraudulent return
23 with a willful intent to evade payment of any tax or fee
24 imposed under this chapter; any person who, after the
25 department's delivery of a written notice to the person's last
26 known address specifically alerting the person of the
27 requirement to register the person's business as a dealer,
28 intentionally fails to register the business; and any person
29 who, after the department's delivery of a written notice to
30 the person's last known address specifically alerting the
31 person of the requirement to collect tax on specific

1 transactions, intentionally fails to collect such tax, shall,
2 in addition to the other penalties provided by law, be liable
3 for a specific penalty of 100 percent of any unreported or any
4 uncollected ~~the tax bill~~ or fee and, upon conviction, for fine
5 and punishment as provided in s. 775.082, s. 775.083, or s.
6 775.084. Delivery of written notice may be made by certified
7 mail, or by the use of such other method as is documented as
8 being necessary and reasonable under the circumstances. The
9 civil and criminal penalties imposed herein for failure to
10 comply with a written notice alerting the person of the
11 requirement to register the person's business as a dealer or
12 to collect tax on specific transactions shall not apply if the
13 person timely files a written challenge to such notice in
14 accordance with procedures established by the department by
15 rule or the notice fails to clearly advise that failure to
16 comply with or timely challenge the notice will result in the
17 imposition of the civil and criminal penalties imposed herein.

18 1. If the total amount of unreported or uncollected
19 taxes or fees is less than \$300, the first offense resulting
20 in conviction is a misdemeanor of the second degree, the
21 second offense resulting in conviction is a misdemeanor of the
22 first degree, and the third and all subsequent offenses
23 resulting in conviction is a misdemeanor of the first degree,
24 and the third and all subsequent offenses resulting in
25 conviction are felonies of the third degree.

26 2. If the total amount of unreported or uncollected
27 taxes or fees is \$300 or more but less than \$20,000, the
28 offense is a felony of the third degree.

29 3. If the total amount of unreported or uncollected
30 taxes or fees is \$20,000 or more but less than \$100,000, the
31 offense is a felony of the second degree.

1 4. If the total amount of unreported or uncollected
2 taxes or fees is \$100,000 or more, the offense is a felony of
3 the first degree.

4 Section 27. Subsection (4) of section 212.14, Florida
5 Statutes, is amended to read:

6 212.14 Departmental powers; hearings; distress
7 warrants; bonds; subpoenas and subpoenas duces tecum.--

8 ~~(4) In all cases where it is necessary to ensure~~
9 ~~compliance with the provisions of this chapter,~~ The department
10 may ~~shall~~ require a cash deposit, bond or other security as a
11 condition to a person obtaining or retaining a dealer's
12 certificate of registration under this chapter, as provided in
13 s. 213.32(5). ~~Such bond shall be in the form and such amount~~
14 ~~as the department deems appropriate under the particular~~
15 ~~circumstances. Every person failing to produce such cash~~
16 ~~deposit, bond or other security as provided for herein shall~~
17 ~~not be entitled to obtain or retain a dealer's certificate of~~
18 ~~registration under this chapter, and the Department of Legal~~
19 ~~Affairs is hereby authorized to proceed by injunction, when so~~
20 ~~requested by the Department of Revenue, to prevent such person~~
21 ~~from doing business subject to the provisions of this chapter~~
22 ~~until such cash deposit, bond or other security is posted with~~
23 ~~the department, and any temporary injunction for this purpose~~
24 ~~may be granted by any judge or chancellor authorized by law to~~
25 ~~grant injunctions. Any security required to be deposited may~~
26 ~~be sold by the department at public sale if it becomes~~
27 ~~necessary so to do in order to recover any tax, interest or~~
28 ~~penalty due. Notice of such sale may be served personally or~~
29 ~~by mail upon the person who deposited such security. If by~~
30 ~~mail, notice sent to the last known address as the same~~
31 ~~appears on the records of the department shall be sufficient~~

1 ~~for the purpose of this requirement. Upon such sale, the~~
2 ~~surplus, if any, above the amount due under this chapter shall~~
3 ~~be returned to the person who deposited the security.~~

4 Section 28. Subsection (3) of section 212.18, Florida
5 Statutes, is amended to read:

6 212.18 Administration of law; registration of dealers;
7 rules.--

8 (3)(a) Every person desiring to engage in or conduct
9 business in this state as a dealer, as defined in this
10 chapter, or to lease, rent, or let or grant licenses in living
11 quarters or sleeping or housekeeping accommodations in hotels,
12 apartment houses, roominghouses, or tourist or trailer camps
13 that are subject to tax under s. 212.03, or to lease, rent, or
14 let or grant licenses in real property, as defined in this
15 chapter, and every person who sells or receives anything of
16 value by way of admissions, must file with the department an
17 application for a certificate of registration for each place
18 of business, showing the names of the persons who have
19 interests in such business and their residences, the address
20 of the business, and such other data as the department may
21 reasonably require. However, owners and operators of vending
22 machines or newspaper rack machines are required to obtain
23 only one certificate of registration for each county in which
24 such machines are located. The department, by rule, may
25 authorize a dealer that uses independent sellers to sell its
26 merchandise to remit tax on the retail sales price charged to
27 the ultimate consumer in lieu of having the independent seller
28 register as a dealer and remit the tax. The department may
29 appoint the county tax collector as the department's agent to
30 accept applications for registrations. The application must be
31 made to the department before the person, firm, copartnership,

1 | or corporation may engage in such business, and it must be
2 | accompanied by a registration fee of \$5. However, a
3 | registration fee is not required to accompany an application
4 | to engage in or conduct business to make mail order sales. The
5 | department may waive the registration fee for applications
6 | submitted through the department's Internet registration
7 | process.

8 | (b) The department, upon receipt of such application,
9 | will grant to the applicant a separate certificate of
10 | registration for each place of business, which certificate may
11 | be canceled by the department or its designated assistants for
12 | any failure by the certificateholder to comply with any of the
13 | provisions of this chapter. The certificate is not assignable
14 | and is valid only for the person, firm, copartnership, or
15 | corporation to which issued. The certificate must be placed in
16 | a conspicuous place in the business or businesses for which it
17 | is issued and must be displayed at all times. Except as
18 | provided in this subsection, no person shall engage in
19 | business as a dealer or in leasing, renting, or letting of or
20 | granting licenses in living quarters or sleeping or
21 | housekeeping accommodations in hotels, apartment houses,
22 | roominghouses, tourist or trailer camps, or real property as
23 | hereinbefore defined, nor shall any person sell or receive
24 | anything of value by way of admissions, without first having
25 | obtained such a certificate or after such certificate has been
26 | canceled; no person shall receive any license from any
27 | authority within the state to engage in any such business
28 | without first having obtained such a certificate or after such
29 | certificate has been canceled. The engaging in the business of
30 | selling or leasing tangible personal property or services or
31 | as a dealer, as defined in this chapter, or the engaging in

1 leasing, renting, or letting of or granting licenses in living
2 quarters or sleeping or housekeeping accommodations in hotels,
3 apartment houses, roominghouses, or tourist or trailer camps
4 that are taxable under this chapter, or real property, or the
5 engaging in the business of selling or receiving anything of
6 value by way of admissions, without such certificate first
7 being obtained or after such certificate has been canceled by
8 the department, is prohibited. The failure or refusal of any
9 person, firm, copartnership, or corporation to so qualify when
10 required hereunder is a misdemeanor of the first degree,
11 punishable as provided in s. 775.082 or s. 775.083, or subject
12 to injunctive proceedings as provided by law. Such failure or
13 refusal also subjects the offender to a \$100 initial
14 registration fee in lieu of the \$5 registration fee authorized
15 in paragraph (a). However, the department may waive the
16 increase in the registration fee if it is determined by the
17 department that the failure to register was due to reasonable
18 cause and not to willful negligence, willful neglect, or
19 fraud.

20 (c) In addition to the certificate of registration,
21 the department shall provide to each newly registered dealer
22 an initial resale certificate that will be valid for the
23 remainder of the period of issuance. The department shall
24 provide each active dealer with an annual resale certificate.
25 For purposes of this section, "active dealer" means a person
26 who is currently registered with the department and who is
27 required to file at least once during each applicable
28 reporting period.

29 ~~(d) The department may revoke any dealer's certificate~~
30 ~~of registration when the dealer fails to comply with this~~
31 ~~chapter. Prior to revocation of a dealer's certificate of~~

1 ~~registration, the department must schedule an informal~~
2 ~~conference at which the dealer may present evidence regarding~~
3 ~~the department's intended revocation or enter into a~~
4 ~~compliance agreement with the department. The department must~~
5 ~~notify the dealer of its intended action and the time, place,~~
6 ~~and date of the scheduled informal conference by written~~
7 ~~notification sent by United States mail to the dealer's last~~
8 ~~known address of record furnished by the dealer on a form~~
9 ~~prescribed by the department. The dealer is required to attend~~
10 ~~the informal conference and present evidence refuting the~~
11 ~~department's intended revocation or enter into a compliance~~
12 ~~agreement with the department which resolves the dealer's~~
13 ~~failure to comply with this chapter. The department shall~~
14 ~~issue an administrative complaint under s. 120.60 if the~~
15 ~~dealer fails to attend the department's informal conference,~~
16 ~~fails to enter into a compliance agreement with the department~~
17 ~~resolving the dealer's noncompliance with this chapter, or~~
18 ~~fails to comply with the executed compliance agreement.~~

19 (d)(e) As used in this paragraph, the term "exhibitor"
20 means a person who enters into an agreement authorizing the
21 display of tangible personal property or services at a
22 convention or a trade show. The following provisions apply to
23 the registration of exhibitors as dealers under this chapter:

24 1. An exhibitor whose agreement prohibits the sale of
25 tangible personal property or services subject to the tax
26 imposed in this chapter is not required to register as a
27 dealer.

28 2. An exhibitor whose agreement provides for the sale
29 at wholesale only of tangible personal property or services
30 subject to the tax imposed in this chapter must obtain a
31

1 resale certificate from the purchasing dealer but is not
2 required to register as a dealer.

3 3. An exhibitor whose agreement authorizes the retail
4 sale of tangible personal property or services subject to the
5 tax imposed in this chapter must register as a dealer and
6 collect the tax imposed under this chapter on such sales.

7 4. Any exhibitor who makes a mail order sale pursuant
8 to s. 212.0596 must register as a dealer.

9
10 Any person who conducts a convention or a trade show must make
11 their exhibitor's agreements available to the department for
12 inspection and copying.

13 Section 29. (1) In coordination with financial
14 institutions doing business in this state, the Department of
15 Revenue may design and implement a pilot program for
16 identifying account holders against whose property the
17 department has issued a warrant or filed a judgment lien
18 certificate. Under the program, the department may enter into
19 agreements with financial institutions, as defined in s.
20 409.25657, Florida Statutes, to develop and operate a data
21 match system that uses automated data exchanges to the maximum
22 extent feasible.

23 (2) A financial institution is not liable and is not
24 required to provide notice to its customers:

25 (a) For disclosure of any information for purposes of
26 this program; or

27 (b) For any other action taken in good faith to
28 participate in this program.

29 (3) The department may request from a financial
30 institution information and assistance to enable the
31 department to design and implement the program. The department

1 shall administer this program in conjunction with s.
2 409.25657, Florida Statutes, in order to reduce the burden of
3 participation on financial institutions. The department shall
4 pay a reasonable fee to participating financial institutions
5 for participating in this program, but the fee may not exceed
6 the actual costs incurred by such financial institution. All
7 financial records obtained pursuant to this section may be
8 disclosed only for the purpose of administering and enforcing
9 the tax laws of this state. The department may engage in
10 collection activities based upon the information received
11 under this program.

12 (4) The department shall report its findings and
13 recommendations on the feasibility of permanently establishing
14 the data match program to the Government Efficiency and
15 Accountability Council of the House of Representatives and the
16 Committee on Finance and Tax of the Senate on or before
17 January 1, 2008.

18 Section 30. Paragraph (z) is added to subsection (8)
19 of section 213.053, Florida Statutes, and paragraph (a) of
20 subsection (16) of that section is amended, to read:

21 213.053 Confidentiality and information sharing.--

22 (8) Notwithstanding any other provision of this
23 section, the department may provide:

24 (z) Names and taxpayer identification numbers relative
25 to information agreements with financial institutions pursuant
26 to s. 213.0352.

27
28 Disclosure of information under this subsection shall be
29 pursuant to a written agreement between the executive director
30 and the agency. Such agencies, governmental or
31 nongovernmental, shall be bound by the same requirements of

1 confidentiality as the Department of Revenue. Breach of
2 confidentiality is a misdemeanor of the first degree,
3 punishable as provided by s. 775.082 or s. 775.083.

4 (16)(a) ~~The department may disclose Confidential~~
5 ~~taxpayer information may be shared with contained in returns,~~
6 ~~reports, accounts, or declarations filed with the department~~
7 ~~by persons subject to any state or local tax to the child~~
8 ~~support enforcement program, which may use the information for~~
9 ~~purposes of program administration, to assist in the location~~
10 ~~of parents who owe or potentially owe a duty of support, as~~
11 ~~defined in s. 409.2554, pursuant to Title IV D of the Social~~
12 ~~Security Act, their assets, their income, and their employer,~~
13 ~~and with ~~to~~ the Department of Children and Family Services for~~
14 ~~the purpose of diligent search activities pursuant to chapter~~
15 ~~39.~~

16 Section 31. Paragraph (d) of subsection (3) of section
17 213.21, Florida Statutes, is amended to read:

18 213.21 Informal conferences; compromises.--

19 (3)

20 (d) A taxpayer's liability for the service fee
21 required by s. 215.34(2) may be settled or compromised if it
22 is determined that the dishonored check, draft, or order was
23 returned due to an unintentional error committed by the
24 issuing financial institution, the taxpayer, or the department
25 and the unintentional error is substantiated by the
26 department. The department shall maintain records of all
27 compromises, and the records shall state the basis for the
28 compromise.

29 Section 32. Section 213.32, Florida Statutes, is
30 created to read:

31 213.32 Integrated enforcement authority.--

1 (1) INTENT.--It is the intent of the Legislature to
2 integrate, to the greatest extent possible, the department's
3 collection and enforcement authority for each tax, fee, or
4 surcharge it administers.

5 (2) INTEGRATED WARRANTS AND JUDGMENT LIEN

6 CERTIFICATES.--In addition to the authority granted to the
7 department by law to issue warrants and file judgment lien
8 certificates regarding any tax, fee, or surcharge it
9 administers, the department may issue a single warrant and
10 file a single judgment lien certificate evidencing a
11 taxpayer's total liability for all taxes, fees, or surcharges
12 administered by the department. Each integrated warrant and
13 integrated judgment lien certificate issued or filed must
14 separately identify and itemize the total amount due with
15 regard to each tax, fee, or surcharge, including any related
16 penalty and interest. In order for a taxpayer's liability for
17 any individual tax, fee, or surcharge, including penalties and
18 interest, to be included in an integrated warrant or judgment
19 lien certificate, the department must have the current
20 authority to file a warrant or judgment lien certificate with
21 regard to the taxpayer's liability for that tax, fee, or
22 surcharge.

23 (3) REVOCATION OF CERTIFICATES OF REGISTRATION,
24 PERMITS, OR LICENSES.--

25 (a) When a taxpayer is delinquent in the payment of
26 any tax, fee, or surcharge administered by the department, the
27 department may revoke the taxpayer's certificate of
28 registration, permit, or license issued to that taxpayer by
29 the department. For purposes of this subsection, a taxpayer is
30 delinquent only when the department has issued a warrant or
31

1 filed a judgment lien certificate against such taxpayer's
2 property.

3 (b) Before revoking one or more of the taxpayer's
4 certificates of registration, permits, or licenses, the
5 department must schedule an informal conference at which the
6 taxpayer may present evidence regarding the department's
7 intended revocation or enter into a compliance agreement with
8 the department. The department must provide written notice to
9 the taxpayer at the taxpayer's last known address of its
10 intended action and the time, place, and date of the scheduled
11 informal conference. The taxpayer shall attend the informal
12 conference and present evidence refuting the department's
13 intended revocation or enter into a compliance agreement with
14 the department which resolves the dealer's failure to comply
15 with any tax, fee, or surcharge administered by the
16 department. The department shall issue an administrative
17 complaint under chapter 120 if the taxpayer fails to attend
18 the department's informal conference, fails to enter into a
19 compliance agreement with the department resolving the
20 dealer's noncompliance with all taxes administered under this
21 chapter, or fails to comply with the executed compliance
22 agreement.

23 (c) If one or more of a taxpayer's certificates of
24 registration, permits, or licenses have been revoked, the
25 department may not issue a new certificate of registration,
26 permit, or license to that taxpayer unless:

27 1. The taxpayer's outstanding liabilities have been
28 satisfied;

29 2. The taxpayer has entered into a written agreement
30 with the department for payment and is current in all
31 payments; or

1 3. The department, at its sole discretion, otherwise
2 enters into a written agreement with the taxpayer regarding
3 the liability and, as part of that agreement, agrees to issue
4 a new certificate of registration, permit, or license to the
5 taxpayer.

6 (d) When the department has issued a warrant or filed
7 a judgment lien certificate in connection with a jeopardy
8 assessment, the procedures specified in s. 213.732 must be
9 complied with prior to or in conjunction with those provided
10 in this subsection.

11 (4) CASH DEPOSIT, SURETY BOND, OR IRREVOCABLE LETTERS
12 OF CREDIT.--In order to collect the taxes, fees, and
13 surcharges administered by the department and to ensure
14 compliance with the revenue laws of this state, the
15 department, in its sole discretion, may require a taxpayer to
16 provide security as a condition to the taxpayer obtaining,
17 renewing, or retaining any dealer's certificate of
18 registration, permit, or license with the department as
19 provided in this subsection. The authority granted by this
20 subsection is in addition to other authority granted to the
21 executive director and the department by law.

22 (a) As used in this subsection, the term:

23 1. "Department" means the executive director of the
24 Department of Revenue or the executive director's designee.

25 2. "Security" means any cash deposit, surety bonds, or
26 irrevocable letters of credit. Surety bonds must be issued by
27 a surety company authorized to transact business in this state
28 as a surety. Irrevocable letters of credit must be issued by a
29 bank authorized to do business in this state as a bank and
30 shall be engaged as an agreement to honor demands for payment
31 as specified in this subsection.

1 3. "Taxpayer" means any person, as defined by s.
2 212.02 and, solely for the purposes of determining whether
3 security is required under this subsection and the amount of
4 any such security required, the term also includes any related
5 person.

6 (b)1. In determining whether security will be required
7 and the amount of the security, the department shall consider:

8 a. The taxpayer's compliance with state and federal
9 laws;

10 b. The taxpayer's compliance with state and federal
11 revenue laws;

12 c. The taxpayer's financial status and ability to pay;
13 and

14 d. Any other facts and circumstances affecting
15 compliance with the revenue laws of this state.

16 2. The security shall be in the amount required by the
17 department. The amount of security required by the department
18 may not exceed a taxpayer's estimated liability, as determined
19 by the department, for all taxes, fees, and surcharges,
20 including penalties and interest, administered by the
21 department for 12 consecutive months, plus any unpaid
22 delinquencies of the taxpayer.

23 3. If the department determines that security is
24 required, it shall provide written notice of such
25 determination to the taxpayer at the taxpayer's last known
26 address as it appears in the department's records. The
27 taxpayer must post the required security or send a written
28 objection to the department within 30 days after the date on
29 the department's notice, failing which the department shall
30 refuse the issuance or renewal of any dealer's certificate of
31 registration, permit, or license with the department, or

1 initiate revocation proceedings to revoke any existing
2 registrations, permits, or licenses.

3 4. If the department determines that the amount of any
4 existing security is insufficient to ensure payment of the
5 amount of the taxes, fees, and surcharges, including penalties
6 and interest, for which the taxpayer is or may at any time
7 become liable, or if the amount of the security is reduced or
8 released, whether by judgment rendered or by use of the
9 security to pay the delinquent taxes, penalty, or interest,
10 the department shall provide written notification to the
11 taxpayer of the revised amount of security required. The
12 taxpayer shall file additional security in the amount required
13 or provide a written objection within 30 days, failing which
14 the department shall refuse the issuance or renewal of any
15 taxpayer's certificate of registration, permit, or license
16 with the department, or initiate revocation proceedings to
17 revoke any existing registrations, permits, or licenses. If a
18 new security is furnished, the department shall cancel,
19 surrender, or discharge the previous security as appropriate,
20 for which such new security is substituted.

21 5. When a taxpayer that has provided security is
22 delinquent more than 30 days in the payment of any tax, fee,
23 or surcharge administered by the department, the department
24 may, upon 10 days' written notice provided to the last known
25 address of the taxpayer as it appears in the department's
26 records, apply the security in whole or in part to the amount
27 that the taxpayer should have collected and remitted or paid.

28 6. The duration of any security required under this
29 subsection may not be less than 12 months. If a taxpayer files
30 all returns and pays all tax to the state within the time
31 required by law for a period of 12 consecutive months, the

1 department shall, upon written request by the taxpayer,
2 release or refund the security. If the taxpayer ceases
3 operations during the time the security is being held by the
4 department, the taxpayer must submit a written request to the
5 department within 90 days after ceasing operations for the
6 return of the deposit or release of the surety bond or letter
7 of credit. The department shall offset any reimbursement of
8 security under this subsection against any outstanding
9 liability of the taxpayer.

10 (c) Any taxpayer failing to post security as provided
11 in this subsection is not entitled to obtain, renew, or retain
12 any certificate of registration, permit, or license issued by
13 the department. At the request of the department, the
14 Department of Legal Affairs may proceed by injunction to
15 prevent any activity in the performance of further business
16 activity subject to registration, permitting, or licensing by
17 the department until such security is posted with the
18 department. A temporary injunction for this purpose may be
19 granted by any judge or chancellor authorized by law to grant
20 injunctions.

21 (d) Any security required under this subsection may be
22 sold by the department to recover any taxes, fees, or
23 surcharges due, including penalties and interest. Notice of
24 such sale may be served personally or by mail upon the
25 taxpayer who deposited such security. If by mail, notice sent
26 to the last known address as the same appears on the records
27 of the department is sufficient for the purpose of this
28 requirement. Upon such sale, the surplus, if any, above the
29 amount due under this chapter shall be returned to the
30 taxpayer who deposited the security.

31

1 (5) GARNISHMENT.--Garnishment shall be conducted for
2 all taxes administered by the department under s. 213.67.

3 (6) TRANSFER OF LIABILITY.--The liability for any tax,
4 fee, or surcharge, including penalties and interest, may be
5 transferred to responsible corporate officers as provided in
6 s. 213.29.

7 (7) JEOPARDY ASSESSMENTS.--If there is jeopardy to the
8 revenue and jeopardy is asserted in or with an assessment, the
9 department shall proceed in the manner specified for jeopardy
10 assessments in s. 213.732.

11 (8) RULES.--The department may adopt rules pursuant to
12 ss. 120.536(1) and 120.54 to administer this section.

13 Section 33. Effective January 1, 2008, subsection (1)
14 of section 213.755, Florida Statutes, is amended to read:

15 213.755 Filing of returns and payment of taxes by
16 electronic means.--

17 (1) The executive director of the Department of
18 Revenue shall have authority to require a taxpayer to file
19 returns and remit payments by electronic means where the
20 taxpayer is subject to tax and has paid that tax in the prior
21 state fiscal year in an amount of ~~\$20,000~~~~\$30,000~~ or more;
22 \$10,000 or more, effective January 1, 2009; and \$5,000 or
23 more, effective January 1, 2010. Any taxpayer who operates two
24 or more places of business for which returns are required to
25 be filed with the department shall combine the tax payments
26 for all such locations in order to determine whether they are
27 obligated under this section. This subsection does not
28 override additional requirements in any provision of a revenue
29 law which the department has the responsibility for
30 regulating, controlling, and administering.
31

1 Section 34. Subsection (2) of section 220.21, Florida
2 Statutes, is amended, and subsection (3) is added to that
3 section, to read:

4 220.21 Returns and records; regulations.--

5 (2) A taxpayer who is required to file its federal
6 income tax return by electronic means on a separate or
7 consolidated basis shall file returns required by this chapter
8 by electronic means. For the reasons described in s.
9 213.755(9), the department may waive the requirement to file a
10 return by electronic means for taxpayers that are unable to
11 comply despite good faith efforts or due to circumstances
12 beyond the taxpayer's reasonable control. The provisions of
13 this subsection are in addition to the requirements of s.
14 213.755 to electronically file returns and remit payments
15 required under this chapter. ~~A taxpayer may choose to file a~~
16 return required by this code in a form initiated through a
17 telephonic or electronic data interchange using an advanced
18 encrypted transmission by means of the Internet or other
19 suitable transmission. The department ~~may shall~~ prescribe by
20 rule the format and instructions necessary for electronic such
21 filing to ensure a full collection of taxes due. In addition
22 to the authority granted under s. 213.755, the acceptable
23 method of transfer, the method, form, and content of the
24 electronic data interchange, and the means, if any, by which
25 the taxpayer will be provided with an acknowledgment ~~may shall~~
26 be prescribed by the department. In the case of any failure to
27 comply with the electronic-filing requirements of this
28 subsection there shall be added as a penalty to the amount of
29 tax due with such return the greater of 10 percent of the
30 amount of such tax or \$250. The department may settle or
31 compromise the penalty pursuant to s. 213.21. This penalty is

1 in addition to any other penalty that may be applicable and
2 shall be assessed, collected, and paid in the same manner as
3 taxes.

4 (3) In addition to its authority under s. 213.755, the
5 department may adopt rules requiring or allowing taxpayers to
6 use an electronic-filing system to file returns required by
7 subsection (2), including any electronic systems developed by
8 the Internal Revenue Service.

9 Section 35. The amendments made by this act to s.
10 220.21(2), Florida Statutes, apply to returns due on or after
11 January 1, 2008.

12 Section 36. Effective January 1, 2008, and applicable
13 to tax years ending after December 31, 2007, section 220.803,
14 Florida Statutes, is amended to read:

15 220.803 Penalties; failure to pay tax.--

16 ~~(1) If any part of a deficiency is due to negligence~~
17 ~~or intentional disregard of rules and regulations prescribed~~
18 ~~by or under this chapter, but without intent to defraud, there~~
19 ~~shall be added to the tax as a penalty an amount equal to 10~~
20 ~~percent of the deficiency.~~

21 (1)(2) If any part of a deficiency is due to fraud,
22 there shall be added to the tax as a penalty, in lieu of the
23 penalty under s. 220.802 ~~subsection (1)~~, an amount equal to
24 100 percent of the deficiency.

25 (2)(3) For purposes of this section, the amount shown
26 as tax by the taxpayer upon a return shall be taken into
27 account in determining the amount of the deficiency only if
28 such return was filed on or before the last day prescribed by
29 law for the filing of such return, including any extensions of
30 the time for such filing.

31

1 Section 37. Paragraph (d) of subsection (1) and
2 paragraph (c) of subsection (4) of section 443.1216, Florida
3 Statutes, are amended to read:

4 443.1216 Employment.--Employment, as defined in s.
5 443.036, is subject to this chapter under the following
6 conditions:

7 (1)

8 (d) If two or more related corporations concurrently
9 employ the same individual and compensate the individual
10 through a common paymaster, each related corporation is
11 considered to have paid wages to the individual only in the
12 amounts actually disbursed by that corporation to the
13 individual and is not considered to have paid the wages
14 actually disbursed to the individual by another of the related
15 corporations. The Agency for Workforce Innovation and the
16 state agency providing unemployment tax collection services
17 may adopt rules necessary to administer this paragraph.

18 1. As used in this paragraph, the term "common
19 paymaster" means a member of a group of related corporations
20 that disburses wages to concurrent employees on behalf of the
21 related corporations and that is responsible for keeping
22 payroll records for those concurrent employees. A common
23 paymaster is not required to disburse wages to all the
24 employees of the related corporations; however, this
25 subparagraph does not apply to wages of concurrent employees
26 which are not disbursed through a common paymaster. A common
27 paymaster must pay concurrently employed individuals under
28 this subparagraph by one combined paycheck.

29 2. As used in this paragraph, the term "concurrent
30 employment" means the existence of simultaneous employment
31 relationships between an individual and related corporations.

1 Those relationships require the performance of services by the
2 employee for the benefit of the related corporations,
3 including the common paymaster, in exchange for wages that, if
4 deductible for the purposes of federal income tax, are
5 deductible by the related corporations.

6 3. Corporations are considered related corporations
7 for an entire calendar quarter if they satisfy any one of the
8 following tests at any time during the calendar quarter:

9 a. The corporations are members of a "controlled group
10 of corporations" as defined in s. 1563 of the Internal Revenue
11 Code of 1986 or would be members if paragraph 1563(a)(4) and
12 subsection 1563(b) did not apply.

13 b. In the case of a corporation that does not issue
14 stock, at least 50 percent of the members of the board of
15 directors or other governing body of one corporation are
16 members of the board of directors or other governing body of
17 the other corporation or the holders of at least 50 percent of
18 the voting power to select those members are concurrently the
19 holders of at least 50 percent of the voting power to select
20 those members of the other corporation.

21 c. At least 50 percent of the officers of one
22 corporation are concurrently officers of the other
23 corporation.

24 d. At least 30 percent of the employees of one
25 corporation are concurrently employees of the other
26 corporation.

27 4. The common paymaster must report to the tax
28 collection service provider, as part of the unemployment
29 compensation quarterly tax and wage report, the state
30 unemployment compensation account number and name of each
31 related corporation for which concurrent employees are being

1 reported. Failure to timely report this information shall
2 result in the related corporations being denied common
3 paymaster status for that calendar quarter.

4 5. The common paymaster also has the primary
5 responsibility for remitting contributions due under this
6 chapter for the wages it disburses as the common paymaster.
7 The common paymaster must compute these contributions as
8 though it were the sole employer of the concurrently employed
9 individuals. If a common paymaster fails to timely remit these
10 contributions or reports, in whole or in part, the common
11 paymaster remains liable for the full amount of the unpaid
12 portion of these contributions. In addition, each of the other
13 related corporations using the common paymaster is jointly and
14 severally liable for its appropriate share of these
15 contributions. Each related corporation's share equals the
16 greater of:

17 a. The liability of the common paymaster under this
18 chapter, after taking into account any contributions made.

19 b. The liability under this chapter which,
20 notwithstanding this section, would have existed for the wages
21 from the other related corporations, reduced by an allocable
22 portion of any contributions previously paid by the common
23 paymaster for those wages.

24 (4) For purposes of subsections (2) and (3), the
25 employment subject to this chapter does not apply to service
26 performed:

27 (c) In the employ of a public employer if the service
28 is performed by an individual in the exercise of duties:

29 1. As an elected official.
30
31

1 2. As a member of a legislative body, or a member of
2 the judiciary, of a state or a political subdivision of a
3 state.

4 3. As an employee serving on a temporary basis in case
5 of fire, storm, snow, earthquake, flood, or similar emergency.

6 4. In a position that, under state law, is designated
7 as a major nontenured policymaking or advisory position,
8 including any major nontenured policymaking or advisory a
9 position in the Senior Management Service created under s.
10 110.402, or a policymaking or advisory position for which the
11 duties do not ordinarily require more than 8 hours per week.

12 5. As an election official or election worker if the
13 amount of remuneration received by the individual during the
14 calendar year for those services is less than \$1,000.

15 Section 38. Subsection (2) of section 443.1316,
16 Florida Statutes, is amended to read:

17 443.1316 Unemployment tax collection services;
18 interagency agreement.--

19 (2)(a) The Department of Revenue is considered to be
20 administering a revenue law of this state when the department
21 implements this chapter, or otherwise provides unemployment
22 tax collection services, under contract with the Agency for
23 Workforce Innovation through the interagency agreement.

24 (b) Sections 213.015(1), (2), (3), (5), (6), (7), (9)-(19),
25 (21), 213.018, 213.025, 213.051, 213.053, 213.0535, 213.055,
26 213.071, 213.10, 213.21(4), 213.2201, 213.23, 213.24, 213.25,
27 213.24(2), 213.27, 213.28, 213.285, 213.32, 213.34(1), (3), and
28 (4), 213.37, 213.50, 213.67, 213.69, 213.73, 213.733, 213.74,
29 and 213.757 apply to the collection of unemployment
30 contributions and reimbursements by the Department of Revenue
31 unless prohibited by federal law.

1 ~~(c) The Department of Revenue may charge no more than~~
2 ~~10 percent of the total cost of the interagency agreement for~~
3 ~~the overhead or indirect costs, or for any other costs not~~
4 ~~required for the payment of the direct costs, of providing~~
5 ~~unemployment tax collection services.~~

6 Section 39. Subsection (1) of section 443.141, Florida
7 Statutes, is amended to read:

8 443.141 Collection of contributions and
9 reimbursements.--

10 (1) PAST DUE CONTRIBUTIONS; ERRONEOUS, INCOMPLETE, OR
11 INSUFFICIENT REPORTS; AND REIMBURSEMENTS.--

12 (a) Interest.--Contributions or reimbursements unpaid
13 on the date due shall bear interest at the rate of 1 percent
14 per month from and after that date until payment plus accrued
15 interest is received by the tax collection service provider,
16 unless the service provider finds that the employing unit has
17 or had good reason for failure to pay the contributions or
18 reimbursements when due. Interest collected under this
19 subsection must be paid into the Special Employment Security
20 Administration Trust Fund.

21 (b) Penalty for delinquent reports.--

22 1. An employing unit that fails to file any report
23 required by the Agency for Workforce Innovation or its tax
24 collection service provider, in accordance with rules for
25 administering this chapter, shall pay to the tax collection
26 service provider for each delinquent report the sum of \$25 for
27 each 30 days or fraction thereof that the employing unit is
28 delinquent, unless the agency or its service provider,
29 whichever required the report, finds that the employing unit
30 has or had good reason for failure to file the report. The
31 agency or its service provider may assess penalties only

1 through the date of the issuance of the final assessment
2 notice. However, additional penalties accrue if the delinquent
3 report is subsequently filed.

4 2. Sums collected as penalties under subparagraph 1.
5 must be deposited in the Special Employment Security
6 Administration Trust Fund.

7 3. The penalty and interest for a delinquent report
8 may be waived when the penalty or interest is inequitable. The
9 provisions of s. 213.24(1) apply to any penalty or interest
10 that is imposed under this section.

11 (c) Penalty for erroneous, incomplete, or insufficient
12 reports.--

13 1. In the case where an erroneous, incomplete, or
14 insufficient tax or wage report is made, a penalty in the
15 amount of \$50 or 10 percent of the tax finally determined to
16 be due, whichever is greater, shall be added to the amount of
17 tax, penalty, and interest otherwise due. Penalties collected
18 under this subparagraph shall be paid into the Special
19 Employment Security Administration Trust Fund.

20 2. As used in this chapter, the phrase "erroneous,
21 incomplete, or insufficient tax or wage report" means a report
22 that is lacking uniformity, completeness, or arrangement and
23 that the physical handling, verification, or review of the
24 report may not be readily accomplished. The phrase includes,
25 but is not limited to, missing wage items, an illegible wage
26 report, a wage report that is not in a format approved by the
27 service provider, a report that does not contain all required
28 social security numbers, a report that contains erroneous
29 social security numbers, a report that omits the last name of
30 one or more employees, or a report in which the gross wages do
31 not equal the total of the individuals' wages.

1 ~~(d)(e)~~ Application of partial payments.--When a
2 delinquency exists in the employment record of an employer not
3 in bankruptcy, a partial payment less than the total
4 delinquency shall be applied to the employment record as the
5 payor directs. In the absence of specific direction, the
6 partial payment shall be applied to the payor's employment
7 record as prescribed in the rules of the Agency for Workforce
8 Innovation or the state agency providing tax collection
9 services.

10 Section 40. Effective January 1, 2008, subsection (1)
11 of section 443.163, Florida Statutes, is amended to read:

12 443.163 Electronic reporting and remitting of
13 contributions and reimbursements.--

14 (1) An employer may file any report and remit any
15 contributions or reimbursements required under this chapter by
16 electronic means. The Agency for Workforce Innovation or the
17 state agency providing unemployment tax collection services
18 shall adopt rules prescribing the format and instructions
19 necessary for electronically filing reports and remitting
20 contributions and reimbursements to ensure a full collection
21 of contributions and reimbursements due. The acceptable method
22 of transfer, the method, form, and content of the electronic
23 means, and the method, if any, by which the employer will be
24 provided with an acknowledgment shall be prescribed by the
25 Agency for Workforce Innovation or its tax collection service
26 provider. However, any employer who employed 10 or more
27 employees in any quarter during the preceding state fiscal
28 year must file the Employers Quarterly Reports (UCT-6) for the
29 current calendar year and remit the contributions and
30 reimbursements due by electronic means approved by the tax
31 collection service provider. A person who prepared and

1 reported for 10 ~~100~~ or more employers in any quarter during
2 the preceding state fiscal year must file the Employers
3 Quarterly Reports (UCT-6) for each calendar quarter in the
4 current calendar year, beginning with reports due for the
5 second calendar quarter of 2003, by electronic means approved
6 by the tax collection service provider.

7 Section 41. Subsection (3) is added to section
8 624.511, Florida Statutes, to read:

9 624.511 Tax statement; overpayments.--

10 (3)(a) If it appears, upon examination of an insurance
11 premium tax return made under this chapter, that an amount of
12 insurance premium tax has been paid in excess of the amount
13 due, the Department of Revenue may refund the amount of the
14 overpayment to the taxpayer by a warrant of the Chief
15 Financial Officer. The Department of Revenue may refund the
16 overpayment without regard to whether the taxpayer has filed a
17 written claim for a refund; however, the Department of Revenue
18 may request that the taxpayer file a statement affirming that
19 the taxpayer made the overpayment.

20 (b) Notwithstanding paragraph (a), a refund of the
21 insurance premium tax may not be made, and a taxpayer is not
22 entitled to bring an action for a refund of the insurance
23 premium tax, after the period specified in s. 215.26(2) has
24 elapsed.

25 (c) If a refund issued by the Department of Revenue
26 under this subsection is found to exceed the amount of refund
27 legally due to the taxpayer, the provisions of s. 624.5092
28 concerning penalties and interest do not apply if the taxpayer
29 reimburses the department for any overpayment within 60 days
30 after the taxpayer is notified that the overpayment was made.
31

1 Section 42. Subsections (4) and (5) are added to
2 section 832.062, Florida Statutes, to read:

3 832.062 Prosecution for worthless checks, drafts,
4 debit card orders, or electronic funds transfers made to pay
5 any tax or associated amount administered by the Department of
6 Revenue.--

7 (4)(a) In any prosecution or action under this
8 section, the making, drawing, uttering, or delivery of a
9 check, draft, order; the making, sending, instructing,
10 ordering, or initiating of any electronic funds transfer; or
11 causing the making, sending, instructing, ordering, or
12 initiating of any electronic transfer payment, any of which
13 are refused by the drawee because of lack of funds or credit,
14 is prima facie evidence of intent to defraud or knowledge of
15 insufficient funds in, or credit with, such bank, banking
16 institution, trust company, or other depository, unless the
17 maker, drawer, sender, instructor, orderer, or initiator, or
18 someone for him or her, has paid the holder thereof the amount
19 due thereon, together with a service charge, which may not
20 exceed the service fees authorized under s. 832.08(5), or an
21 amount of up to 5 percent of the face amount of the check or
22 the amount of the electronic funds transfer, whichever is
23 greater, within 15 days after written notice has been sent to
24 the address printed on the check, or given or on file at the
25 time of issuance, that such check, draft, order, or electronic
26 funds transfer has not been paid to the holder thereof, and
27 has paid the bank fees incurred by the holder. In the event of
28 legal action for recovery, the maker, drawer, sender,
29 instructor, orderer, or initiator may be additionally liable
30 for court costs and reasonable attorney's fees. Notice mailed
31 by certified or registered mail that is evidenced by return

1 receipt, or by first-class mail that is evidenced by an
2 affidavit of service of mail, to the address printed on the
3 check or given or on file at the time of issuance shall be
4 deemed sufficient and equivalent to notice having been
5 received by the maker, drawer, sender, instructor, orderer, or
6 initiator, whether such notice is returned undelivered or not.
7 The form of the notice shall be substantially as follows:

8
9 "You are hereby notified that a check or
10 electronic funds transfer, numbered _____, in
11 the face amount of \$ _____, issued or initiated
12 by you on (date) _____, drawn upon (name of bank) _____,
13 and payable to _____, has been dishonored.
14 Pursuant to Florida law, you have 15 days
15 following the date of this notice to tender
16 payment of the full amount of such check or
17 electronic funds transfer plus a service charge
18 of \$25, if the face value does not exceed \$50;
19 \$30, if the face value exceeds \$50 but does not
20 exceed \$300; \$40, if the face value exceeds
21 \$300; or an amount of up to 5 percent of the
22 face amount of the check, whichever is greater,
23 the total amount due being \$ _____ and
24 cents. Unless this amount is paid in full
25 within the time specified above, the holder of
26 such check or electronic funds transfer may
27 turn over the dishonored check or electronic
28 funds transfer and all other available
29 information relating to this incident to the
30 state attorney for criminal prosecution. You
31 may be additionally liable in a civil action

1 for triple the amount of the check or
2 electronic funds transfer, but in no case less
3 than \$50, together with the amount of the check
4 or electronic funds transfer, a service charge,
5 court costs, reasonable attorney's fees, and
6 incurred bank fees, as provided in s. 68.065,
7 Florida Statutes."

8
9 Subsequent persons receiving a check, draft, order, or
10 electronic funds transfer from the original payee or a
11 successor endorsee have the same rights that the original
12 payee has against the maker of the instrument if the
13 subsequent persons give notice in a substantially similar form
14 to that provided above. Subsequent persons providing such
15 notice are immune from civil liability for the giving of such
16 notice and for proceeding under the forms of such notice so
17 long as the maker of the instrument has the same defenses
18 against these subsequent persons as against the original
19 payee. However, the remedies available under this section may
20 be exercised only by one party in interest.

21 (b) When a check, draft, order, or electronic funds
22 transfer is drawn on a bank in which the maker, drawer,
23 sender, instructor, orderer, or initiator has no account or a
24 closed account, it shall be presumed that the check, draft, or
25 order was issued, or the electronic funds transfer was
26 initiated, with intent to defraud, and the notice requirement
27 set forth in this section shall be waived.

28 (5)(a) In any prosecution or action under this
29 section, a check, draft, order, or electronic funds transfer
30 for which the information required in paragraph (b) is
31 available at the time of issuance constitutes prima facie

1 evidence of the identity of the person issuing the check,
2 draft, order, or electronic funds transfer and that such
3 person is authorized to draw upon the named account.

4 (b) To establish this prima facie evidence:

5 1. If a check or electronic funds transfer is received
6 by the Department of Revenue through the mail or by delivery
7 to a representative of the Department of Revenue or by
8 electronic means, the prima facie evidence referred to in
9 paragraph (a) may be established by presenting the original
10 tax return, certificate, license, application for certificate
11 or license, enrollment and authorization for the e-services
12 program, or other document relating to amounts owed by that
13 person or taxpayer which the check or electronic funds
14 transfer purports to pay for, bearing the signature of the
15 person who signed the check or electronic signature of the
16 person who initiated the electronic funds transfer, or by
17 presenting a copy of the information required in subparagraph
18 2. which is on file with the acceptor of the check or
19 electronic funds transfer together with the signature or
20 electronic signature of the person presenting the check or
21 initiating the electronic funds transfer. The use of taxpayer
22 information for purposes of establishing the identity of a
23 person under this paragraph shall be deemed a use of such
24 information for official purposes.

25 2. The person accepting such check or electronic funds
26 transfer must obtain the following information regarding the
27 identity of the person presenting the check: the presenter's
28 or initiator's full name, residence address, home telephone
29 number, business telephone number, place of employment,
30 gender, date of birth, and height.

31

1 Section 43. Refund of property taxes upon destruction
2 or damage related to tornadoes.--

3 (1) As used in this section, the term "house or other
4 residential building or structure" does not include amenities
5 that are not essential to use and occupancy, such as detached
6 utility buildings, bulkheads, fences, detached carports,
7 swimming pools, or other similar items or property.

8 (2) If a house or other residential building or
9 structure on land was damaged or destroyed between January 1,
10 2007, and February 15, 2007, due to a tornado and, as a
11 result, the house or other residential building or structure,
12 or some self-sufficient unit within the residential building
13 or structure, cannot be used and occupied for 60 days or more,
14 upon application filed with the property appraiser, the 2007
15 property taxes may be partially refunded in the following
16 manner:

17 (a) The owner must file an application with the
18 property appraiser before June 1, 2008. Failure to file an
19 application before that date constitutes a waiver of any claim
20 for partial refund under this section.

21 (b) The application must identify the property that
22 was destroyed or damaged and specify the date the destruction
23 or damage occurred and the number of months in 2007 of loss of
24 use and occupancy.

25 (c) The application must be verified under oath under
26 penalty of perjury.

27 (d) Upon receipt of the application, the property
28 appraiser shall investigate the statements contained therein
29 to determine whether the applicant is entitled to a partial
30 refund under this section. If the property appraiser
31 determines that the applicant is entitled to a partial refund,

1 he or she shall issue an official written statement to the tax
2 collector which contains:

3 1. The number of months in 2007 that the house or
4 other residential building or structure, or some
5 self-sufficient unit within the residential building or
6 structure, was not capable of use and occupancy. In
7 calculating the number of months, the property appraiser shall
8 consider each 30-day period as a month. Partial periods of 15
9 days or less may not be considered, but partial periods of 16
10 days to 29 days shall be calculated as a 30-day period.

11 2. The value of the house or other residential
12 building or structure before the damage or destruction, as
13 determined by the property appraiser.

14 3. Total taxes due on the house or other residential
15 building or structure as reduced, based on the ratio that the
16 number of months of loss of use and occupancy bears to 12.

17 4. The amount of refund in taxes.

18 (e) Upon receipt of the written statement from the
19 property appraiser, the tax collector shall refund taxes on
20 the property shown on the tax collection roll in the amount of
21 refund shown by the property appraiser.

22 (f) By September 1, 2008, the tax collector shall
23 notify the board of county commissioners and the Department of
24 Revenue of the total reduction in taxes for all property that
25 received a partial refund of taxes under this section for the
26 preceding tax year.

27 (3) This section takes effect upon this act becoming a
28 law and expires October 1, 2008.

29 Section 44. Except as otherwise expressly provided in
30 this act and except for this section, which shall take effect
31 upon becoming a law, this act shall take effect July 1, 2007.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 2482

4 The Committee Substitute made the following changes to SB
5 2482:

- 6 1. Removed from the bill the indexing of the fuel sales tax
7 on motor fuel and diesel fuel.
- 8 2. Removed the language adding "granting of a license to
9 use" as a taxable transaction to the tourist development
10 tax, tourist impact tax, and convention development tax.
- 11 3. Provides circumstances for when civil and criminal
12 penalties imposed for failure to comply with a written
13 notice alerting a person of the requirement to register
14 the person's business as a dealer or to collect tax shall
15 not apply.
- 16 4. Removed the accuracy-related penalty provisions from the
17 bill.
- 18 5. Clarifies that certain Senior Management positions are
19 excluded from unemployment compensation provisions.
- 20 6. Provides for a refund of property taxes upon destruction
21 or damage of a house or other residential building
22 between January 1, 2007, and February 15, 2007, due to a
23 tornado.
- 24 7. Provides that property owned by an exempt entity will be
25 deemed to be used for religious purposes if the
26 institution has taken affirmative steps to prepare the
27 property for use as a house of worship.
- 28 8. Provides that in cases where substantial amounts of
29 Communications Services Tax revenues are being
30 reallocated from one jurisdiction to another, the
31 Department of Revenue will notify the affected local
 governments of the reallocation and provide them with the
 opportunity to determine how those revenue adjustments
 will be made.
9. Clarifies the procedures that the Department of Revenue
 must follow to administer resale certificates issued to
 dealers under the Communications Services Tax and repeals
 the authority under which local governments were allowed
 to adopt certain "emergency rates."
10. Removed the statistical sampling language from the bill.
11. Removed the data match provisions in the bill and
 replaced it with a pilot program between the Department
 of Revenue and financial institutions.
12. Provides clarifying language to ensure that financial
 institutions will not be left liable for any tax
 liability as a result of the sale of a business under
 certain circumstances.

- 1 13. Removed the administrative freeze of delinquent taxpayers
2 assets from the bill.
- 3 14. Changes the requirement that the provisions of s.
4 193.1551, F.S., related to homestead property rendered
5 uninhabitable by a named storm of 2004, are limited to
6 homestead properties in which repairs are completed by
7 January 1, 2008, to commenced by January 1, 2008.
- 8 15. Clarifies current Department of Revenue rule that
9 separately stated delivery charges that can be avoided at
10 the option of the purchaser are exempt from sales tax.
- 11 16. Provides that conservation easements survive property tax
12 deed sales.
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