

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.
17 202.18, 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 which a
31 dealer of communications services is required

1 to remit taxes electronically; amending ss.
2 206.02 and 206.021, F.S.; authorizing the
3 Department of Revenue to issue temporary fuel
4 licenses during a declared state of emergency
5 or a declared disaster; amending s. 206.9943,
6 F.S.; authorizing the department to issue a
7 temporary pollutant tax license during a
8 declared state of emergency or a declared
9 disaster; amending s. 211.3103, F.S.; providing
10 for the annual producer price index to apply to
11 the tax on the severance of phosphate rock;
12 amending s. 212.02, F.S.; adding leases of
13 certain aircraft to the definition of the term
14 "qualified aircraft"; amending ss. 212.05 and
15 212.0515, F.S.; authorizing the department to
16 adopt additional divisors for calculating the
17 sales tax on vending machines when a county
18 imposes a sales surtax rate that is not listed
19 in statute; amending s. 212.0506, F.S.;
20 clarifying that the definition of the term
21 "service warranty" excludes certain contracts;
22 amending s. 212.08, F.S., relating to
23 exemptions from the sales tax; deleting
24 provisions exempting certain building materials
25 and business property from application of
26 certain requirements for refunds; providing a
27 sales tax exemption for certain delivery
28 charges; repealing s. 212.095, F.S., relating
29 to a sales tax refund permit for certain
30 organizations; amending s. 212.12, F.S.;
31 providing that a person is liable for failure

1 to register a business or collect the required
2 taxes; providing penalties; providing
3 exceptions to certain penalties; providing for
4 voluntary sampling of fixed assets; providing
5 for application; providing legislative intent;
6 authorizing the Department of Revenue, in
7 conjunction with financial institutions, to
8 design a pilot program for identifying certain
9 account holders against whose property the
10 department has a tax warrant; authorizing the
11 department to enter into agreements with
12 financial institutions for developing and
13 operating a data match system; requiring the
14 department to pay a fee to participating
15 financial institutions; requiring the
16 department to submit a report to the
17 Legislature; amending s. 213.053, F.S.;
18 authorizing the department to provide
19 information to the child support enforcement
20 program; amending s. 213.21, F.S.; providing
21 for a taxpayer's liability for a service fee to
22 be waived due to unintentional error; amending
23 s. 213.755, F.S.; reducing the threshold tax
24 amount under which a taxpayer may be required
25 to remit taxes electronically; amending s.
26 220.21, F.S.; requiring a taxpayer that is
27 required to file its federal income tax return
28 electronically to also file its state corporate
29 income tax electronically; providing a penalty
30 for failure to do so; authorizing the
31 department to adopt rules; providing for

1 applicability; amending s. 443.1216, F.S.;

2 authorizing the Agency for Workforce Innovation

3 and the agency that collects unemployment taxes

4 to adopt rules; clarifying that certain senior

5 management positions are excluded from

6 unemployment compensation provisions; amending

7 s. 443.1316, F.S.; providing for certain

8 provisions of ch. 213, F.S., relating to

9 taxpayers rights, to apply to the collection of

10 unemployment taxes; deleting a limitation on

11 the amount the department may charge for the

12 costs of collection services; amending s.

13 443.141, F.S.; providing a date through which

14 certain penalties on delinquent unemployment

15 compensation reports can be assessed; applying

16 the provisions of s. 213.24(1), F.S., to such

17 penalties; amending s. 443.163, F.S.; amending

18 s. 624.511, F.S.; authorizing the Department of

19 Revenue to refund an overpayment of insurance

20 premium tax under certain circumstances;

21 amending s. 832.062, F.S.; providing for prima

22 facie evidence of intent to defraud or

23 knowledge of insufficient funds with respect to

24 an electronic transfer to the Department of

25 Revenue which is not honored or refused;

26 providing for exceptions; providing

27 requirements for notice; providing for the

28 department to recover court costs and

29 attorney's fees; providing procedures for

30 establishing prima facie evidence; providing

31 for refunds of certain property taxes for

1 residential property damaged or destroyed by a
2 tornado during a specified period; providing
3 effective dates.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

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

10 45.032 Disbursement of surplus funds after judicial
11 sale.--

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

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

22 (3) During the 60 days after the clerk issues a
23 certificate of disbursements, the clerk shall hold the surplus
24 pending a court order.

25 (a) If the owner of record claims the surplus during
26 the 60-day period and there is no subordinate lienholder, the
27 court shall order the clerk to deduct any applicable service
28 charges from the surplus and pay the remainder to the owner of
29 record. The clerk may establish a reasonable requirement that
30 the owner of record prove his or her identity before receiving
31 the disbursement. The clerk may assist an owner of record in

1 making a claim. An owner of record may use the following form
2 in making a claim:

3
4 (Caption of Action)

5
6 OWNER'S CLAIM FOR
7 MORTGAGE FORECLOSURE SURPLUS

8
9 State of

10 County of

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

12 1. I was (we were) the owner of the following
13 described real property in County, Florida, prior to the
14 foreclosure sale and as of the date of the filing of the lis
15 pendens:

16
17 ...(Legal description of real property)...

18
19 2. I (we) do not owe any money on any mortgage on the
20 property that was foreclosed other than the one that was paid
21 off by the foreclosure.

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

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

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

28 6. My (our) new address is:

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

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

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

8
 9 ...(Signatures)...

10

11 Sworn to (or affirmed) and subscribed before me this
 12 day of, ...(year)...., by ...(name of person making
 13 statement)....

14 ...(Signature of Notary Public - State of Florida)...
 15 ...(Print, Type, or Stamp Commissioned Name of Notary
 16 Public)...

17

18 Personally Known OR Produced Identification
 19 Type of Identification Produced.....

20

21 Section 2. Section 193.1551, Florida Statutes, is
 22 amended to read:

23 193.1551 Assessment of certain homestead property
 24 damaged in 2004 named storms.--Notwithstanding the provisions
 25 of s. 193.155(4), the assessment at just value for changes,
 26 additions, or improvements to homestead property rendered
 27 uninhabitable in one or more of the named storms of 2004 shall
 28 be limited to the square footage exceeding 110 percent of the
 29 homestead property's total square footage. Additionally, homes
 30 having square footage of 1,350 square feet or less which were
 31 rendered uninhabitable may rebuild up to 1,500 total square

1 feet and the increase in square footage shall not be
 2 considered as a change, an addition, or an improvement that is
 3 subject to assessment at just value. The provisions of this
 4 section are limited to homestead properties in which repairs
 5 are commenced ~~completed~~ by January 1, 2008, and apply
 6 retroactively to January 1, 2005.

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

9 196.192 Exemptions from ad valorem taxation.--Subject
 10 to the provisions of this chapter:

11 (1) All property owned by an exempt entity and used
 12 exclusively for exempt purposes shall be totally exempt from
 13 ad valorem taxation.

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

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

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

1 apply in determining the exemption for property owned by
2 governmental units pursuant to s. 196.199.

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

5 196.193 Exemption applications; review by property
6 appraiser.--

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

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

28 (c) All notifications must specify the right to appeal
29 to the value adjustment board and the procedures to follow in
30 obtaining such an appeal. Thereafter, the person or
31 organization filing such application, or a duly designated

1 representative, may appeal that determination by the property
2 appraiser to the board at the time of its regular hearing. In
3 the event of an appeal, the property appraiser or the property
4 appraiser's representative shall appear at the board hearing
5 and present his or her findings of fact. If the applicant is
6 not present or represented at the hearing, the board may make
7 a determination on the basis of information supplied by the
8 property appraiser or such other information on file with the
9 board.

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

13 196.196 Determining whether property is entitled to
14 charitable, religious, scientific, or literary exemption.--

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

29 Section 6. Section 197.572, Florida Statutes, is
30 amended to read:

31

1 197.572 Easements for conservation purposes, or for
2 public service purposes or for drainage or ingress and egress
3 survive tax sales and deeds.--When any lands are sold for the
4 nonpayment of taxes, or any tax certificate is issued thereon
5 by a governmental unit or agency or pursuant to any tax lien
6 foreclosure proceeding, the title to the lands shall continue
7 to be subject to any easement for conservation purposes as
8 provided in s. 704.06 or telephone, telegraph, pipeline, power
9 transmission, or other public service purpose and shall
10 continue to be subject to any easement for the purposes of
11 drainage or of ingress and egress to and from other land. The
12 easement and the rights of the owner of it shall survive and
13 be enforceable after the execution, delivery, and recording of
14 a tax deed, a master's deed, or a clerk's certificate of title
15 pursuant to foreclosure of a tax deed, tax certificate, or tax
16 lien, to the same extent as though the land had been conveyed
17 by voluntary deed. The easement must be evidenced by written
18 instrument recorded in the office of the clerk of the circuit
19 court in the county where such land is located before the
20 recording of such tax deed or master's deed, or, if not
21 recorded, an easement for a public service purpose must be
22 evidenced by wires, poles, or other visible occupation, an
23 easement for drainage must be evidenced by a waterway, water
24 bed, or other visible occupation, and an easement for the
25 purpose of ingress and egress must be evidenced by a road or
26 other visible occupation to be entitled to the benefit of this
27 section; however, this shall apply only to tax deeds issued
28 after the effective date of this act.

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

31

1 198.13 Tax return to be made in certain cases;
2 certificate of nonliability.--

3 (4) Notwithstanding any other provisions of this
4 section and applicable to the estate of a decedent who dies
5 after December 31, 2004, if, upon the death of the decedent, a
6 state death tax credit or a generation-skipping transfer
7 credit is not allowable pursuant to the Internal Revenue Code
8 of 1986, as amended:

9 (a) The personal representative of the estate is not
10 required to file a return under subsection (1) in connection
11 with the estate.

12 (b) The person who would otherwise be required to file
13 a return reporting a generation-skipping transfer under
14 subsection (3) is not required to file such a return in
15 connection with the estate.

16
17 The provisions of this subsection do not apply to estates of
18 descendents dying after December 31, 2010.

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

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

29 (2)(a) A sale of communications services that are used
30 as a component part of or integrated into a communications
31 service or prepaid calling arrangement for resale, including,

1 but not limited to, carrier-access charges, interconnection
2 charges paid by providers of mobile communication services or
3 other communication services, charges paid by cable service
4 providers for the transmission of video or other programming
5 by another dealer of communications services, charges for the
6 sale of unbundled network elements, and any other intercompany
7 charges for the use of facilities for providing communications
8 services for resale, must be made in compliance with the rules
9 of the department. Any person who makes a sale for resale
10 which is not in compliance with these rules is liable for any
11 tax, penalty, and interest due for failing to comply, to be
12 calculated pursuant to s. 202.28(2)(a).

13 (b)1. Any dealer who makes a sale for resale shall
14 document the exempt nature of the transaction, as established
15 by rules adopted by the department, by retaining a copy of the
16 purchaser's initial or annual resale certificate issued
17 pursuant to s. 202.17(6). In lieu of maintaining a copy of the
18 certificate, a dealer may document, prior to the time of sale,
19 an authorization number provided telephonically or
20 electronically by the department or by such other means
21 established by rule of the department. The dealer may rely on
22 an initial or annual resale certificate issued pursuant to s.
23 202.17(6), valid at the time of receipt from the purchaser,
24 without seeking additional annual resale certificates from
25 such purchaser, if the dealer makes recurring sales to the
26 purchaser in the normal course of business on a continual
27 basis. For purposes of this paragraph, the term "recurring
28 sales to a purchaser in the normal course of business" means
29 sales in which the dealer extends credit to the purchaser and
30 records the debt as an account receivable, or in which the
31 dealer sells to a purchaser who has an established cash

1 account, similar to an open credit account. For purposes of
2 this paragraph, purchases are made from a selling dealer on a
3 continual basis if the selling dealer makes, in the normal
4 course of business, sales to the purchaser no less frequently
5 than once in every 12-month period.

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

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

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

1 Section 11. Paragraph (c) of subsection (3) of section
2 202.18, Florida Statutes, is amended to read:

3 202.18 Allocation and disposition of tax
4 proceeds.--The proceeds of the communications services taxes
5 remitted under this chapter shall be treated as follows:

6 (3)

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

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

23 3.a. Notwithstanding the time period specified in s.
24 202.22(5), adjustments in distributions which are necessary to
25 correct misallocations between jurisdictions shall be governed
26 by this subparagraph. If the department determines that
27 misallocations between jurisdictions occurred, it shall
28 provide written notice of such determination to all affected
29 jurisdictions. The notice shall include the amount of the
30 misallocations, the basis upon which the determination was
31 made, data supporting the determination, and the identity of

1 each affected jurisdiction. The notice shall also inform all
2 affected jurisdictions of their authority to enter into a
3 written agreement establishing a method of adjustment as
4 described in sub-subparagraph c.

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

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

1 this sub-subparagraph shall be prorated over a time period
2 that equals the time period over which the misallocations
3 occurred.

4 Section 12. Paragraph (a) of subsection (2) of section
5 202.20, Florida Statutes, is amended to read:

6 202.20 Local communications services tax conversion
7 rates.--

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

26 2. If complete data are not available at the time of
27 determining whether the revenues received by a local
28 government from the local communications services tax imposed
29 under subsection (1) are less than the revenues received from
30 the replaced revenue sources for the corresponding 2000-2001
31 period, as set forth in subparagraph 1., the local government

1 shall use the best data available for the corresponding
2 2000-2001 period in making such determination. Complete data
3 shall be deemed available to all local governments after the
4 department audits, including the redistribution of local tax,
5 dealers who account for no less than 80 percent of the amount
6 of communications services tax revenues received for fiscal
7 year 2005-2006.

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

30 4. If, for the period October 1, 2001, through
31 September 30, 2002, the revenues received by a local

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

25 Section 13. Paragraph (d) of subsection (2) of section
26 202.28, Florida Statutes, is amended to read:

27 202.28 Credit for collecting tax; penalties.--

28 (2)

29 (d) If a dealer fails to separately report and
30 identify local communications services taxes on the
31 appropriate return schedule, the dealer shall be subject to a

1 penalty of \$5,000 per return. If the department is unable to
2 obtain appropriate return schedules, any penalty imposed by
3 this paragraph shall be allocated in the same manner as
4 provided in s. 202.18(2).

5 Section 14. Effective January 1, 2008, subsection (1)
6 of section 202.30, Florida Statutes, is amended to read:

7 202.30 Payment of taxes by electronic funds transfer;
8 filing of returns by electronic data interchange.--

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

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. Paragraph (d) of subsection (2) and
 23 paragraph (c) of subsection (6) of section 212.12, Florida
 24 Statutes, are amended to read:

25 212.12 Dealer's credit for collecting tax; penalties
 26 for noncompliance; powers of Department of Revenue in dealing
 27 with delinquents; brackets applicable to taxable transactions;
 28 records required.--

29 (2)

30 (d) Any person who makes a false or fraudulent return
 31 with a willful intent to evade payment of any tax or fee

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

26 1. If the total amount of unreported or uncollected
27 taxes or fees is less than \$300, the first offense resulting
28 in conviction is a misdemeanor of the second degree, the
29 second offense resulting in conviction is a misdemeanor of the
30 first degree, and the third and all subsequent offenses
31 resulting in conviction is a misdemeanor of the first degree,

1 and the third and all subsequent offenses resulting in
2 conviction are felonies of the third degree.

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

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

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

12 (6)

13 (c)1. If the records of a dealer are adequate but
14 voluminous in nature and substance, the department may sample
15 such records, ~~except for fixed assets,~~ and project the audit
16 findings derived therefrom over the entire audit period to
17 determine the proportion that taxable retail sales bear to
18 total retail sales or the proportion that taxable purchases
19 bear to total purchases. In order to conduct such a sample,
20 the department must first make a good faith effort to reach an
21 agreement with the dealer, which agreement provides for the
22 means and methods to be used in the sampling process. In the
23 event that no agreement is reached, the dealer is entitled to
24 a review by the executive director. In the case of fixed
25 assets, a dealer may agree in writing with the department for
26 adequate but voluminous records to be statistically sampled.
27 Such an agreement shall provide for the methodology to be used
28 in the statistical sampling process. The audit findings
29 derived therefrom shall be projected over the period
30 represented by the sample in order to determine the proportion
31 that taxable purchases bear to total purchases. Once an

1 agreement has been signed, it is final and conclusive with
2 respect to the method of sampling fixed assets, and the
3 department may not conduct a detailed audit of fixed assets
4 and the taxpayer may not request a detailed audit after the
5 agreement is reached.

6 2. For the purposes of sampling pursuant to
7 subparagraph 1., the department shall project any deficiencies
8 and overpayments derived therefrom over the entire audit
9 period. In determining the dealer's compliance, the department
10 shall reduce any tax deficiency as derived from the sample by
11 the amount of any overpayment derived from the sample. In the
12 event the department determines from the sample results that
13 the dealer has a net tax overpayment, the department shall
14 provide the findings of this overpayment to the Chief
15 Financial Officer for repayment of funds paid into the State
16 Treasury through error pursuant to s. 215.26.

17 3.a. A taxpayer is entitled, both in connection with
18 an audit and in connection with an application for refund
19 filed independently of any audit, to establish the amount of
20 any refund or deficiency through statistical sampling when the
21 taxpayer's records, ~~other than those regarding fixed assets,~~
22 are adequate but voluminous. In the case of fixed assets, a
23 dealer may agree in writing with the department for adequate
24 but voluminous records to be statistically sampled. Such an
25 agreement shall provide for the methodology to be used in the
26 statistical sampling process. The audit findings derived
27 therefrom shall be projected over the period represented by
28 the sample in order to determine the proportion that taxable
29 purchases bear to total purchases. Once an agreement has been
30 signed, it is final and conclusive with respect to the method
31 of sampling fixed assets, and the department may not conduct a

1 detailed audit of fixed assets and the taxpayer may not
2 request a detailed audit after the agreement is reached.

3 b. Alternatively, a taxpayer is entitled to establish
4 any refund or deficiency through any other sampling method
5 agreed upon by the taxpayer and the department when the
6 taxpayer's records, other than those regarding fixed assets,
7 are adequate but voluminous. Whether done through statistical
8 sampling or any other sampling method agreed upon by the
9 taxpayer and the department, the completed sample must reflect
10 both overpayments and underpayments of taxes due. The sample
11 shall be conducted through:

12 (I) A taxpayer request to perform the sampling through
13 the certified audit program pursuant to s. 213.285;

14 (II) Attestation by a certified public accountant as
15 to the adequacy of the sampling method utilized and the
16 results reached using such sampling method; or

17 (III) A sampling method that has been submitted by the
18 taxpayer and approved by the department before a refund claim
19 is submitted. This sub-sub-subparagraph does not prohibit a
20 taxpayer from filing a refund claim prior to approval by the
21 department of the sampling method; however, a refund claim
22 submitted before the sampling method has been approved by the
23 department cannot be a complete refund application pursuant to
24 s. 213.255 until the sampling method has been approved by the
25 department.

26 ~~c.b.~~ The department shall prescribe by rule the
27 procedures to be followed under each method of sampling. Such
28 procedures shall follow generally accepted auditing procedures
29 for sampling. The rule shall also set forth other criteria
30 regarding the use of sampling, including, but not limited to,
31 training requirements that must be met before a sampling

1 method may be utilized and the steps necessary for the
2 department and the taxpayer to reach agreement on a sampling
3 method submitted by the taxpayer for approval by the
4 department.

5 Section 26. The amendments to s. 212.12(6)(c), Florida
6 Statutes, shall take effect on July 1, 2007. It is the intent
7 of the Legislature that the amendments to s. 212.12(6)(c),
8 Florida Statutes, apply to all pending sales and use tax
9 audits or other actions or inquiries, excluding those
10 currently under protest or in litigation. The amendments to s.
11 212.12(6)(c), Florida Statutes, do not create any right to
12 refund for taxes previously assessed and paid in regard to
13 audits or other actions or inquiries that are no longer
14 pending.

15 Section 27. (1) In coordination with financial
16 institutions doing business in this state, the Department of
17 Revenue may design and implement a pilot program for
18 identifying account holders against whose property the
19 department has issued a warrant or filed a judgment lien
20 certificate. Under the program, the department may enter into
21 agreements with financial institutions, as defined in s.
22 409.25657, Florida Statutes, to develop and operate a data
23 match system that uses automated data exchanges to the maximum
24 extent feasible.

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

27 (a) For disclosure of any information for purposes of
28 this program; or

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

31

1 (3) The department may request from a financial
 2 institution information and assistance to enable the
 3 department to design and implement the program. The department
 4 shall administer this program in conjunction with s.
 5 409.25657, Florida Statutes, in order to reduce the burden of
 6 participation on financial institutions. The department shall
 7 pay a reasonable fee to participating financial institutions
 8 for participating in this program, but the fee may not exceed
 9 the actual costs incurred by such financial institution. All
 10 financial records obtained pursuant to this section may be
 11 disclosed only for the purpose of determining the feasibility
 12 of the program. The department may not engage in collection
 13 activities based upon the information received under this
 14 program.

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

21 Section 28. Paragraph (a) of subsection (16) of
 22 section 213.053, Florida Statutes, is amended to read:

23 213.053 Confidentiality and information sharing.--

24 (16)(a) ~~The department may disclose Confidential~~
 25 ~~taxpayer information may be shared with contained in returns,~~
 26 ~~reports, accounts, or declarations filed with the department~~
 27 ~~by persons subject to any state or local tax to the child~~
 28 ~~support enforcement program, which may use the information for~~
 29 ~~purposes of program administration, to assist in the location~~
 30 ~~of parents who owe or potentially owe a duty of support, as~~
 31 ~~defined in s. 409.2554, pursuant to Title IV D of the Social~~

1 ~~Security Act, their assets, their income, and their employer,~~
2 and with ~~to~~ the Department of Children and Family Services for
3 the purpose of diligent search activities pursuant to chapter
4 39.

5 Section 29. Paragraph (d) of subsection (3) of section
6 213.21, Florida Statutes, is amended to read:

7 213.21 Informal conferences; compromises.--

8 (3)

9 (d) A taxpayer's liability for the service fee
10 required by s. 215.34(2) may be settled or compromised if it
11 is determined that the dishonored check, draft, or order was
12 returned due to an unintentional error committed by the
13 issuing financial institution, the taxpayer, or the department
14 and the unintentional error is substantiated by the
15 department. The department shall maintain records of all
16 compromises, and the records shall state the basis for the
17 compromise.

18 Section 30. Effective January 1, 2008, subsection (1)
19 of section 213.755, Florida Statutes, is amended to read:

20 213.755 Filing of returns and payment of taxes by
21 electronic means.--

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

1 provision of a revenue law which the department has the
2 responsibility for regulating, controlling, and administering.

3 Section 31. Subsection (2) of section 220.21, Florida
4 Statutes, is amended, and subsection (3) is added to that
5 section, to read:

6 220.21 Returns and records; regulations.--

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

1 for the first 30 days the return is not filed electronically,
2 with an additional 5 percent of such tax for each additional
3 month or fraction thereof, not to exceed \$250 in the
4 aggregate. The department may settle or compromise the penalty
5 pursuant to s. 213.21. This penalty is in addition to any
6 other penalty that may be applicable and shall be assessed,
7 collected, and paid in the same manner as taxes.

8 (3) In addition to its authority under s. 213.755, the
9 department may adopt rules requiring or allowing taxpayers to
10 use an electronic-filing system to file returns required by
11 subsection (2), including any electronic systems developed by
12 the Internal Revenue Service. Rulemaking authority requiring
13 electronic filing is limited to the federal corporate income
14 tax filing threshold for electronic filing as it exists on
15 January 1, 2007.

16 Section 32. The amendments made by this act to s.
17 220.21(2), Florida Statutes, apply to returns due on or after
18 January 1, 2008.

19 Section 33. Paragraph (d) of subsection (1) and
20 paragraph (c) of subsection (4) of section 443.1216, Florida
21 Statutes, are amended to read:

22 443.1216 Employment.--Employment, as defined in s.
23 443.036, is subject to this chapter under the following
24 conditions:

25 (1)

26 (d) If two or more related corporations concurrently
27 employ the same individual and compensate the individual
28 through a common paymaster, each related corporation is
29 considered to have paid wages to the individual only in the
30 amounts actually disbursed by that corporation to the
31 individual and is not considered to have paid the wages

1 actually disbursed to the individual by another of the related
2 corporations. The Agency for Workforce Innovation and the
3 state agency providing unemployment tax collection services
4 may adopt rules necessary to administer this paragraph.

5 1. As used in this paragraph, the term "common
6 paymaster" means a member of a group of related corporations
7 that disburses wages to concurrent employees on behalf of the
8 related corporations and that is responsible for keeping
9 payroll records for those concurrent employees. A common
10 paymaster is not required to disburse wages to all the
11 employees of the related corporations; however, this
12 subparagraph does not apply to wages of concurrent employees
13 which are not disbursed through a common paymaster. A common
14 paymaster must pay concurrently employed individuals under
15 this subparagraph by one combined paycheck.

16 2. As used in this paragraph, the term "concurrent
17 employment" means the existence of simultaneous employment
18 relationships between an individual and related corporations.
19 Those relationships require the performance of services by the
20 employee for the benefit of the related corporations,
21 including the common paymaster, in exchange for wages that, if
22 deductible for the purposes of federal income tax, are
23 deductible by the related corporations.

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

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

31

1 b. In the case of a corporation that does not issue
2 stock, at least 50 percent of the members of the board of
3 directors or other governing body of one corporation are
4 members of the board of directors or other governing body of
5 the other corporation or the holders of at least 50 percent of
6 the voting power to select those members are concurrently the
7 holders of at least 50 percent of the voting power to select
8 those members of the other corporation.

9 c. At least 50 percent of the officers of one
10 corporation are concurrently officers of the other
11 corporation.

12 d. At least 30 percent of the employees of one
13 corporation are concurrently employees of the other
14 corporation.

15 4. The common paymaster must report to the tax
16 collection service provider, as part of the unemployment
17 compensation quarterly tax and wage report, the state
18 unemployment compensation account number and name of each
19 related corporation for which concurrent employees are being
20 reported. Failure to timely report this information shall
21 result in the related corporations being denied common
22 paymaster status for that calendar quarter.

23 5. The common paymaster also has the primary
24 responsibility for remitting contributions due under this
25 chapter for the wages it disburses as the common paymaster.
26 The common paymaster must compute these contributions as
27 though it were the sole employer of the concurrently employed
28 individuals. If a common paymaster fails to timely remit these
29 contributions or reports, in whole or in part, the common
30 paymaster remains liable for the full amount of the unpaid
31 portion of these contributions. In addition, each of the other

1 related corporations using the common paymaster is jointly and
 2 severally liable for its appropriate share of these
 3 contributions. Each related corporation's share equals the
 4 greater of:

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

7 b. The liability under this chapter which,
 8 notwithstanding this section, would have existed for the wages
 9 from the other related corporations, reduced by an allocable
 10 portion of any contributions previously paid by the common
 11 paymaster for those wages.

12 (4) For purposes of subsections (2) and (3), the
 13 employment subject to this chapter does not apply to service
 14 performed:

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

17 1. As an elected official.

18 2. As a member of a legislative body, or a member of
 19 the judiciary, of a state or a political subdivision of a
 20 state.

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

23 4. In a position that, under state law, is designated
 24 as a major nontenured policymaking or advisory position,
 25 including any major nontenured policymaking or advisory ~~a~~
 26 position in the Senior Management Service created under s.
 27 110.402, or a policymaking or advisory position for which the
 28 duties do not ordinarily require more than 8 hours per week.

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

1 Section 34. Subsection (2) of section 443.1316,
2 Florida Statutes, is amended to read:

3 443.1316 Unemployment tax collection services;
4 interagency agreement.--

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

10 (b) Sections 213.015(1), (2), (3), (5), (6), (7), (9)-(19),
11 (21), 213.018, 213.025, 213.051, 213.053, 213.0535, 213.055,
12 213.071, 213.10, 213.21(4), 213.2201, 213.23, 213.24, 213.25,
13 ~~213.24(2),~~ 213.27, 213.28, 213.285, 213.34(1), (3), and (4),
14 213.37, 213.50, 213.67, 213.69, 213.73, 213.733, 213.74, and
15 213.757 apply to the collection of unemployment contributions
16 and reimbursements by the Department of Revenue unless
17 prohibited by federal law.

18 ~~(c) The Department of Revenue may charge no more than~~
19 ~~10 percent of the total cost of the interagency agreement for~~
20 ~~the overhead or indirect costs, or for any other costs not~~
21 ~~required for the payment of the direct costs, of providing~~
22 ~~unemployment tax collection services.~~

23 Section 35. Paragraph (b) of subsection (1) of section
24 443.141, Florida Statutes, is amended to read:

25 443.141 Collection of contributions and
26 reimbursements.--

27 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS.--

28 (b) Penalty for delinquent reports.--

29 1. An employing unit that fails to file any report
30 required by the Agency for Workforce Innovation or its tax
31 collection service provider, in accordance with rules for

1 administering this chapter, shall pay to the tax collection
2 service provider for each delinquent report the sum of \$25 for
3 each 30 days or fraction thereof that the employing unit is
4 delinquent, unless the agency or its service provider,
5 whichever required the report, finds that the employing unit
6 has or had good reason for failure to file the report. The
7 agency or its service provider may assess penalties only
8 through the date of the issuance of the final assessment
9 notice. However, additional penalties accrue if the delinquent
10 report is subsequently filed.

11 2. Sums collected as penalties under subparagraph 1.
12 must be deposited in the Special Employment Security
13 Administration Trust Fund.

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

18 Section 36. Subsection (3) is added to section
19 624.511, Florida Statutes, to read:

20 624.511 Tax statement; overpayments.--

21 (3)(a) If it appears, upon examination of an insurance
22 premium tax return made under this chapter, that an amount of
23 insurance premium tax has been paid in excess of the amount
24 due, the Department of Revenue may refund the amount of the
25 overpayment to the taxpayer by a warrant of the Chief
26 Financial Officer. The Department of Revenue may refund the
27 overpayment without regard to whether the taxpayer has filed a
28 written claim for a refund; however, the Department of Revenue
29 may request that the taxpayer file a statement affirming that
30 the taxpayer made the overpayment.

31

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

6 (c) If a refund issued by the Department of Revenue
7 under this subsection is found to exceed the amount of refund
8 legally due to the taxpayer, the provisions of s. 624.5092
9 concerning penalties and interest do not apply if the taxpayer
10 reimburses the department for any overpayment within 60 days
11 after the taxpayer is notified that the overpayment was made.

12 Section 37. Subsections (4) and (5) are added to
13 section 832.062, Florida Statutes, to read:

14 832.062 Prosecution for worthless checks, drafts,
15 debit card orders, or electronic funds transfers made to pay
16 any tax or associated amount administered by the Department of
17 Revenue.--

18 (4)(a) In any prosecution or action under this
19 section, the making, drawing, uttering, or delivery of a
20 check, draft, order; the making, sending, instructing,
21 ordering, or initiating of any electronic funds transfer; or
22 causing the making, sending, instructing, ordering, or
23 initiating of any electronic transfer payment, any of which
24 are refused by the drawee because of lack of funds or credit,
25 is prima facie evidence of intent to defraud or knowledge of
26 insufficient funds in, or credit with, such bank, banking
27 institution, trust company, or other depository, unless the
28 maker, drawer, sender, instructor, orderer, or initiator, or
29 someone for him or her, has paid the holder thereof the amount
30 due thereon, together with a service charge, which may not
31 exceed the service fees authorized under s. 832.08(5), or an

1 amount of up to 5 percent of the face amount of the check or
2 the amount of the electronic funds transfer, whichever is
3 greater, within 15 days after written notice has been sent to
4 the address printed on the check, or given or on file at the
5 time of issuance, that such check, draft, order, or electronic
6 funds transfer has not been paid to the holder thereof, and
7 has paid the bank fees incurred by the holder. In the event of
8 legal action for recovery, the maker, drawer, sender,
9 instructor, orderer, or initiator may be additionally liable
10 for court costs and reasonable attorney's fees. Notice mailed
11 by certified or registered mail that is evidenced by return
12 receipt, or by first-class mail that is evidenced by an
13 affidavit of service of mail, to the address printed on the
14 check or given or on file at the time of issuance shall be
15 deemed sufficient and equivalent to notice having been
16 received by the maker, drawer, sender, instructor, orderer, or
17 initiator, whether such notice is returned undelivered or not.
18 The form of the notice shall be substantially as follows:

19
20 "You are hereby notified that a check or
21 electronic funds transfer, numbered _____, in
22 the face amount of \$ _____, issued or initiated
23 by you on (date) _____, drawn upon (name of bank) _____,
24 and payable to _____, has been dishonored.
25 Pursuant to Florida law, you have 15 days
26 following the date of this notice to tender
27 payment of the full amount of such check or
28 electronic funds transfer plus a service charge
29 of \$25, if the face value does not exceed \$50;
30 \$30, if the face value exceeds \$50 but does not
31 exceed \$300; \$40, if the face value exceeds

1 \$300; or an amount of up to 5 percent of the
2 face amount of the check, whichever is greater,
3 the total amount due being \$ and
4 cents. Unless this amount is paid in full
5 within the time specified above, the holder of
6 such check or electronic funds transfer may
7 turn over the dishonored check or electronic
8 funds transfer and all other available
9 information relating to this incident to the
10 state attorney for criminal prosecution. You
11 may be additionally liable in a civil action
12 for triple the amount of the check or
13 electronic funds transfer, but in no case less
14 than \$50, together with the amount of the check
15 or electronic funds transfer, a service charge,
16 court costs, reasonable attorney's fees, and
17 incurred bank fees, as provided in s. 68.065,
18 Florida Statutes."
19
20 Subsequent persons receiving a check, draft, order, or
21 electronic funds transfer from the original payee or a
22 successor endorsee have the same rights that the original
23 payee has against the maker of the instrument if the
24 subsequent persons give notice in a substantially similar form
25 to that provided above. Subsequent persons providing such
26 notice are immune from civil liability for the giving of such
27 notice and for proceeding under the forms of such notice so
28 long as the maker of the instrument has the same defenses
29 against these subsequent persons as against the original
30 payee. However, the remedies available under this section may
31 be exercised only by one party in interest.

1 (b) When a check, draft, order, or electronic funds
2 transfer is drawn on a bank in which the maker, drawer,
3 sender, instructor, orderer, or initiator has no account or a
4 closed account, it shall be presumed that the check, draft, or
5 order was issued, or the electronic funds transfer was
6 initiated, with intent to defraud, and the notice requirement
7 set forth in this section shall be waived.

8 (c) This subsection does not apply if it is determined
9 that the dishonored check, draft, order, or electronic funds
10 transfer was refused due to an unintentional error committed
11 by the drawee, maker, drawer, sender, instructor, orderer,
12 initiator, or holder, and the unintentional error is
13 substantiated.

14 (5)(a) In any prosecution or action under this
15 section, a check, draft, order, or electronic funds transfer
16 for which the information required in paragraph (b) is
17 available at the time of issuance constitutes prima facie
18 evidence of the identity of the person issuing the check,
19 draft, order, or electronic funds transfer and that such
20 person is authorized to draw upon the named account.

21 (b) To establish this prima facie evidence:

22 1. If a check or electronic funds transfer is received
23 by the Department of Revenue through the mail or by delivery
24 to a representative of the Department of Revenue or by
25 electronic means, the prima facie evidence referred to in
26 paragraph (a) may be established by presenting the original
27 tax return, certificate, license, application for certificate
28 or license, enrollment and authorization for the e-services
29 program, or other document relating to amounts owed by that
30 person or taxpayer which the check or electronic funds
31 transfer purports to pay for, bearing the signature of the

1 person who signed the check or electronic signature of the
2 person who initiated the electronic funds transfer, or by
3 presenting a copy of the information required in subparagraph
4 2. which is on file with the acceptor of the check or
5 electronic funds transfer together with the signature or
6 electronic signature of the person presenting the check or
7 initiating the electronic funds transfer. The use of taxpayer
8 information for purposes of establishing the identity of a
9 person under this paragraph shall be deemed a use of such
10 information for official purposes.

11 2. The person accepting such check or electronic funds
12 transfer must obtain the following information regarding the
13 identity of the person presenting the check: the presenter's
14 or initiator's full name, residence address, home telephone
15 number, business telephone number, place of employment,
16 gender, date of birth, and height.

17 Section 38. Refund of property taxes upon destruction
18 or damage related to tornadoes.--

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

24 (2) If a house or other residential building or
25 structure on land was damaged or destroyed between January 1,
26 2007, and February 15, 2007, due to a tornado and, as a
27 result, the house or other residential building or structure,
28 or some self-sufficient unit within the residential building
29 or structure, cannot be used and occupied for 60 days or more,
30 upon application filed with the property appraiser, the 2007
31

1 property taxes may be partially refunded in the following
2 manner:

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

7 (b) The application must identify the property that
8 was destroyed or damaged and specify the date the destruction
9 or damage occurred and the number of months in 2007 of loss of
10 use and occupancy.

11 (c) The application must be verified under oath under
12 penalty of perjury.

13 (d) Upon receipt of the application, the property
14 appraiser shall investigate the statements contained therein
15 to determine whether the applicant is entitled to a partial
16 refund under this section. If the property appraiser
17 determines that the applicant is entitled to a partial refund,
18 he or she shall issue an official written statement to the tax
19 collector which contains:

20 1. The number of months in 2007 that the house or
21 other residential building or structure, or some
22 self-sufficient unit within the residential building or
23 structure, was not capable of use and occupancy. In
24 calculating the number of months, the property appraiser shall
25 consider each 30-day period as a month. Partial periods of 15
26 days or less may not be considered, but partial periods of 16
27 days to 29 days shall be calculated as a 30-day period.

28 2. The value of the house or other residential
29 building or structure before the damage or destruction, as
30 determined by the property appraiser.

31

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

4 4. The amount of refund in taxes.

5 (e) Upon receipt of the written statement from the
6 property appraiser, the tax collector shall refund taxes on
7 the property shown on the tax collection roll in the amount of
8 refund shown by the property appraiser.

9 (f) By September 1, 2008, the tax collector shall
10 notify the board of county commissioners and the Department of
11 Revenue of the total reduction in taxes for all property that
12 received a partial refund of taxes under this section for the
13 preceding tax year.

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

16 Section 39. Except as otherwise expressly provided in
17 this act and except for this section, which shall take effect
18 upon becoming a law, this act shall take effect July 1, 2007.

19
20
21
22
23
24
25
26
27
28
29
30
31