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CHAMBER ACTION

Senate

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House

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1 Senator Haridopolos moved the following **amendment**:

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3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (a) of subsection (2) of section
7 72.011, Florida Statutes, is amended to read:

8 72.011 Jurisdiction of circuit courts in specific tax
9 matters; administrative hearings and appeals; time for commencing
10 action; parties; deposits.--

11 (2) (a) An action may not be brought to contest an
12 assessment of any tax, interest, or penalty assessed under a
13 section or chapter specified in subsection (1) if the petition is
14 postmarked or the action is filed more than 60 days after the
15 date the assessment becomes final. An action may not be brought
16 to contest a denial of refund of any tax, interest, or penalty
17 paid under a section or chapter specified in subsection (1) if



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18 the petition is postmarked or the action is filed more than 60
19 days after the date the denial becomes final.

20 Section 2. Subsection (3) of section 125.0104, Florida
21 Statutes, is amended to read:

22 125.0104 Tourist development tax; procedure for levying;
23 authorized uses; referendum; enforcement.--

24 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.--

25 (a) It is declared to be the intent of the Legislature that
26 every person who rents, leases, or lets for consideration any
27 living quarters or accommodations in any hotel, apartment hotel,
28 motel, resort motel, apartment, apartment motel, roominghouse,
29 mobile home park, recreational vehicle park, ~~or~~ condominium, or
30 timeshare resort for a term of 6 months or less is exercising a
31 privilege which is subject to taxation under this section, unless
32 such person rents, leases, or lets for consideration any living
33 quarters or accommodations which are exempt according to the
34 provisions of chapter 212.

35 (b) As used in this section, the terms "consideration,"
36 "rental," and "rents" mean the amount received by a person
37 operating transient accommodations for the use or securing the
38 use of any living quarters or sleeping or housekeeping
39 accommodations in, from, or a part of, or in connection with any
40 hotel, apartment house, roominghouse, timeshare resort, tourist
41 or trailer camp, mobile home park, recreational vehicle park, or
42 condominium. The term "person operating transient accommodations"
43 means the person conducting the daily affairs of the physical
44 facilities furnishing transient accommodations who is responsible
45 for providing the services commonly associated with operating the
46 facilities furnishing transient accommodations regardless of
47 whether such commonly associated services are provided by third



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48 parties. The terms "consideration" and "rents" do not include
49 payments received by unrelated persons for facilitating the
50 booking of reservations for or on behalf of the lessees or
51 licensees at hotels, apartment houses, roominghouses, timeshare
52 resorts, tourist or trailer camps, mobile home parks,
53 recreational vehicle parks, or condominiums in this state.
54 "Unrelated person" means a person who is not in the same
55 affiliated group of corporations pursuant to s. 1504 of the
56 Internal Revenue Code of 1986, as amended.

57 (c) Tax shall be due on the consideration paid for
58 occupancy in the county pursuant to a regulated short-term
59 product, as defined in chapter 721, or occupancy in the county
60 pursuant to a product that would be deemed a regulated short-term
61 product if the agreement to purchase the short-term right were
62 executed in this state. Such tax shall be collected on the last
63 day of occupancy within the county unless the consideration is
64 applied to the purchase of a timeshare estate. Notwithstanding
65 paragraphs (a) and (b), the occupancy of an accommodation of a
66 timeshare resort pursuant to a timeshare plan, a multisite
67 timeshare plan, or an exchange transaction in an exchange
68 program, as defined in chapter 721, by the owner of a timeshare
69 interest or such owner's guest, which guest is not paying
70 monetary consideration to the owner or to a third party for the
71 benefit of the owner, is not a privilege subject to taxation
72 under this section. A membership or transaction fee paid by a
73 timeshare owner which does not provide the timeshare owner with
74 the right to occupy any specific timeshare unit but merely
75 provides the timeshare owner with the opportunity to exchange a
76 timeshare interest through an exchange program is a service
77 charge and is not subject to taxation.



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78 (d) Consideration paid for the purchase of a timeshare
79 license in a timeshare plan, as defined in chapter 721, is rent
80 subject to taxation under this section.

81 (e)~~(b)~~ Subject to the provisions of this section, any county
82 in this state may levy and impose a tourist development tax on the
83 exercise within its boundaries of the taxable privilege described
84 in paragraph (a), except that there shall be no additional levy
85 under this section in any cities or towns presently imposing a
86 municipal resort tax as authorized under chapter 67-930, Laws of
87 Florida, and this section shall not in any way affect the powers
88 and existence of any tourist development authority created pursuant
89 to chapter 67-930, Laws of Florida. No county authorized to levy a
90 convention development tax pursuant to s. 212.0305, or to s. 8 of
91 chapter 84-324, Laws of Florida, shall be allowed to levy more than
92 the 2-percent tax authorized by this section. A county may elect to
93 levy and impose the tourist development tax in a subcounty special
94 district of the county. However, if a county so elects to levy and
95 impose the tax on a subcounty special district basis, the district
96 shall embrace all or a significant contiguous portion of the
97 county, and the county shall assist the Department of Revenue in
98 identifying the rental units subject to tax in the district.

99 (f)~~(e)~~ The tourist development tax shall be levied,
100 imposed, and set by the governing board of the county at a rate
101 of 1 percent or 2 percent of each dollar and major fraction of
102 each dollar of the total consideration charged for such lease or
103 rental. When receipt of consideration is by way of property other
104 than money, the tax shall be levied and imposed on the fair
105 market value of such nonmonetary consideration.

106 (g)~~(d)~~ In addition to any 1-percent or 2-percent tax
107 imposed under paragraph (f) ~~(e)~~, the governing board of the



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108 county may levy, impose, and set an additional 1 percent of each
109 dollar above the tax rate set under paragraph (f) ~~(e)~~ by the
110 extraordinary vote of the governing board for the purposes set
111 forth in subsection (5) or by referendum approval by the
112 registered electors within the county or subcounty special
113 district. No county shall levy, impose, and set the tax
114 authorized under this paragraph unless the county has imposed the
115 1-percent or 2-percent tax authorized under paragraph (f) ~~(e)~~ for
116 a minimum of 3 years prior to the effective date of the levy and
117 imposition of the tax authorized by this paragraph. Revenues
118 raised by the additional tax authorized under this paragraph
119 shall not be used for debt service on or refinancing of existing
120 facilities as specified in subparagraph (5) (a)1. unless approved
121 by a resolution adopted by an extraordinary majority of the total
122 membership of the governing board of the county. If the 1-percent
123 or 2-percent tax authorized in paragraph (f) ~~(e)~~ is levied within
124 a subcounty special taxing district, the additional tax
125 authorized in this paragraph shall only be levied therein. The
126 provisions of paragraphs (4) (a)-(d) shall not apply to the
127 adoption of the additional tax authorized in this paragraph. The
128 effective date of the levy and imposition of the tax authorized
129 under this paragraph shall be the first day of the second month
130 following approval of the ordinance by the governing board or the
131 first day of any subsequent month as may be specified in the
132 ordinance. A certified copy of such ordinance shall be furnished
133 by the county to the Department of Revenue within 10 days after
134 approval of such ordinance.

135 (h) ~~(e)~~ The tourist development tax shall be in addition to
136 any other tax imposed pursuant to chapter 212 and in addition to



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137 | all other taxes and fees and the consideration for the rental or
138 | lease.

139 | (i)~~(f)~~ The tourist development tax shall be charged by the
140 | person receiving the consideration for the lease or rental, and
141 | it shall be collected from the lessee, tenant, or customer at the
142 | time of payment of the consideration for such lease or rental.

143 | (j)~~(g)~~ The person receiving the consideration for such
144 | rental or lease shall receive, account for, and remit the tax to
145 | the Department of Revenue at the time and in the manner provided
146 | for persons who collect and remit taxes under s. 212.03. The same
147 | duties and privileges imposed by chapter 212 upon dealers in
148 | tangible property, respecting the collection and remission of
149 | tax; the making of returns; the keeping of books, records, and
150 | accounts; and compliance with the rules of the Department of
151 | Revenue in the administration of that chapter shall apply to and
152 | be binding upon all persons who are subject to the provisions of
153 | this section. However, the Department of Revenue may authorize a
154 | quarterly return and payment when the tax remitted by the dealer
155 | for the preceding quarter did not exceed \$25.

156 | (k)~~(h)~~ The Department of Revenue shall keep records showing
157 | the amount of taxes collected, which records shall also include
158 | records disclosing the amount of taxes collected for and from
159 | each county in which the tax authorized by this section is
160 | applicable. These records shall be open for inspection during the
161 | regular office hours of the Department of Revenue, subject to the
162 | provisions of s. 213.053.

163 | (l)~~(i)~~ Collections received by the Department of Revenue
164 | from the tax, less costs of administration of this section, shall
165 | be paid and returned monthly to the county which imposed the tax,
166 | for use by the county in accordance with the provisions of this



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167 section. They shall be placed in the county tourist development
168 trust fund of the respective county, which shall be established
169 by each county as a condition precedent to receipt of such funds.

170 (m)~~(j)~~ The Department of Revenue may ~~is authorized to~~
171 employ persons and incur other expenses for which funds are
172 appropriated by the Legislature.

173 (n)~~(k)~~ The Department of Revenue shall adopt ~~promulgate~~
174 ~~such~~ rules and ~~shall~~ prescribe and publish ~~such~~ forms as ~~may be~~
175 necessary to effectuate the purposes of this section. The
176 department may establish audit procedures to assess for
177 delinquent taxes. The person operating transient accommodations
178 shall state the tax separately from the rental charged on the
179 receipt, invoice, or other documentation issued with respect to
180 charges for transient accommodations. Persons facilitating the
181 booking of reservations who are unrelated to the person operating
182 the transient accommodations in which the reservation is booked
183 are not required to separately state amounts charged on the
184 receipt, invoice, or other documentation issued by the person
185 facilitating the booking of the reservation. Any amounts
186 specifically collected as a tax are county funds and must be
187 remitted as tax.

188 (o)~~(l)~~ In addition to any other tax which is imposed
189 pursuant to this section, a county may impose up to an additional
190 1-percent tax on the exercise of the privilege described in
191 paragraph (a) by majority vote of the governing board of the
192 county in order to:

193 1. Pay the debt service on bonds issued to finance the
194 construction, reconstruction, or renovation of a professional
195 sports franchise facility, or the acquisition, construction,
196 reconstruction, or renovation of a retained spring training



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197 franchise facility, either publicly owned and operated, or
198 publicly owned and operated by the owner of a professional sports
199 franchise or other lessee with sufficient expertise or financial
200 capability to operate such facility, and to pay the planning and
201 design costs incurred prior to the issuance of such bonds.

202 2. Pay the debt service on bonds issued to finance the
203 construction, reconstruction, or renovation of a convention
204 center, and to pay the planning and design costs incurred prior
205 to the issuance of such bonds.

206 3. Pay the operation and maintenance costs of a convention
207 center for a period of up to 10 years. Only counties that have
208 elected to levy the tax for the purposes authorized in
209 subparagraph 2. may use the tax for the purposes enumerated in
210 this subparagraph. Any county that elects to levy the tax for the
211 purposes authorized in subparagraph 2. after July 1, 2000, may
212 use the proceeds of the tax to pay the operation and maintenance
213 costs of a convention center for the life of the bonds.

214 4. Acquire, construct, extend, enlarge, remodel, repair,
215 improve, maintain, operate, or promote one or more publicly owned
216 and operated sports stadiums, arenas, or other sports venues
217 within the boundaries of a county that is designated as high
218 tourism impact county pursuant to subparagraph (p)2.

219 ~~5.4.~~ Promote and advertise tourism in the State of Florida
220 and nationally and internationally; however, if tax revenues are
221 expended for an activity, service, venue, or event, the activity,
222 service, venue, or event shall have as one of its main purposes
223 the attraction of tourists as evidenced by the promotion of the
224 activity, service, venue, or event to tourists.

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226 The provision of paragraph (e) ~~(b)~~ which prohibits any county
227 authorized to levy a convention development tax pursuant to s.
228 212.0305 from levying more than the 2-percent tax authorized by
229 this section, and the provisions of paragraphs (4) (a)-(d), shall
230 not apply to the additional tax authorized in this paragraph. The
231 effective date of the levy and imposition of the tax authorized
232 under this paragraph shall be the first day of the second month
233 following approval of the ordinance by the governing board or the
234 first day of any subsequent month as may be specified in the
235 ordinance. A certified copy of such ordinance shall be furnished
236 by the county to the Department of Revenue within 10 days after
237 approval of such ordinance.

238 (p) ~~(m)~~1. In addition to any other tax which is imposed
239 pursuant to this section, a high tourism impact county may impose
240 an additional 1-percent tax on the exercise of the privilege
241 described in paragraph (a) by extraordinary vote of the governing
242 board of the county. The tax revenues received pursuant to this
243 paragraph shall be used for one or more of the authorized uses
244 pursuant to subsection (5).

245 2. A county is considered to be a high tourism impact
246 county after the Department of Revenue has certified to such
247 county that the sales subject to the tax levied pursuant to this
248 section exceeded \$600 million during the previous calendar year,
249 or were at least 18 percent of the county's total taxable sales
250 under chapter 212 where the sales subject to the tax levied
251 pursuant to this section were a minimum of \$200 million, except
252 that no county authorized to levy a convention development tax
253 pursuant to s. 212.0305 shall be considered a high tourism impact
254 county. Once a county qualifies as a high tourism impact county,



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255 | it shall retain this designation for the period the tax is levied
256 | pursuant to this paragraph.

257 | 3. The provisions of paragraphs (4)(a)-(d) shall not apply
258 | to the adoption of the additional tax authorized in this
259 | paragraph. The effective date of the levy and imposition of the
260 | tax authorized under this paragraph shall be the first day of the
261 | second month following approval of the ordinance by the governing
262 | board or the first day of any subsequent month as may be
263 | specified in the ordinance. A certified copy of such ordinance
264 | shall be furnished by the county to the Department of Revenue
265 | within 10 days after approval of such ordinance.

266 | ~~(q)~~ ~~(n)~~ In addition to any other tax that is imposed under
267 | this section, a county that has imposed the tax under paragraph
268 | ~~(o)~~ ~~(l)~~ may impose an additional tax that is no greater than 1
269 | percent on the exercise of the privilege described in paragraph
270 | (a) by a majority plus one vote of the membership of the board of
271 | county commissioners in order to:

272 | 1. Pay the debt service on bonds issued to finance:

273 | a. The construction, reconstruction, or renovation of a
274 | facility either publicly owned and operated, or publicly owned
275 | and operated by the owner of a professional sports franchise or
276 | other lessee with sufficient expertise or financial capability to
277 | operate such facility, and to pay the planning and design costs
278 | incurred prior to the issuance of such bonds for a new
279 | professional sports franchise as defined in s. 288.1162.

280 | b. The acquisition, construction, reconstruction, or
281 | renovation of a facility either publicly owned and operated, or
282 | publicly owned and operated by the owner of a professional sports
283 | franchise or other lessee with sufficient expertise or financial
284 | capability to operate such facility, and to pay the planning and



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285 design costs incurred prior to the issuance of such bonds for a
286 retained spring training franchise.

287 2. Promote and advertise tourism in the State of Florida
288 and nationally and internationally; however, if tax revenues are
289 expended for an activity, service, venue, or event, the activity,
290 service, venue, or event shall have as one of its main purposes
291 the attraction of tourists as evidenced by the promotion of the
292 activity, service, venue, or event to tourists.

293
294 A county that imposes the tax authorized in this paragraph may
295 not expend any ad valorem tax revenues for the acquisition,
296 construction, reconstruction, or renovation of a facility for
297 which tax revenues are used pursuant to subparagraph 1. The
298 provision of paragraph (e) ~~(b)~~ which prohibits any county
299 authorized to levy a convention development tax pursuant to s.
300 212.0305 from levying more than the 2-percent tax authorized by
301 this section shall not apply to the additional tax authorized by
302 this paragraph in counties which levy convention development
303 taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not
304 apply to the adoption of the additional tax authorized in this
305 paragraph. The effective date of the levy and imposition of the
306 tax authorized under this paragraph is the first day of the
307 second month following approval of the ordinance by the board of
308 county commissioners or the first day of any subsequent month
309 specified in the ordinance. A certified copy of such ordinance
310 shall be furnished by the county to the Department of Revenue
311 within 10 days after approval of the ordinance.

312 Section 3. The amendments made by this act to s. 125.0104,
313 Florida Statutes, are intended as clarifying and remedial in
314 nature and are not a basis for assessments of tax for periods



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315 before July 1, 2008, or for refunds of tax for periods before
316 July 1, 2008.

317 Section 4. Subsections (1), (2), and (6) of section
318 125.0108, Florida Statutes, are amended to read:

319 125.0108 Areas of critical state concern; tourist impact
320 tax.--

321 (1)(a) Subject to the provisions of this section, any
322 county creating a land authority pursuant to s. 380.0663(1) is
323 authorized to levy by ordinance, in the area or areas within said
324 county designated as an area of critical state concern pursuant
325 to chapter 380, a tourist impact tax on the taxable privileges
326 described in paragraph (b); however, if the area or areas of
327 critical state concern are greater than 50 percent of the land
328 area of the county, the tax may be levied throughout the entire
329 county. Such tax shall not be effective unless and until land
330 development regulations and a local comprehensive plan that meet
331 the requirements of chapter 380 have become effective and such
332 tax is approved by referendum as provided for in subsection (5).

333 (b) It is declared to be the intent of the Legislature that
334 every person who rents, leases, or lets for consideration any
335 living quarters or accommodations in any hotel, apartment hotel,
336 motel, resort motel, apartment, apartment motel, roominghouse,
337 mobile home park, recreational vehicle park, or condominium for a
338 term of 6 months or less, unless such establishment is exempt
339 from the tax imposed by s. 212.03, is exercising a taxable
340 privilege on the proceeds therefrom under this section.

341 (c) As used in this section, the terms "consideration,"
342 "rental," and "rents" mean the amount received by a person
343 operating transient accommodations for the use or securing the
344 use of any living quarters or sleeping or housekeeping



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345 accommodations in, from, or a part of, or in connection with any
346 hotel, apartment hotel, motel, resort motel, apartment, apartment
347 hotel, roominghouse, timeshare resort, tourist or trailer camp,
348 mobile home park, recreational vehicle park, or condominium. The
349 term "person operating transient accommodations" means the person
350 conducting the daily affairs of the physical facilities
351 furnishing transient accommodations who is responsible for
352 providing the services commonly associated with operating the
353 facilities furnishing transient accommodations regardless of
354 whether such commonly associated services are provided by third
355 parties. The terms "consideration" and "rents" do not include
356 payments received by unrelated persons for facilitating the
357 booking of reservations for or on behalf of the lessees or
358 licensees at hotels, apartment hotels, motels, resort motels,
359 apartments, apartment hotels, roominghouses, timeshare resorts,
360 tourist or trailer camps, mobile home parks, recreational vehicle
361 parks, or condominiums in this state. "Unrelated person" means a
362 person who is not in the same affiliated group of corporations
363 pursuant to s. 1504 of the Internal Revenue Code of 1986, as
364 amended.

365 (d) Tax shall be due on the consideration paid for
366 occupancy in the county pursuant to a regulated short-term
367 product, as defined in chapter 721, or occupancy in the county
368 pursuant to a product that would be deemed a regulated short-term
369 product if the agreement to purchase the short-term right were
370 executed in this state. Such tax shall be collected on the last
371 day of occupancy within the county unless the consideration is
372 applied to the purchase of a timeshare estate. Notwithstanding
373 paragraphs (b) and (c), the occupancy of an accommodation of a
374 timeshare resort pursuant to a timeshare plan, a multisite



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375 timeshare plan, or an exchange transaction in an exchange
376 program, as defined in chapter 721, by the owner of a timeshare
377 interest or such owner's guest, which guest is not paying
378 monetary consideration to the owner or to a third party for the
379 benefit of the owner, is not a privilege subject to taxation
380 under this section. A membership or transaction fee paid by a
381 timeshare owner which does not provide the timeshare owner with
382 the right to occupy any specific timeshare unit but merely
383 provides the timeshare owner with the opportunity to exchange a
384 timeshare interest through an exchange program is a service
385 charge and is not subject to taxation.

386 (e) Consideration paid for the purchase of a timeshare
387 license in a timeshare plan, as defined in chapter 721, is rent
388 subject to taxation under this section.

389 (f)-(e) The governing board of the county may, by passage of
390 a resolution by four-fifths vote, repeal such tax.

391 (g)-(d) The tourist impact tax shall be levied at the rate
392 of 1 percent of each dollar and major fraction thereof of the
393 total consideration charged for such taxable privilege. When
394 receipt of consideration is by way of property other than money,
395 the tax shall be levied and imposed on the fair market value of
396 such nonmonetary consideration.

397 (h)-(e) The tourist impact tax shall be in addition to any
398 other tax imposed pursuant to chapter 212 and in addition to all
399 other taxes and fees and the consideration for the taxable
400 privilege.

401 (i)-(f) The tourist impact tax shall be charged by the
402 person receiving the consideration for the taxable privilege, and
403 it shall be collected from the lessee, tenant, or customer at the
404 time of payment of the consideration for such taxable privilege.



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405 (j)~~(g)~~ A county that has levied the tourist impact tax
406 authorized by this section in an area or areas designated as an
407 area of critical state concern for at least 20 consecutive years
408 prior to removal of the designation may continue to levy the
409 tourist impact tax in accordance with this section for 20 years
410 following removal of the designation. After expiration of the 20-
411 year period, a county may continue to levy the tourist impact tax
412 authorized by this section if the county adopts an ordinance
413 reauthorizing levy of the tax and the continued levy of the tax
414 is approved by referendum as provided for in subsection (5).

415 (2) (a) The person receiving the consideration for such
416 taxable privilege and the person doing business within such area
417 or areas of critical state concern or within the entire county,
418 as applicable, shall receive, account for, and remit the tourist
419 impact tax to the Department of Revenue at the time and in the
420 manner provided for persons who collect and remit taxes under
421 chapter 212. The same duties and privileges imposed by chapter
422 212 upon dealers in tangible property, respecting the collection
423 and remission of tax; the making of returns; the keeping of
424 books, records, and accounts; and compliance with the rules of
425 the Department of Revenue in the administration of that chapter
426 shall apply to and be binding upon all persons who are subject to
427 the provisions of this section. However, the Department of
428 Revenue may authorize a quarterly return and payment when the tax
429 remitted by the dealer for the preceding quarter did not exceed
430 \$25.

431 (b) The Department of Revenue shall keep records showing
432 the amount of taxes collected, which records shall also include
433 records disclosing the amount of taxes collected for and from
434 each county in which the tax imposed and authorized by this



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435 section is applicable. These records shall be open for inspection
436 during the regular office hours of the Department of Revenue,
437 subject to the provisions of s. 213.053.

438 (c) Collections received by the Department of Revenue from
439 the tax, less costs of administration of this section, shall be
440 paid and returned monthly to the county and the land authority in
441 accordance with the provisions of subsection (3).

442 (d) The Department of Revenue is authorized to employ
443 persons and incur other expenses for which funds are appropriated
444 by the Legislature.

445 (e) The Department of Revenue is empowered to promulgate
446 such rules and prescribe and publish such forms as may be
447 necessary to effectuate the purposes of this section. The
448 department is authorized to establish audit procedures and to
449 assess for delinquent taxes. The person operating transient
450 accommodations shall state the tax separately from the rental
451 charged on the receipt, invoice, or other documentation issued
452 with respect to charges for transient accommodations. Persons
453 facilitating the booking of reservations who are unrelated to the
454 person operating the transient accommodations in which the
455 reservation is booked are not required to separately state
456 amounts charged on the receipt, invoice, or other documentation
457 issued by the person facilitating the booking of the reservation.
458 Any amounts specifically collected as a tax are county funds and
459 must be remitted as tax.

460 (f) The estimated tax provisions contained in s. 212.11 do
461 not apply to the administration of any tax levied under this
462 section.

463 (6) The effective date of the levy and imposition of the
464 tourist impact tax authorized under this section shall be the



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465 first day of the second month following approval of the ordinance
466 by referendum or the first day of any subsequent month as may be
467 specified in the ordinance. A certified copy of the ordinance
468 shall include the time period and the effective date of the tax
469 levy and shall be furnished by the county to the Department of
470 Revenue within 10 days after passing an ordinance levying such
471 tax and again within 10 days after approval by referendum of such
472 tax. If applicable, the county levying the tax shall provide the
473 Department of Revenue with a list of the businesses in the area
474 of critical state concern where the tourist impact tax is levied
475 by zip code or other means of identification. Notwithstanding the
476 provisions of s. 213.053, the Department of Revenue shall assist
477 the county in compiling such list of businesses. The tourist
478 impact tax, if not repealed sooner pursuant to paragraph
479 (1) (f) ~~(e)~~, shall be repealed 10 years after the date the area of
480 critical state concern designation is removed.

481 Section 5. The amendments made by this act to s. 125.0108,
482 Florida Statutes, are intended as clarifying and remedial in
483 nature and are not a basis for assessments of tax for periods
484 before July 1, 2008, or for refunds of tax for periods before
485 July 1, 2008.

486 Section 6. Section 196.192, Florida Statutes, is amended to
487 read:

488 196.192 Exemptions from ad valorem taxation.--Subject to
489 the provisions of this chapter:

490 (1) All property owned by an exempt entity, including an
491 educational institution, and used exclusively for exempt purposes
492 shall be totally exempt from ad valorem taxation.

493 (2) All property owned by an exempt entity, including an
494 educational institution, and used predominantly for exempt



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495 | purposes shall be exempted from ad valorem taxation to the extent
496 | of the ratio that such predominant use bears to the nonexempt
497 | use.

498 | (3) All tangible personal property loaned or leased by a
499 | natural person, by a trust holding property for a natural person,
500 | or by an exempt entity to an exempt entity for public display or
501 | exhibition on a recurrent schedule is exempt from ad valorem
502 | taxation if the property is loaned or leased for no consideration
503 | or for nominal consideration.

504 |
505 | For purposes of this section, each use to which the property is
506 | being put must be considered in granting an exemption from ad
507 | valorem taxation, including any economic use in addition to any
508 | physical use. For purposes of this section, property owned by a
509 | limited liability company, the sole member of which is an exempt
510 | entity, shall be treated as if the property were owned directly
511 | by the exempt entity. This section does not apply in determining
512 | the exemption for property owned by governmental units pursuant
513 | to s. 196.199.

514 | Section 7. Subsection (6) of section 201.02, Florida
515 | Statutes, is amended to read:

516 | 201.02 Tax on deeds and other instruments relating to real
517 | property or interests in real property.--

518 | (6) Taxes imposed by this section shall not apply to any
519 | assignment, transfer, or other disposition, or any document,
520 | which arises out of a transfer of real property from a nonprofit
521 | organization to the Board of Trustees of the Internal Improvement
522 | Trust Fund, to any state agency, to any water management
523 | district, or to any local government. For purposes of this
524 | subsection, "nonprofit organization" means an organization whose



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525 | purpose is the preservation of natural resources and which is
526 | exempt from federal income tax under s. 501(c)(3) of the Internal
527 | Revenue Code. The following notation must be placed on the
528 | document assigning, transferring, or otherwise disposing of the
529 | property, adjacent to the official record stamp of the county, at
530 | the time of its recording in the public records: "This document
531 | is exempt from documentary stamp tax pursuant to s. 201.02(6),
532 | F.S." ~~The Department of Revenue shall provide a form, or a place~~
533 | ~~on an existing form, for the nonprofit organization to indicate~~
534 | ~~its exempt status.~~

535 | Section 8. Section 212.03, Florida Statutes, is amended to
536 | read:

537 | 212.03 Transient rentals tax; rate, procedure, enforcement,
538 | exemptions.--

539 | (1) It is hereby declared to be the legislative intent that
540 | every person is exercising a taxable privilege who engages in the
541 | business of renting, leasing, letting, or granting a license to
542 | use any living quarters or sleeping or housekeeping
543 | accommodations in, from, or a part of, or in connection with any
544 | hotel, apartment house, roominghouse, ~~or~~ tourist or trailer camp,
545 | mobile home park, recreational vehicle park, condominium, or
546 | timeshare resort. However, any person who rents, leases, lets, or
547 | grants a license to others to use, occupy, or enter upon any
548 | living quarters or sleeping or housekeeping accommodations in
549 | apartment houses, roominghouses, tourist camps, ~~or~~ trailer camps,
550 | mobile home park, recreational vehicle park, condominium, or
551 | timeshare resort, and who exclusively enters into a bona fide
552 | written agreement for continuous residence for longer than 6
553 | months in duration at such property is not exercising a taxable
554 | privilege. For the exercise of such taxable privilege, a tax is



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555 hereby levied in an amount equal to 6 percent of and on the total
556 rental charged for such living quarters or sleeping or
557 housekeeping accommodations by the person charging or collecting
558 the rental. Such tax shall apply to hotels, apartment houses,
559 roominghouses, ~~or~~ tourist or trailer camps, mobile home parks,
560 recreational vehicle parks, condominiums, or timeshare resorts
561 whether or not these facilities have ~~there is in connection with~~
562 ~~any of the same any~~ dining rooms, cafes, or other places where
563 meals or lunches are sold or served to guests.

564 (2) As used in this section, the terms "rent," "rental,"
565 "rentals," and "rental payments" mean the amount received by a
566 person operating transient accommodations for the use or securing
567 of any living quarters or sleeping or housekeeping accommodations
568 in, from, or a part of, or in connection with any hotel,
569 apartment house, roominghouse, mobile home park, recreational
570 vehicle park, condominium, timeshare resort, or tourist or
571 trailer camp. The phrase "person operating transient
572 accommodations" means the person conducting the daily affairs of
573 the physical facilities furnishing transient accommodations who
574 is responsible for providing the services commonly associated
575 with operating the facilities furnishing transient accommodations
576 regardless of whether such commonly associated services are
577 provided by third parties. The terms "consideration" and "rents"
578 do not include payments received by unrelated persons for
579 facilitating the booking of reservations for or on behalf of the
580 lessees or licensees at hotels, apartment houses, roominghouses,
581 mobile home parks, recreational vehicle parks, condominiums,
582 timeshare resorts, or tourist or trailer camps in this state.
583 "Unrelated person" means a person who is not in the same



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584 affiliated group of corporations pursuant to s. 1504 of the
585 Internal Revenue Code of 1986, as amended.

586 (3) Tax shall be due on the consideration paid for
587 occupancy in this state pursuant to a regulated short-term
588 product, as defined in chapter 721, or occupancy in this state
589 pursuant to a product that would be deemed a regulated short-term
590 product if the agreement to purchase the short-term right was
591 executed in this state. Such tax shall be collected on the last
592 day of occupancy within the state unless such consideration is
593 applied to the purchase of a timeshare estate. Notwithstanding
594 subsections (1) and (2), the occupancy of an accommodation of a
595 timeshare resort pursuant to a timeshare plan, a multisite
596 timeshare plan, or an exchange transaction in an exchange
597 program, as defined in chapter 721, by the owner of a timeshare
598 interest or such owner's guest, which guest is not paying
599 monetary consideration to the owner or to a third party for the
600 benefit of the owner, is not a privilege subject to taxation
601 under this section. A membership or transaction fee paid by a
602 timeshare owner which does not provide the timeshare owner with
603 the right to occupy any specific timeshare unit but merely
604 provides the timeshare owner with the opportunity to exchange a
605 timeshare interest through an exchange program is a service
606 charge and not subject to tax.

607 (4) Consideration paid for the purchase of a timeshare
608 license in a timeshare plan, as defined in chapter 721, is rent
609 subject to tax under this section.

610 (5)(2)- The tax provided for herein shall be in addition to
611 the total amount of the rental, shall be charged by the ~~lessor or~~
612 person operating transient accommodations subject to the tax
613 under this chapter ~~receiving the rent~~ in and by said rental



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614 arrangement to the ~~lessee or~~ person paying the rental, and shall
615 be due and payable at the time of the receipt of such rental
616 payment by the ~~lessor or~~ person operating transient
617 accommodations, ~~as defined in this chapter, who receives said~~
618 ~~rental or payment~~. The ~~owner, lessor, or~~ person operating
619 transient accommodations ~~receiving the rent~~ shall remit the tax
620 to the department on the amount of rent received at the times and
621 in the manner hereinafter provided for dealers to remit taxes
622 under this chapter. The same duties imposed by this chapter upon
623 dealers in tangible personal property respecting the collection
624 and remission of the tax; the making of returns; the keeping of
625 books, records, and accounts; and the compliance with the rules
626 and regulations of the department in the administration of this
627 chapter shall apply to and be binding upon all persons who manage
628 or operate hotels, apartment houses, roominghouses, tourist and
629 trailer camps, and the rental of condominium units, and to all
630 persons who collect or receive such rents on behalf of such owner
631 or lessor taxable under this chapter. The person operating
632 transient accommodations shall separately state the tax from the
633 rental charged on the receipt, invoice, or other documentation
634 issued with respect to charges for transient accommodations.
635 Persons facilitating the booking of reservations who are
636 unrelated to the person operating the transient accommodations in
637 which the reservation is booked are not required to separately
638 state amounts charged on the receipt, invoice, or other
639 documentation issued by the person facilitating the booking of
640 the reservation. Any amounts specifically collected as a tax are
641 state funds and must be remitted as tax.

642 (6)-(3) When rentals are received by way of property, goods,
643 wares, merchandise, services, or other things of value, the tax



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644 shall be at the rate of 6 percent of the value of the property,
645 goods, wares, merchandise, services, or other things of value.

646 ~~(7)(4)~~ The tax levied by this section shall not apply to,
647 be imposed upon, or collected from any person who shall have
648 entered into a bona fide written lease for longer than 6 months
649 in duration for continuous residence at any one hotel, apartment
650 house, roominghouse, tourist or trailer camp, or condominium, or
651 to any person who shall reside continuously longer than 6 months
652 at any one hotel, apartment house, roominghouse, tourist or
653 trailer camp, or condominium and shall have paid the tax levied
654 by this section for 6 months of residence in any one hotel,
655 roominghouse, apartment house, tourist or trailer camp, or
656 condominium. Notwithstanding other provisions of this chapter, no
657 tax shall be imposed upon rooms provided guests when there is no
658 consideration involved between the guest and the public lodging
659 establishment. Further, any person who, on the effective date of
660 this act, has resided continuously for 6 months at any one hotel,
661 apartment house, roominghouse, tourist or trailer camp, or
662 condominium, or, if less than 6 months, has paid the tax imposed
663 herein until he or she shall have resided continuously for 6
664 months, shall thereafter be exempt, so long as such person shall
665 continuously reside at such location. The Department of Revenue
666 shall have the power to reform the rental contract for the
667 purposes of this chapter if the rental payments are collected in
668 other than equal daily, weekly, or monthly amounts so as to
669 reflect the actual consideration to be paid in the future for the
670 right of occupancy during the first 6 months.

671 ~~(8)(5)~~ The tax imposed by this section shall constitute a
672 lien on the property of the lessee or rentee of any sleeping



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673 accommodations in the same manner as and shall be collectible as
674 are liens authorized and imposed by ss. 713.68 and 713.69.

675 ~~(9)(6)~~ It is the legislative intent that every person is
676 engaging in a taxable privilege who leases or rents parking or
677 storage spaces for motor vehicles in parking lots or garages, who
678 leases or rents docking or storage spaces for boats in boat docks
679 or marinas, or who leases or rents tie-down or storage space for
680 aircraft at airports. For the exercise of this privilege, a tax
681 is hereby levied at the rate of 6 percent on the total rental
682 charged.

683 ~~(10)(7)~~(a) Full-time students enrolled in an institution
684 offering postsecondary education and military personnel currently
685 on active duty who reside in the facilities described in
686 subsection (1) shall be exempt from the tax imposed by this
687 section. The department shall be empowered to determine what
688 shall be deemed acceptable proof of full-time enrollment. The
689 exemption contained in this subsection shall apply irrespective
690 of any other provisions of this section. The tax levied by this
691 section shall not apply to or be imposed upon or collected on the
692 basis of rentals to any person who resides in any building or
693 group of buildings intended primarily for lease or rent to
694 persons as their permanent or principal place of residence.

695 (b) It is the intent of the Legislature that this
696 subsection provide tax relief for persons who rent living
697 accommodations rather than own their homes, while still providing
698 a tax on the rental of lodging facilities that primarily serve
699 transient guests.

700 (c) The rental of facilities, as defined in s.
701 212.02(10)(f), which are intended primarily for rental as a
702 principal or permanent place of residence is exempt from the tax



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703 | imposed by this chapter. The rental of such facilities that
704 | primarily serve transient guests is not exempt by this
705 | subsection. In the application of this law, or in making any
706 | determination against the exemption, the department shall
707 | consider the facility as primarily serving transient guests
708 | unless the facility owner makes a verified declaration on a form
709 | prescribed by the department that more than half of the total
710 | rental units available are occupied by tenants who have a
711 | continuous residence in excess of 3 months. The owner of a
712 | facility declared to be exempt by this paragraph must make a
713 | determination of the taxable status of the facility at the end of
714 | the owner's accounting year using any consecutive 3-month period
715 | at least one month of which is in the accounting year. The owner
716 | must use a selected consecutive 3-month period during each annual
717 | redetermination. In the event that an exempt facility no longer
718 | qualifies for exemption by this paragraph, the owner must notify
719 | the department on a form prescribed by the department by the 20th
720 | day of the first month of the owner's next succeeding accounting
721 | year that the facility no longer qualifies for such exemption.
722 | The tax levied by this section shall apply to the rental of
723 | facilities that no longer qualify for exemption under this
724 | paragraph beginning the first day of the owner's next succeeding
725 | accounting year. The provisions of this paragraph do not apply to
726 | mobile home lots regulated under chapter 723.

727 | (d) The rental of living accommodations in migrant labor
728 | camps is not taxable under this section. "Migrant labor camps"
729 | are defined as one or more buildings or structures, tents,
730 | trailers, or vehicles, or any portion thereof, together with the
731 | land appertaining thereto, established, operated, or used as
732 | living quarters for seasonal, temporary, or migrant workers.



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733 Section 9. Subsection (3) of section 212.0305, Florida
734 Statutes, is amended to read:

735 212.0305 Convention development taxes; intent;
736 administration; authorization; use of proceeds.--

737 (3) APPLICATION; ADMINISTRATION; PENALTIES.--

738 (a) The convention development tax on transient rentals
739 imposed by the governing body of any county authorized to so levy
740 shall apply to the amount of any payment made by any person to
741 rent, lease, or use for a period of 6 months or less any living
742 quarters or accommodations in a hotel, apartment hotel, motel,
743 resort motel, apartment, apartment motel, roominghouse, timeshare
744 resort, tourist or trailer camp, mobile home park, recreational
745 vehicle park, or condominium. When receipt of consideration is by
746 way of property other than money, the tax shall be levied and
747 imposed on the fair market value of such nonmonetary
748 consideration. Any payment made by a person to rent, lease, or
749 use any living quarters or accommodations which are exempt from
750 the tax imposed under s. 212.03 shall likewise be exempt from any
751 tax imposed under this section.

752 (b) As used in this section, the terms "payment" and
753 "consideration" mean the amount received by a person operating
754 transient accommodations for the use or securing the use of any
755 living quarters or sleeping or housekeeping accommodations in,
756 from, or a part of, or in connection with any hotel, apartment
757 house, roominghouse, timeshare resort, or tourist or trailer
758 camp. The phrase "person operating transient accommodations"
759 means the person conducting the daily affairs of the physical
760 facilities furnishing transient accommodations who is responsible
761 for providing the services commonly associated with operating the
762 facilities furnishing transient accommodations regardless of



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763 whether such commonly associated services are provided by third
764 parties. The terms "consideration" and "rents" do not include
765 payments received by unrelated persons for facilitating the
766 booking of reservations for or on behalf of the lessees or
767 licensees at hotels, apartment houses, roominghouses, mobile home
768 parks, recreational vehicle parks, condominiums, timeshare
769 resorts, or tourist or trailer camps in this state. "Unrelated
770 person" means a person who is not in the same affiliated group of
771 corporations pursuant to s. 1504 of the Internal Revenue Code of
772 1986, as amended.

773 (c) Tax shall be due on the consideration paid for
774 occupancy in the county pursuant to a regulated short-term
775 product, as defined in chapter 721, or occupancy in the county
776 pursuant to a product that would be deemed a regulated short-term
777 product if the agreement to purchase the short-term right was
778 executed in this state. Such tax shall be collected on the last
779 day of occupancy within the county unless such consideration is
780 applied to the purchase of a timeshare estate. Notwithstanding
781 the provisions of paragraph (b), the occupancy of an
782 accommodation of a timeshare resort pursuant to a timeshare plan,
783 a multisite timeshare plan, or an exchange transaction in an
784 exchange program, as defined in chapter 721, by the owner of a
785 timeshare interest or such owner's guest, which guest is not
786 paying monetary consideration to the owner or to a third party
787 for the benefit of the owner, is not a privilege subject to
788 taxation under this section. A membership or transaction fee paid
789 by a timeshare owner which does not provide the timeshare owner
790 with the right to occupy any specific timeshare unit but merely
791 provides the timeshare owner with the opportunity to exchange a



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792 timeshare interest through an exchange program is a service
793 charge and not subject to tax.

794 (d) Consideration paid for the purchase of a timeshare
795 license in a timeshare plan, as defined in chapter 721, is rent
796 subject to tax under this section.

797 (e)~~(b)~~ The tax shall be charged by the person receiving the
798 consideration for the lease or rental, and the tax shall be
799 collected from the lessee, tenant, or customer at the time of
800 payment of the consideration for such lease or rental. The person
801 operating transient accommodations shall separately state the tax
802 from the rental charged on the receipt, invoice, or other
803 documentation issued with respect to charges for transient
804 accommodations. Persons facilitating the booking of reservations
805 who are unrelated to the person operating the transient
806 accommodations in which the reservation is booked are not
807 required to separately state amounts charged on the receipt,
808 invoice, or other documentation issued by the person facilitating
809 the booking of the reservation. Any amounts specifically
810 collected as a tax are county funds and must be remitted as tax.

811 (f)~~(e)~~ The person receiving the consideration for such
812 rental or lease shall receive, account for, and remit the tax to
813 the department at the time and in the manner provided for persons
814 who collect and remit taxes under s. 212.03. The same duties and
815 privileges imposed by this chapter upon dealers in tangible
816 property respecting the collection and remission of tax; the
817 making of returns; the keeping of books, records, and accounts;
818 and compliance with the rules of the department in the
819 administration of this chapter apply to and are binding upon all
820 persons who are subject to the provisions of this section.
821 However, the department may authorize a quarterly return and



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822 payment when the tax remitted by the dealer for the preceding
823 quarter did not exceed \$25.

824 (g)~~(d)~~ The department shall keep records showing the amount
825 of taxes collected, which records shall disclose the taxes
826 collected from each county in which a local government resort tax
827 is levied. These records shall be subject to the provisions of s.
828 213.053 and are confidential and exempt from the provisions of s.
829 119.07(1).

830 (h)~~(e)~~ The collections received by the department from the
831 tax, less costs of administration, shall be paid and returned
832 monthly to the county which imposed the tax, for use by the
833 county as provided in this section. Such receipts shall be placed
834 in a specific trust fund or funds created by the county.

835 (i)~~(f)~~ The department shall adopt ~~promulgate~~ such rules and
836 shall prescribe and publish such forms as ~~may be~~ necessary to
837 effectuate the purposes of this section. The department is
838 authorized to establish audit procedures and to assess for
839 delinquent taxes.

840 (j)~~(g)~~ The estimated tax provisions contained in s. 212.11
841 do not apply to the administration of any tax levied under this
842 section.

843 (k)~~(h)~~ Any person taxable under this section who, ~~either~~ by
844 himself or herself or through the person's agents or employees,
845 fails or refuses to charge and collect the taxes herein provided
846 from the person paying any rental or lease is, in addition to
847 being personally liable for the payment of the tax, guilty of a
848 misdemeanor of the first degree, punishable as provided in s.
849 775.082 or s. 775.083.

850 (l)~~(i)~~ A ~~No~~ person may not ~~shall~~ advertise or hold out to
851 the public in any manner, directly or indirectly, that he or she



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852 will absorb all or any part of the tax; that he or she will
853 relieve the person paying the rental of the payment of all or any
854 part of the tax; or that the tax will not be added to the rental
855 or lease consideration or, if added, that the tax or any part
856 thereof will be refunded or refused, either directly or
857 indirectly, by any method whatsoever. Any person who willfully
858 violates any provision of this paragraph is guilty of a
859 misdemeanor of the first degree, punishable as provided in s.
860 775.082 or s. 775.083.

861 (m)~~(j)~~ The tax shall constitute a lien on the property of
862 the lessee, customer, or tenant in the same manner as, and shall
863 be collectible as are, liens authorized and imposed by ss.
864 713.67, 713.68, and 713.69.

865 (n)~~(k)~~ Any tax levied pursuant to this section shall be in
866 addition to any other tax imposed pursuant to this chapter and in
867 addition to all other taxes and fees and the consideration for
868 the rental or lease.

869 (o)~~(l)~~ The department shall administer the taxes levied
870 herein as increases in the rate of the tax authorized in s.
871 125.0104. The department shall collect and enforce the provisions
872 of this section and s. 125.0104 in conjunction with each other in
873 those counties authorized to levy the taxes authorized herein.
874 The department shall distribute the proceeds received from the
875 taxes levied pursuant to this section and s. 125.0104 in
876 proportion to the rates of the taxes authorized to the
877 appropriate trust funds as provided by law. In the event of
878 underpayment of the total amount due by a taxpayer pursuant to
879 this section and s. 125.0104, the department shall distribute the
880 amount received in proportion to the rates of the taxes
881 authorized to the appropriate trust funds as provided by law and



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882 the penalties and interest due on both of said taxes shall be
883 applicable.

884 Section 10. The amendments made by this act to ss. 212.03
885 and 212.0305, Florida Statutes, are intended as clarifying and
886 remedial in nature and are not a basis for assessments of tax for
887 periods before July 1, 2008, or for refunds of tax for periods
888 before July 1, 2008.

889 Section 11. Paragraph (a) of subsection (1) of section
890 212.031, Florida Statutes, is amended to read:

891 212.031 Tax on rental or license fee for use of real
892 property.--

893 (1)(a) It is declared to be the legislative intent that
894 every person is exercising a taxable privilege who engages in the
895 business of renting, leasing, letting, or granting a license for
896 the use of any real property unless such property is:

897 1. Assessed as agricultural property under s. 193.461.

898 2. Used exclusively as dwelling units.

899 3. Property subject to tax on parking, docking, or storage
900 spaces under s. 212.03(9) ~~s. 212.03(6)~~.

901 4. Recreational property or the common elements of a
902 condominium when subject to a lease between the developer or
903 owner thereof and the condominium association in its own right or
904 as agent for the owners of individual condominium units or the
905 owners of individual condominium units. However, only the lease
906 payments on such property shall be exempt from the tax imposed by
907 this chapter, and any other use made by the owner or the
908 condominium association shall be fully taxable under this
909 chapter.

910 5. A public or private street or right-of-way and poles,
911 conduits, fixtures, and similar improvements located on such



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912 streets or rights-of-way, occupied or used by a utility or
913 provider of communications services, as defined by s. 202.11, for
914 utility or communications or television purposes. For purposes of
915 this subparagraph, the term "utility" means any person providing
916 utility services as defined in s. 203.012. This exception also
917 applies to property, wherever located, on which the following are
918 placed: towers, antennas, cables, accessory structures, or
919 equipment, not including switching equipment, used in the
920 provision of mobile communications services as defined in s.
921 202.11. For purposes of this chapter, towers used in the
922 provision of mobile communications services, as defined in s.
923 202.11, are considered to be fixtures.

924 6. A public street or road which is used for transportation
925 purposes.

926 7. Property used at an airport exclusively for the purpose
927 of aircraft landing or aircraft taxiing or property used by an
928 airline for the purpose of loading or unloading passengers or
929 property onto or from aircraft or for fueling aircraft.

930 8.a. Property used at a port authority, as defined in s.
931 315.02(2), exclusively for the purpose of oceangoing vessels or
932 tugs docking, or such vessels mooring on property used by a port
933 authority for the purpose of loading or unloading passengers or
934 cargo onto or from such a vessel, or property used at a port
935 authority for fueling such vessels, or to the extent that the
936 amount paid for the use of any property at the port is based on
937 the charge for the amount of tonnage actually imported or
938 exported through the port by a tenant.

939 b. The amount charged for the use of any property at the
940 port in excess of the amount charged for tonnage actually



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941 imported or exported shall remain subject to tax except as
942 provided in sub-subparagraph a.

943 9. Property used as an integral part of the performance of
944 qualified production services. As used in this subparagraph, the
945 term "qualified production services" means any activity or
946 service performed directly in connection with the production of a
947 qualified motion picture, as defined in s. 212.06(1)(b), and
948 includes:

949 a. Photography, sound and recording, casting, location
950 managing and scouting, shooting, creation of special and optical
951 effects, animation, adaptation (language, media, electronic, or
952 otherwise), technological modifications, computer graphics, set
953 and stage support (such as electricians, lighting designers and
954 operators, greensmen, prop managers and assistants, and grips),
955 wardrobe (design, preparation, and management), hair and makeup
956 (design, production, and application), performing (such as
957 acting, dancing, and playing), designing and executing stunts,
958 coaching, consulting, writing, scoring, composing,
959 choreographing, script supervising, directing, producing,
960 transmitting dailies, dubbing, mixing, editing, cutting, looping,
961 printing, processing, duplicating, storing, and distributing;

962 b. The design, planning, engineering, construction,
963 alteration, repair, and maintenance of real or personal property
964 including stages, sets, props, models, paintings, and facilities
965 principally required for the performance of those services listed
966 in sub-subparagraph a.; and

967 c. Property management services directly related to
968 property used in connection with the services described in sub-
969 subparagraphs a. and b.

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971 | This exemption will inure to the taxpayer upon presentation of
972 | the certificate of exemption issued to the taxpayer under the
973 | provisions of s. 288.1258.

974 | 10. Leased, subleased, licensed, or rented to a person
975 | providing food and drink concessionaire services within the
976 | premises of a convention hall, exhibition hall, auditorium,
977 | stadium, theater, arena, civic center, performing arts center,
978 | publicly owned recreational facility, or any business operated
979 | under a permit issued pursuant to chapter 550. A person providing
980 | retail concessionaire services involving the sale of food and
981 | drink or other tangible personal property within the premises of
982 | an airport shall be subject to tax on the rental of real property
983 | used for that purpose, but shall not be subject to the tax on any
984 | license to use the property. For purposes of this subparagraph,
985 | the term "sale" shall not include the leasing of tangible
986 | personal property.

987 | 11. Property occupied pursuant to an instrument calling for
988 | payments which the department has declared, in a Technical
989 | Assistance Advisement issued on or before March 15, 1993, to be
990 | nontaxable pursuant to rule 12A-1.070(19)(c), Florida
991 | Administrative Code; provided that this subparagraph shall only
992 | apply to property occupied by the same person before and after
993 | the execution of the subject instrument and only to those
994 | payments made pursuant to such instrument, exclusive of renewals
995 | and extensions thereof occurring after March 15, 1993.

996 | 12. Rented, leased, subleased, or licensed to a
997 | concessionaire by a convention hall, exhibition hall, auditorium,
998 | stadium, theater, arena, civic center, performing arts center, or
999 | publicly owned recreational facility, during an event at the
1000 | facility, to be used by the concessionaire to sell souvenirs,



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1001 novelties, or other event-related products. This subparagraph
1002 applies only to that portion of the rental, lease, or license
1003 payment which is based on a percentage of sales and not based on
1004 a fixed price. This subparagraph is repealed July 1, 2009.

1005 13. Property used or occupied predominantly for space
1006 flight business purposes. As used in this subparagraph, "space
1007 flight business" means the manufacturing, processing, or assembly
1008 of a space facility, space propulsion system, space vehicle,
1009 satellite, or station of any kind possessing the capacity for
1010 space flight, as defined by s. 212.02(23), or components thereof,
1011 and also means the following activities supporting space flight:
1012 vehicle launch activities, flight operations, ground control or
1013 ground support, and all administrative activities directly
1014 related thereto. Property shall be deemed to be used or occupied
1015 predominantly for space flight business purposes if more than 50
1016 percent of the property, or improvements thereon, is used for one
1017 or more space flight business purposes. Possession by a landlord,
1018 lessor, or licensor of a signed written statement from the
1019 tenant, lessee, or licensee claiming the exemption shall relieve
1020 the landlord, lessor, or licensor from the responsibility of
1021 collecting the tax, and the department shall look solely to the
1022 tenant, lessee, or licensee for recovery of such tax if it
1023 determines that the exemption was not applicable.

1024 Section 12. Present paragraph (f) of subsection (7) of
1025 section 212.055, Florida Statutes, is redesignated as paragraph
1026 (g), and a new paragraph (f) is added to that subsection, to
1027 read:

1028 212.055 Discretionary sales surtaxes; legislative intent;
1029 authorization and use of proceeds.--It is the legislative intent
1030 that any authorization for imposition of a discretionary sales



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1031 surtax shall be published in the Florida Statutes as a subsection
1032 of this section, irrespective of the duration of the levy. Each
1033 enactment shall specify the types of counties authorized to levy;
1034 the rate or rates which may be imposed; the maximum length of
1035 time the surtax may be imposed, if any; the procedure which must
1036 be followed to secure voter approval, if required; the purpose
1037 for which the proceeds may be expended; and such other
1038 requirements as the Legislature may provide. Taxable transactions
1039 and administrative procedures shall be as provided in s. 212.054.

1040 (7) VOTER-APPROVED INDIGENT CARE SURTAX.--

1041 (f) Notwithstanding any provision of this subsection except
1042 paragraphs (b) and (g), a hospital surtax may be levied upon
1043 approval of a referendum by the electors in a county that has
1044 more than one independent special hospital district and a
1045 population of fewer than 50,000 residents, not including inmates
1046 and patients residing in institutions operated by the Federal
1047 Government, the Department of Corrections, the Department of
1048 Health, or the Department of Children and Family Services.
1049 Subject to the cap in paragraph (g), the surtax may be levied at
1050 a rate not to exceed 1 percent.

1051 1. At least 90 days before submitting the referendum to the
1052 voters, the governing body of the county shall certify to the
1053 Department of Revenue the populations of each special hospital
1054 district. If the surtax referendum is approved, the surtax
1055 proceeds shall be allocated to each district in proportion to the
1056 relative populations certified by the county governing body.

1057 2. In addition to the uses authorized by this subsection,
1058 an independent special hospital district may pledge surtax
1059 proceeds to service new or existing bond indebtedness and may use
1060 surtax proceeds to pay the direct costs incurred to finance,



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1061 plan, construct, or reconstruct a public or not-for-profit
1062 hospital in the county; the land acquisition, land improvement,
1063 design, engineering costs, equipment, and furnishing costs
1064 related to the hospital; or the direct costs associated
1065 therewith. An independent hospital district may use the services
1066 of the Division of Bond Finance of the State Board of
1067 Administration pursuant to the State Bond Act to issue bonds
1068 under this paragraph.

1069 3. Any county having a population of fewer than 50,000
1070 residents at the time bonds authorized in this paragraph are
1071 issued shall retain the authority granted under this paragraph
1072 throughout the term of such bonds, including the term of any
1073 refinancing bonds, regardless of any subsequent increase in
1074 population which results in the county having 50,000 or more
1075 residents.

1076 4. If the indebtedness issued by one hospital district
1077 expires before the indebtedness issued by the other hospital
1078 district, the full amount of the surtax proceeds shall be applied
1079 to service the remaining indebtedness until it is extinguished.

1080 Section 13. Paragraph (b) of subsection (1) and subsection
1081 (3) of section 212.07, Florida Statutes, are amended to read:

1082 212.07 Sales, storage, use tax; tax added to purchase
1083 price; dealer not to absorb; liability of purchasers who cannot
1084 prove payment of the tax; penalties; general exemptions.--

1085 (1)

1086 (b) A resale must be in strict compliance with s. 212.18
1087 and the rules and regulations, and any dealer who makes a sale
1088 for resale which is not in strict compliance with s. 212.18 and
1089 the rules and regulations shall himself or herself be liable for
1090 and pay the tax. Any dealer who makes a sale for resale shall



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1091 document the exempt nature of the transaction, as established by
1092 rules promulgated by the department, by retaining a copy of the
1093 purchaser's resale certificate. In lieu of maintaining a copy of
1094 the certificate, a dealer may document, prior to the time of
1095 sale, an authorization number provided telephonically or
1096 electronically by the department, or by such other means
1097 established by rule of the department. The dealer may rely on a
1098 resale certificate issued pursuant to s. 212.18(3)(d) ~~s.~~
1099 ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,
1100 without seeking annual verification of the resale certificate if
1101 the dealer makes recurring sales to a purchaser in the normal
1102 course of business on a continual basis. For purposes of this
1103 paragraph, "recurring sales to a purchaser in the normal course
1104 of business" refers to a sale in which the dealer extends credit
1105 to the purchaser and records the debt as an account receivable,
1106 or in which the dealer sells to a purchaser who has an
1107 established cash or C.O.D. account, similar to an open credit
1108 account. For purposes of this paragraph, purchases are made from
1109 a selling dealer on a continual basis if the selling dealer
1110 makes, in the normal course of business, sales to the purchaser
1111 no less frequently than once in every 12-month period. A dealer
1112 may, through the informal protest provided for in s. 213.21 and
1113 ~~the~~ rules of the Department of Revenue, provide the department
1114 with evidence of the exempt status of a sale. Consumer
1115 certificates of exemption executed by ~~these~~ exempt entities that
1116 were registered with the department at the time of sale, resale
1117 certificates provided by purchasers who were active dealers at
1118 the time of sale, and verification by the department of a
1119 purchaser's active dealer status at the time of sale in lieu of a
1120 resale certificate shall be accepted by the department when



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1121 submitted during the protest period, but may not be accepted in
1122 any proceeding under chapter 120 or any circuit court action
1123 instituted under chapter 72.

1124 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to
1125 collect the tax or fees imposed under this chapter herein
1126 provided, either by himself or herself or through the dealer's
1127 agents or employees, is, in addition to the ~~penalty of~~ being
1128 liable for and paying the tax or fees himself or herself, commits
1129 guilty of a misdemeanor of the first degree, punishable as
1130 provided in s. 775.082 or s. 775.083.

1131 (b) A dealer who willfully fails to collect the tax or fees
1132 imposed under this chapter after the department provides notice
1133 of the duty to collect the tax or fees shall, in addition to
1134 being liable for and paying the tax or fees and for any other
1135 penalties provided by law, be liable for a specific penalty of
1136 100 percent of any uncollected tax or fees and, upon conviction,
1137 for fine and punishment as provided in s. 775.082, s. 775.083, or
1138 s. 775.084:

1139 1. If the total amount of uncollected taxes or fees is less
1140 than \$300, the first offense is a misdemeanor of the second
1141 degree, the second offense is a misdemeanor of the first degree,
1142 and the third and all subsequent offenses are felonies of the
1143 third degree.

1144 2. If the total amount of the uncollected taxes or fees is
1145 \$300 or more but less than \$20,000, the offense is a felony of
1146 the third degree.

1147 3. If the total amount of the uncollected taxes or fees is
1148 \$20,000 or more but less than \$100,000, the offense is a felony
1149 of the second degree.



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1150 4. If the total amount of the uncollected taxes or fees is
1151 \$100,000 or more, the offense is a felony of the first degree.

1152 (c) For the purposes of this subsection, "willful" means a
1153 voluntary, intentional violation of a known legal duty.

1154 (d) The department shall give written notice of the duty to
1155 collect taxes or fees to the dealer by personal service; or by
1156 sending notice to the dealer by registered mail, to the dealer's
1157 last known address; or by both personal service and mailing.

1158 Section 14. Paragraph (g) of subsection (5) of section
1159 212.08, Florida Statutes, is amended to read:

1160 212.08 Sales, rental, use, consumption, distribution, and
1161 storage tax; specified exemptions.--The sale at retail, the
1162 rental, the use, the consumption, the distribution, and the
1163 storage to be used or consumed in this state of the following are
1164 hereby specifically exempt from the tax imposed by this chapter.

1165 (5) EXEMPTIONS; ACCOUNT OF USE.--

1166 (g) Building materials used in the rehabilitation of real
1167 property located in an enterprise zone.--

1168 1. Building materials used in the rehabilitation of real
1169 property located in an enterprise zone are ~~shall be~~ exempt from
1170 the tax imposed by this chapter upon an affirmative showing to
1171 the satisfaction of the department that the items have been used
1172 for the rehabilitation of real property located in an enterprise
1173 zone. Except as provided in subparagraph 2., this exemption
1174 inures to the owner, lessee, or lessor at the time ~~of~~ the
1175 ~~rehabilitated~~ real property located in an enterprise zone is
1176 rehabilitated, but only through a refund of previously paid
1177 taxes. To receive a refund pursuant to this paragraph, the owner,
1178 lessee, or lessor of the rehabilitated real property ~~located in~~
1179 ~~an enterprise zone~~ must file an application under oath with the



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1180 governing body or enterprise zone development agency having
1181 jurisdiction over the enterprise zone where the business is
1182 located, as applicable. A single application for refund may be
1183 submitted for multiple, contiguous parcels that were parts of a
1184 single parcel that was divided as part of the rehabilitation of
1185 the property. All other requirements of this paragraph apply to
1186 each parcel on an individual basis. The application must include,
1187 ~~which includes:~~
1188 a. The name and address of the person claiming the refund.
1189 b. An address and assessment roll parcel number of the
1190 rehabilitated real property ~~in an enterprise zone~~ for which a
1191 refund of previously paid taxes is being sought.
1192 c. A description of the improvements made to accomplish the
1193 rehabilitation of the real property.
1194 d. A copy of a valid ~~the building~~ permit issued by the
1195 county or municipal building department for the rehabilitation of
1196 the real property.
1197 e. A sworn statement, under ~~the~~ penalty of perjury, from
1198 the general contractor, licensed in this state, with whom the
1199 applicant contracted to make the improvements necessary to
1200 rehabilitate ~~accomplish the rehabilitation of~~ the real property,
1201 which ~~statement~~ lists the building materials used in the
1202 rehabilitation of the real property, the actual cost of the
1203 building materials, and the amount of sales tax paid in this
1204 state on the building materials. If ~~In the event that~~ a general
1205 contractor has not been used, the applicant shall provide the
1206 ~~this~~ information in a sworn statement, under ~~the~~ penalty of
1207 perjury. Copies of the invoices which evidence the purchase of
1208 the building materials used in the ~~such~~ rehabilitation and the
1209 payment of sales tax on the building materials shall be attached



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1210 to the sworn statement ~~provided by the general contractor or by~~
1211 ~~the applicant~~. Unless the actual cost of building materials used
1212 in the rehabilitation of real property and the payment of sales
1213 taxes due are ~~thereon is~~ documented by a general contractor or by
1214 the applicant in this manner, the cost of such building materials
1215 shall be an amount equal to 40 percent of the increase in
1216 assessed value for ad valorem tax purposes.

1217 f. The identifying number assigned pursuant to s. 290.0065
1218 to the enterprise zone in which the rehabilitated real property
1219 is located.

1220 g. A certification by the local building code inspector
1221 that the improvements necessary for rehabilitating ~~to accomplish~~
1222 ~~the rehabilitation of~~ the real property are substantially
1223 completed.

1224 h. Whether the business is a small business as defined by
1225 s. 288.703(1).

1226 i. If applicable, the name and address of each permanent
1227 employee of the business, including, for each employee who is a
1228 resident of an enterprise zone, the identifying number assigned
1229 pursuant to s. 290.0065 to the enterprise zone in which the
1230 employee resides.

1231 2. This exemption inures to a municipality ~~city~~, county,
1232 other governmental unit or agency, or nonprofit community-based
1233 organization ~~through a refund of previously paid taxes~~ if the
1234 building materials used in the rehabilitation of real property
1235 located in an enterprise zone are paid ~~for~~ from the funds of a
1236 community development block grant, State Housing Initiatives
1237 Partnership Program, or similar grant or loan program. To receive
1238 a refund of previously paid taxes ~~pursuant to this paragraph~~, a
1239 municipality ~~city~~, county, other governmental unit or agency, or



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1240 nonprofit community-based organization must file an application
1241 that ~~which~~ includes the same information required ~~to be provided~~
1242 in subparagraph 1. ~~by an owner, lessee, or lessor of~~
1243 ~~rehabilitated real property~~. In addition, the application must
1244 include a sworn statement signed by the chief executive officer
1245 of the municipality ~~city~~, county, other governmental unit or
1246 agency, or nonprofit community-based organization seeking a
1247 refund which states that the building materials for which a
1248 refund is sought were paid ~~for~~ from the funds of a community
1249 development block grant, State Housing Initiatives Partnership
1250 Program, or similar grant or loan program.

1251 3. Within 10 working days after receipt of an application,
1252 the governing body or enterprise zone development agency shall
1253 review the application to determine if it contains all the
1254 information required under ~~pursuant to~~ subparagraph 1. or
1255 subparagraph 2. and meets the criteria set out in this paragraph.
1256 The governing body or agency shall certify all applications that
1257 contain the required information ~~required pursuant to~~
1258 ~~subparagraph 1. or subparagraph 2.~~ and meet the criteria ~~set out~~
1259 ~~in this paragraph~~ as eligible to receive a refund. If applicable,
1260 the governing body or agency shall also certify that ~~if~~ 20
1261 percent of the employees of the business are residents of an
1262 enterprise zone, excluding temporary and part-time employees. The
1263 certification must ~~shall~~ be in writing, and a copy ~~of the~~
1264 ~~certification shall be~~ transmitted to the executive director of
1265 the department ~~of Revenue~~. The applicant is ~~shall be~~ responsible
1266 for forwarding a certified application to the department within
1267 the time specified in subparagraph 4.

1268 4. An application for a refund pursuant to this paragraph
1269 must be submitted to the department within 6 months after the



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1270 rehabilitation of the property is deemed to be substantially
1271 completed by the local building code inspector or by October 1
1272 ~~September 1~~ after the rehabilitated property is first subject to
1273 assessment.

1274 5. Only ~~Not more than~~ one exemption through a refund of
1275 previously paid taxes for the rehabilitation of real property is
1276 allowed ~~shall be permitted~~ for any single parcel of property
1277 unless there is a change in ownership, a new lessor, or a new
1278 lessee of the real property. A ~~No~~ refund may not ~~shall~~ be granted
1279 pursuant to this paragraph unless the amount to be refunded
1280 exceeds \$500. The ~~No~~ refund may not ~~granted pursuant to this~~
1281 ~~paragraph shall~~ exceed the lesser of 97 percent of the Florida
1282 sales or use tax paid on the cost of the building materials used
1283 in the rehabilitation of the real property as determined pursuant
1284 to sub-subparagraph 1.e. or \$5,000, or, if at least ~~no less than~~
1285 20 percent of the employees of the business are residents of an
1286 enterprise zone, excluding temporary and part-time employees, the
1287 amount of refund may ~~granted pursuant to this paragraph shall~~ not
1288 exceed the lesser of 97 percent of the sales tax paid on the cost
1289 of such building materials or \$10,000. A refund approved pursuant
1290 to this paragraph must ~~shall~~ be made within 30 days after ~~of~~
1291 formal approval by the department of the application for the
1292 refund. This subparagraph shall apply retroactively to July 1,
1293 2005.

1294 6. The department shall adopt rules governing the manner
1295 and form of refund applications and may establish guidelines as
1296 to the requisites for an affirmative showing of qualification for
1297 exemption under this paragraph.

1298 7. The department shall deduct an amount equal to 10
1299 percent of each refund granted under ~~the provisions of this~~



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1300 paragraph from the amount transferred into the Local Government
1301 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for
1302 the county area in which the rehabilitated real property is
1303 located and shall transfer that amount to the General Revenue
1304 Fund.

1305 8. For the purposes of the exemption provided in this
1306 paragraph:

1307 a. "Building materials" means tangible personal property
1308 ~~that which~~ becomes a component part of improvements to real
1309 property.

1310 b. "Real property" has the same meaning as in s. 192.001
1311 ~~provided in s. 192.001(12)~~.

1312 c. "Rehabilitation of real property" means the
1313 reconstruction, renovation, restoration, rehabilitation,
1314 construction, or expansion of improvements to real property.

1315 d. "Substantially completed" has the same meaning as
1316 ~~provided~~ in s. 192.042(1).

1317 9. This paragraph expires on the date specified in s.
1318 290.016 for the expiration of the Florida Enterprise Zone Act.

1319 Section 15. Paragraph (d) of subsection (2) of section
1320 212.12, Florida Statutes, is amended to read:

1321 212.12 Dealer's credit for collecting tax; penalties for
1322 noncompliance; powers of Department of Revenue in dealing with
1323 delinquents; brackets applicable to taxable transactions; records
1324 required.--

1325 (2)

1326 (d) Any person who makes a false or fraudulent return with
1327 a willful intent to evade payment of any tax or fee imposed under
1328 this chapter; ~~any person who, after the department's delivery of~~
1329 ~~a written notice to the person's last known address specifically~~



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1330 ~~alerting the person of the requirement to register the person's~~
1331 ~~business as a dealer, intentionally fails to register the~~
1332 ~~business; and any person who, after the department's delivery of~~
1333 ~~a written notice to the person's last known address specifically~~
1334 ~~alerting the person of the requirement to collect tax on specific~~
1335 ~~transactions, intentionally fails to collect such tax, shall, in~~
1336 addition to the other penalties provided by law, be liable for a
1337 specific penalty of 100 percent of any unreported ~~or any~~
1338 ~~uncollected~~ tax or fee and, upon conviction, for fine and
1339 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.
1340 ~~Delivery of written notice may be made by certified mail, or by~~
1341 ~~the use of such other method as is documented as being necessary~~
1342 ~~and reasonable under the circumstances. The civil and criminal~~
1343 ~~penalties imposed herein for failure to comply with a written~~
1344 ~~notice alerting the person of the requirement to register the~~
1345 ~~person's business as a dealer or to collect tax on specific~~
1346 ~~transactions shall not apply if the person timely files a written~~
1347 ~~challenge to such notice in accordance with procedures~~
1348 ~~established by the department by rule or the notice fails to~~
1349 ~~clearly advise that failure to comply with or timely challenge~~
1350 ~~the notice will result in the imposition of the civil and~~
1351 ~~criminal penalties imposed herein.~~

1352 1. If the total amount of unreported ~~or uncollected~~ taxes
1353 or fees is less than \$300, the first offense resulting in
1354 conviction is a misdemeanor of the second degree, the second
1355 offense ~~resulting in conviction~~ is a misdemeanor of the first
1356 degree, and the third and all subsequent offenses ~~resulting in~~
1357 ~~conviction is a misdemeanor of the first degree, and the third~~
1358 ~~and all subsequent offenses resulting in conviction~~ are felonies
1359 of the third degree.



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1360 2. If the total amount of unreported ~~or uncollected~~ taxes
1361 or fees is \$300 or more but less than \$20,000, the offense is a
1362 felony of the third degree.

1363 3. If the total amount of unreported ~~or uncollected~~ taxes
1364 or fees is \$20,000 or more but less than \$100,000, the offense is
1365 a felony of the second degree.

1366 4. If the total amount of unreported ~~or uncollected~~ taxes
1367 or fees is \$100,000 or more, the offense is a felony of the first
1368 degree.

1369 Section 16. Paragraphs (c), (d), and (e) of subsection (3)
1370 of section 212.18, Florida Statutes, are renumbered as paragraphs
1371 (d), (e), and (f), respectively, and paragraph (b) of that
1372 subsection is amended, to read:

1373 212.18 Administration of law; registration of dealers;
1374 rules.--

1375 (3)

1376 (b) The department, upon receipt of such application, shall
1377 ~~will~~ grant to the applicant a separate certificate of
1378 registration for each place of business, which certificate may be
1379 canceled by the department or its designated assistants for any
1380 failure by the certificateholder to comply with any of the
1381 provisions of this chapter. The certificate is not assignable and
1382 is valid only for the person, firm, copartnership, or corporation
1383 to which issued. The certificate must be placed in a conspicuous
1384 place in the business or businesses for which it is issued and
1385 must be displayed at all times. Except as provided in this
1386 subsection, no person shall engage in business as a dealer or in
1387 leasing, renting, or letting of or granting licenses in living
1388 quarters or sleeping or housekeeping accommodations in hotels,
1389 apartment houses, roominghouses, tourist or trailer camps, or



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1390 real property ~~as hereinbefore defined~~, nor shall any person sell
1391 or receive anything of value by way of admissions, without first
1392 having obtained ~~such~~ a certificate or after such certificate has
1393 been canceled; no person shall receive any license from any
1394 authority within the state to engage in any such business without
1395 first having obtained such a certificate or after such
1396 certificate has been canceled. The engaging in the business of
1397 selling or leasing tangible personal property or services or as a
1398 dealer, ~~as defined in this chapter~~, or the engaging in leasing,
1399 renting, or letting of or granting licenses in living quarters or
1400 sleeping or housekeeping accommodations in hotels, apartment
1401 houses, roominghouses, or tourist or trailer camps that are
1402 taxable under this chapter, or real property, or the engaging in
1403 the business of selling or receiving anything of value by way of
1404 admissions, without such certificate first being obtained or
1405 after such certificate has been canceled by the department, is
1406 prohibited.

1407 (c)1. The failure or refusal of any person, firm,
1408 copartnership, or corporation to register ~~so qualify when~~
1409 ~~required hereunder~~ is a misdemeanor of the first degree,
1410 punishable as provided in s. 775.082 or s. 775.083, or subject to
1411 injunctive proceedings as provided by law. Such failure or
1412 refusal also subjects the offender to a \$100 initial registration
1413 fee in lieu of the \$5 registration fee authorized in paragraph
1414 (a). However, the department may waive the increase in the
1415 registration fee if it determines ~~is determined by the department~~
1416 that the failure to register was due to reasonable cause and not
1417 to willful negligence, willful neglect, or fraud.

1418 2. Any person who willfully fails to register after the
1419 department provides notice of the duty to register as a dealer



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1420 for the purpose of engaging in or conducting business in the
1421 state, commits a felony of the third degree, punishable as
1422 provided in s. 775.082, s. 775.083, or s. 775.084.

1423 a. For the purposes of this section, "willful" means a
1424 voluntary, intentional violation of a known legal duty.

1425 b. The department shall give written notice of the duty to
1426 register to the person by personal service, by sending notice by
1427 registered mail to the person's last known address, or by
1428 personal service and mailing.

1429 Section 17. Subsection (6) of section 213.015, Florida
1430 Statutes, is amended to read:

1431 213.015 Taxpayer rights.--There is created a Florida
1432 Taxpayer's Bill of Rights to guarantee that the rights, privacy,
1433 and property of Florida taxpayers are adequately safeguarded and
1434 protected during tax assessment, collection, and enforcement
1435 processes administered under the revenue laws of this state. The
1436 Taxpayer's Bill of Rights compiles, in one document, brief but
1437 comprehensive statements which explain, in simple, nontechnical
1438 terms, the rights and obligations of the Department of Revenue
1439 and taxpayers. Section 192.0105 provides additional rights
1440 afforded to payors of property taxes and assessments. The rights
1441 afforded taxpayers to ensure that their privacy and property are
1442 safeguarded and protected during tax assessment and collection
1443 are available only insofar as they are implemented in other parts
1444 of the Florida Statutes or rules of the Department of Revenue.
1445 The rights so guaranteed Florida taxpayers in the Florida
1446 Statutes and the departmental rules are:

1447 (6) The right to be informed of impending collection
1448 actions which require sale or seizure of property or freezing of
1449 assets, except jeopardy assessments, and the right to at least 30



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1450 days' notice in which to pay the liability or seek further review
1451 (see ss. 198.20, 199.262, 201.16, 206.075, 206.24, 211.125(5),
1452 212.03(5), 212.0305(3)(m) ~~212.0305(3)(j)~~, 212.04(7), 212.14(1),
1453 213.73(3), 213.731, and 220.739).

1454 Section 18. Paragraph (a) of subsection (2), subsection
1455 (5), and paragraph (d) of subsection (8) of section 213.053,
1456 Florida Statutes, are amended, paragraph (z) is added to
1457 subsection (8) of that section, and subsection (19) is added to
1458 that section, to read:

1459 213.053 Confidentiality and information sharing.--

1460 (2)(a) All information contained in returns, reports,
1461 accounts, or declarations received by the department, including
1462 investigative reports and information, ~~and including~~ letters of
1463 technical advice, telephone numbers, and electronic mail
1464 addresses collected and maintained by the department for the
1465 purpose of communicating with taxpayers, is confidential except
1466 for official purposes and is exempt from s. 119.07(1).

1467 (5) Nothing contained in this section shall prevent the
1468 department from:

1469 (a) Publishing statistics so ~~classified~~ as to prevent the
1470 identification of particular accounts, reports, declarations, or
1471 returns. ~~;~~ ~~or~~

1472 (b) Using telephone, electronic mail, facsimile, or other
1473 electronic means to:

1474 1. Distribute tax information regarding changes in law, tax
1475 rates, or interest rates, or other information that is not
1476 specific to a particular taxpayer;

1477 2. Provide reminders of due dates;



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1478 3. Respond to a taxpayer that has provided and authorized
1479 the department to use an electronic mail address that does not
1480 support encryption; or

1481 4. Request taxpayers to contact the department ~~Disclosing to~~
1482 ~~the Chief Financial Officer the names and addresses of those~~
1483 ~~taxpayers who have claimed an exemption pursuant to former s.~~
1484 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

1485 (8) Notwithstanding any other provision of this section,
1486 the department may provide:

1487 (d) Information relating to chapter 212 and chapter 509
1488 ~~Names, addresses, and sales tax registration information to the~~
1489 Division of Hotels and Restaurants of the Department of Business
1490 and Professional Regulation in the conduct of its official
1491 duties.

1492 (z) Names and taxpayer identification numbers relating to
1493 information sharing agreements with financial institutions
1494 pursuant to s. 213.0532.

1495
1496 Disclosure of information under this subsection shall be pursuant
1497 to a written agreement between the executive director and the
1498 agency. Such agencies, governmental or nongovernmental, shall be
1499 bound by the same requirements of confidentiality as the
1500 Department of Revenue. Breach of confidentiality is a misdemeanor
1501 of the first degree, punishable as provided by s. 775.082 or s.
1502 775.083.

1503 (19) The department may publish a list of taxpayers against
1504 whom it has issued a warrant or filed a judgment lien against a
1505 taxpayer's property if the taxpayers are delinquent in the
1506 payment of any tax, fee, penalty, interest, or surcharge
1507 administered by the department. The list shall identify each



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1508 taxpayer by name, address, amounts and types of taxes, fees, or
1509 surcharges and the employer identification number or other
1510 taxpayer identification number.

1511 (a) The list shall be available for public inspection at
1512 the department or by other means of publication, including the
1513 Internet. The department may provide a copy of the list to any
1514 agency of the state for similar publication.

1515 (b) The department shall update the list at least monthly
1516 to reflect payments for resolution of deficiencies and to
1517 otherwise add or remove taxpayers from the list.

1518 (c) The department may adopt rules for the administration
1519 of this subsection.

1520 Section 19. Section 213.0532, Florida Statutes, is created
1521 to read:

1522 213.0532 Agreements with financial institutions.--

1523 (1) As used in this section, the term:

1524 (a) "Financial institution" means:

1525 1. A depository institution as defined in 12 U.S.C. s.
1526 1813(c);

1527 2. An institution-affiliated party as defined in 12 U.S.C.
1528 s. 1813(u);

1529 3. Any federal credit union or state credit union as
1530 defined in 12 U.S.C. s. 1752, including an institution-affiliated
1531 party of such a credit union as defined in 12 U.S.C s. 1786(r);
1532 and

1533 4. Any benefit association, insurance company, safe-deposit
1534 company, money market mutual fund, or similar entity authorized
1535 to do business in this state.



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1536 (b) "Account" means a demand deposit account, checking or
1537 negotiable withdrawal order account, savings account, time
1538 deposit account, or money-market mutual fund account.

1539 (c) "Department" means the Department of Revenue.

1540 (d) "Obligor" means any person against whose property the
1541 department has issued a warrant or filed a judgment lien
1542 certificate.

1543 (e) "Person" has the same meaning as in s. 212.02.

1544 (2) The department shall request information and assistance
1545 from a financial institution as necessary to enforce the tax laws
1546 of the state. Pursuant to such purpose, financial institutions
1547 doing business in the state shall enter into agreements with the
1548 department to develop and operate a data match system, using an
1549 automated data exchange to the maximum extent feasible, in which
1550 the financial institution must provide for each calendar quarter
1551 the name, record address, social security number or other
1552 taxpayer identification number, average daily account balance,
1553 and other identifying information for:

1554 (a) Each obligor who maintains an account at the financial
1555 institution as identified to the institution by the department by
1556 name and social security number or other taxpayer identification
1557 number; or

1558 (b) At the financial institution's option, each person who
1559 maintains an account at the institution.

1560
1561 The department shall use the information received pursuant to
1562 this section only for the purpose of enforcing the collection of
1563 taxes and fees administered by the department.

1564 (3) The department shall, to the extent possible and in
1565 compliance with state and federal law, administer this section in



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1566 conjunction with s. 409.25657 in order to avoid duplication and
1567 reduce the burden on financial institutions.

1568 (4) The department shall pay a reasonable fee to the
1569 financial institution for conducting the data match provided for
1570 in this section, which may not exceed actual costs incurred by
1571 the financial institution.

1572 (5) A financial institution is not required to provide
1573 notice to its customers and is not liable to any person for:

1574 (a) Disclosure to the department of any information
1575 required under this section.

1576 (b) Encumbering or surrendering any assets held by the
1577 financial institution in response to a notice of lien or levy
1578 issued by the department.

1579 (c) Disclosing any information in connection with a data
1580 match.

1581 (d) Any other action taken in good faith to comply with the
1582 requirements of this section.

1583 (6) Any financial records obtained pursuant to this section
1584 may be disclosed only for the purpose of, and to the extent
1585 necessary to administer and enforce, the tax laws of this state.

1586 (7) The department may adopt rules establishing the
1587 procedures and requirements for conducting automated data matches
1588 with financial institutions under this section.

1589 Section 20. Section 213.25, Florida Statutes, is amended to
1590 read:

1591 213.25 Refunds; credits; right of setoff.-- If In any
1592 instance that a taxpayer has a refund or credit due for an
1593 overpayment of taxes assessed under chapter 443 or any of the
1594 chapters specified in s. 72.011(1), the department may reduce
1595 such refund or credit to the extent of any billings not subject



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1596 to protest under chapter 443 or s. 213.21 for the same or any
1597 other tax owed by the same taxpayer.

1598 Section 21. Subsection (8) of section 213.67, Florida
1599 Statutes, is amended to read:

1600 213.67 Garnishment.--

1601 (8) An action may not be brought to contest a notice of
1602 intent to levy under chapter 120 or in circuit court if the
1603 petition is postmarked or the action is filed more, later than 21
1604 days after the date of receipt of the notice of intent to levy.

1605 Section 22. Section 213.691, Florida Statutes, is created to
1606 read:

1607 213.691 Integrated warrants and judgment lien
1608 certificates.--In addition to the department's authority to issue
1609 warrants and file judgment lien certificates for any unpaid tax,
1610 fee, or surcharge it administers, the department may issue a
1611 single integrated warrant and file a single integrated judgment
1612 lien certificate evidencing a taxpayer's total liability for all
1613 taxes, fees, or surcharges administered by the department. Each
1614 integrated warrant or integrated judgment lien certificate issued
1615 or filed must separately identify and itemize the total amount
1616 due for each tax, fee, or surcharge, including any related
1617 interest and penalty. In order for a taxpayer's total liability
1618 to be included in an integrated warrant or judgment lien
1619 certificate, the department must have authority to file a warrant
1620 or judgment lien certificate for each tax, fee, or surcharge.

1621 Section 23. Section 213.692, Florida Statutes, is created
1622 to read:

1623 213.692 Integrated enforcement authority.--

1624 (1) If a taxpayer is delinquent in the payment of any tax,
1625 fee, or surcharge administered by the department, the department



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1626 may revoke all of the taxpayer's certificates of registration,
1627 permits, or licenses issued by the department. For the purposes
1628 of this section, a taxpayer is considered delinquent only if the
1629 department has issued a warrant or filed a judgment lien
1630 certificate against the taxpayer's property.

1631 (a) Prior to revocation of the taxpayer's certificates of
1632 registration, permits, or licenses, the department must schedule
1633 an informal conference, which the taxpayer is required to attend
1634 and at which the taxpayer may present evidence regarding the
1635 department's intended revocation or may enter into a compliance
1636 agreement with the department. The department must provide
1637 written notice to the taxpayer at the taxpayer's last known
1638 address of its intended action and the time, place, and date of
1639 the scheduled informal conference. The department shall issue an
1640 administrative complaint under chapter 120 if the taxpayer fails
1641 to attend the department's informal conference, fails to enter
1642 into a compliance agreement with the department, or fails to
1643 comply with the executed compliance agreement.

1644 (b) A taxpayer whose certificates of registration, permits,
1645 or licenses have been revoked may not be issued a new certificate
1646 of registration, permit, or license unless:

1647 1. The taxpayer's outstanding liabilities have been
1648 satisfied; or

1649 2. The department enters into a written agreement with the
1650 taxpayer regarding the liability and, as part of such agreement,
1651 agrees to issue a new certificate of registration, permit, or
1652 license to the taxpayer.

1653 (c) The department shall require a cash deposit, bond, or
1654 other security as a condition of issuing a new certificate of
1655 registration pursuant to the requirements of s. 212.14(4).



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1656 (d) If the department issues a warrant or files a judgment
1657 lien certificate in connection with a jeopardy assessment, the
1658 procedures specified in s. 213.732 must be complied with prior to
1659 or in conjunction with those provided in this section.

1660 (2) The department may adopt rules to administer this
1661 section.

1662 Section 24. The Executive Director of the Department of
1663 Revenue is authorized, and all conditions are deemed met, to
1664 adopt emergency rules under ss. 120.563(1) and 120.54(4), Florida
1665 Statutes, to administer s. 213.692, Florida Statutes.
1666 Notwithstanding any other provision of law, the emergency rules
1667 shall remain effective for 6 months after the date of their
1668 adoption and may be renewed during the pendency of procedures to
1669 adopt rules addressing the subject of the emergency rules.

1670 Section 25. Section 213.758, Florida Statutes, is created to
1671 read:

1672 213.758 Transfer of tax liabilities.--

1673 (1) As used in this section, the term:

1674 (a) "Involuntary transfers" means transfers made without
1675 the consent of the transferor, including, but not limited to:

1676 1. Transfers that occur due to the foreclosure of a
1677 security interest issued to a person who is not an insider as
1678 defined by s. 726.102;

1679 2. Transfers that result from eminent domain and
1680 condemnation actions;

1681 3. Transfers made under the authority of chapter 61,
1682 chapter 702, chapter 727, or the United States Bankruptcy Code;

1683 4. Transfers to financial institutions, as defined in s.
1684 655.005, when the transfer is made in satisfaction of the
1685 transferor's debt to the financial institution; and



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1686 5. Transfers to third parties to the extent that the
1687 proceeds are used to satisfy the transferor's indebtedness to a
1688 financial institution, as defined in s. 655.005. If the third
1689 party receives assets worth more than the indebtedness, the
1690 transfer of the excess shall not be deemed an involuntary
1691 transfer.

1692 (b) "Transfer" means every mode, direct or indirect, with
1693 or without consideration, of disposing of or parting with a
1694 business or stock of goods, and includes, but is not limited to,
1695 assigning, conveying, devising, gifting, granting, or selling.

1696 (2) Any taxpayer who is liable for any tax, interest, or
1697 penalty administered by the department in accordance with chapter
1698 443 or s. 72.011(1), excluding corporate income tax, and who
1699 quits the business without the benefit of a purchaser,
1700 successors, or assigns or without transferring the business or
1701 stock of goods to a transferee, shall make a final return and
1702 full payment within 15 days after quitting the business. A
1703 taxpayer failing to file a final return and make payment may not
1704 engage in any business in the state until the final return has
1705 been filed and the all tax, interest, and penalties due have been
1706 paid. If requested by the department, the Department of Legal
1707 Affairs may proceed by injunction to prevent further business
1708 activity until such tax, interest, or penalties are paid, and a
1709 temporary injunction enjoining further business activity shall be
1710 granted without notice by any court of competent jurisdiction.

1711 (3) Any taxpayer liable for any tax, interest, or penalty
1712 levied under chapter 443 or any of the chapters specified in s.
1713 213.05, excluding corporate income tax, who transfers the
1714 taxpayer's business or stock of goods, shall file a final return
1715 and make full payment within 15 days after the date of transfer.



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1716 (4) Unless a taxpayer who transfers a business or stock of
1717 goods provides a receipt or certificate from the department to
1718 the transferee showing that the taxpayer has no further liability
1719 for tax, interest, or penalty, the transferee shall pay the tax,
1720 interest, or penalty due or, if consideration is part of the
1721 transfer, withhold a sufficient portion of the purchase money to
1722 pay the taxes, interest, or penalties due.

1723 (a) If the transferee withholds any portion of the
1724 consideration pursuant to this subsection, the transferee shall
1725 pay that portion of the consideration to the department within 30
1726 days after the date of transfer.

1727 (b) If the consideration withheld is insufficient, the
1728 transferee is liable for the remaining amount owed.

1729 (c) Any transferee acquiring the business or stock of goods
1730 who fails to pay the tax, interest, and penalty due shall be
1731 denied the right to engage in any business in the state until the
1732 tax, interest, and penalty have been paid. If requested by the
1733 department, the Department of Legal Affairs may proceed by
1734 injunction to prevent further business activity until such tax,
1735 interest, and penalties are paid, and a temporary injunction
1736 enjoining further business activity shall be granted without
1737 notice by any court of competent jurisdiction.

1738 (d) This subsection does not apply to transfers in which
1739 parts of the business or stock of goods are transferred to
1740 various taxpayers unless more than 50 percent of the business or
1741 stock of goods are transferred to one taxpayer or a group of
1742 taxpayers acting in concert.

1743 (5) A receipt or certificate from the department does not,
1744 without an audit of the transferring taxpayer's books and records
1745 by the department, guarantee that there is not a tax deficiency



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1746 owed to the state from operation of the transferring taxpayer's
1747 business. To secure protection from transferee liability under
1748 this section, the transferring taxpayer or the transferee may
1749 request an audit of the transferring taxpayer's books and
1750 records. The department may charge for the cost of the audit if
1751 the department has not yet issued a notice of intent to audit at
1752 the time the department receives the request to perform the
1753 audit.

1754 (6) The transferee of a business or stock of goods is
1755 jointly and severally liable with any former owner for the
1756 payment of the taxes, interest, or penalties accruing and unpaid
1757 on account of the operation of the business by any former owner
1758 up to the fair market value of the property transferred or the
1759 total purchase price, whichever is higher.

1760 (7) This section does not apply to involuntary transfers.

1761 (8) After notice by the department of transferee liability
1762 under this section, the taxpayer shall have 60 days within which
1763 to file an action as provided in chapter 72.

1764 (9) The department may adopt rules necessary to administer
1765 and enforce this section.

1766 Section 26. Paragraph (j) is added to subsection (3) of
1767 section 220.193, Florida Statutes, to read:

1768 220.193 Florida renewable energy production credit.--

1769 (3) An annual credit against the tax imposed by this
1770 section shall be allowed to a taxpayer, based on the taxpayer's
1771 production and sale of electricity from a new or expanded Florida
1772 renewable energy facility. For a new facility, the credit shall
1773 be based on the taxpayer's sale of the facility's entire
1774 electrical production. For an expanded facility, the credit shall



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1775 be based on the increases in the facility's electrical production
1776 that are achieved after May 1, 2006.

1777 (j) The credit shall be allowed to a corporation that owns
1778 a partnership or limited liability company that has elected to be
1779 treated as a partnership for federal income tax purposes when the
1780 partnership or limited liability company produces and sells
1781 electricity from a new or expanded renewable energy facility. If
1782 the partnership or limited liability company that produces or
1783 sells the electricity is owned by more than one corporation, the
1784 value of the credit shall be prorated among the owners in the
1785 same manner as items of income and expense are prorated for
1786 federal income tax purposes. If an entity applies for a credit
1787 that the entity received by a pass through, the application must
1788 identify the taxpayer that passed through the credit, all
1789 taxpayers that received the credit, the percentage of the credit
1790 that passes through to each recipient, and such other information
1791 as the department requires.

1792 Section 27. It is the intent of the Legislature that s.
1793 220.193(3)(j), Florida Statutes, as created by this act, is
1794 remedial in nature and applies retroactively to the effective
1795 date of the law establishing the credit.

1796 Section 28. Subsection (2) of section 220.21, Florida
1797 Statutes, is amended to read:

1798 220.21 Returns and records; regulations.--

1799 (2) A taxpayer who is required to file its federal income
1800 tax return by electronic means on a separate or consolidated
1801 basis shall also file returns required by this chapter by
1802 electronic means. Pursuant to ~~For the reasons described in s.~~
1803 213.755(9), the department may waive the requirement to file a
1804 return by electronic means for taxpayers that are unable to



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1805 | comply despite good faith efforts or due to circumstances beyond
1806 | the taxpayer's reasonable control. The provisions of this
1807 | subsection are in addition to the requirements of s. 213.755 to
1808 | electronically file returns and remit payments ~~required~~ under
1809 | this chapter. The department may prescribe by rule the format and
1810 | instructions ~~necessary~~ for electronic filing to ensure a full
1811 | collection of taxes due. In addition to the authority granted
1812 | under s. 213.755, the acceptable method of transfer, the method,
1813 | form, and content of the electronic data interchange, and the
1814 | means, if any, by which the taxpayer is ~~will be~~ provided with an
1815 | acknowledgment may be prescribed by the department. If the
1816 | taxpayer fails ~~In the case of any failure~~ to comply with the
1817 | electronic filing requirements of this subsection, a penalty
1818 | shall be added to the amount of tax due with the ~~such~~ return
1819 | equal to 5 percent of the amount of such tax ~~for the first 30~~
1820 | ~~days the return is not filed electronically, with an additional 5~~
1821 | ~~percent of such tax for each additional month or fraction~~
1822 | ~~thereof~~, not to exceed \$250 in the aggregate. The department may
1823 | settle or compromise the penalty pursuant to s. 213.21. This
1824 | penalty is in addition to any other penalty that may be
1825 | applicable and shall be assessed, collected, and paid in the same
1826 | manner as taxes.

1827 | Section 29. Subsection (2) of section 220.21, Florida
1828 | Statutes, as amended by this act, shall take effect and apply to
1829 | returns due on or after January 1, 2008.

1830 | Section 30. Paragraph (c) of subsection (1) of section
1831 | 336.021, Florida Statutes, is amended to read:

1832 | 336.021 County transportation system; levy of ninth-cent
1833 | fuel tax on motor fuel and diesel fuel.--

1834 | (1)



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1835 (c) Local option taxes collected on sales or use of diesel
1836 fuel in this state shall be distributed in the following manner:
1837 1. The fiscal year of July 1, 1995, through June 30, 1996,
1838 shall be the base year for all distributions.
1839 2. Each year the tax collected, less the service and
1840 administrative charges enumerated in s. 215.20 and the allowances
1841 allowed under s. 206.91, on the number of gallons reported, up to
1842 the total number of gallons reported in the base year, shall be
1843 distributed to each county using the distribution percentage
1844 calculated for the base year.
1845 3. After the distribution of taxes pursuant to subparagraph
1846 4. 2-, additional taxes available for distribution shall first be
1847 distributed pursuant to this subparagraph. A distribution shall
1848 be made to each county in which a qualified new retail station is
1849 located. A qualified new retail station is a retail station that
1850 began operation after June 30, 1996, and that has sales of diesel
1851 fuel exceeding 50 percent of the sales of diesel fuel reported in
1852 the county in which it is located during the 1995-1996 state
1853 fiscal year. The determination of whether a new retail station is
1854 qualified shall be based on the total gallons of diesel fuel sold
1855 at the station during each full month of operation during the 12-
1856 month period ending January 31, divided by the number of full
1857 months of operation during those 12 months, and the result
1858 multiplied by 12. The amount distributed pursuant to this
1859 subparagraph to each county in which a qualified new retail
1860 station is located shall equal the local option taxes due on the
1861 gallons of diesel fuel sold by the new retail station during the
1862 year ending January 31, less the service charges enumerated in s.
1863 215.20 and the dealer allowance provided for by s. 206.91.
1864 Gallons of diesel fuel sold at the qualified new retail station



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1865 shall be certified to the department by the county requesting the
1866 additional distribution by June 15, 1997, and by March 1 in each
1867 subsequent year. The certification shall include the beginning
1868 inventory, fuel purchases and sales, and the ending inventory for
1869 the new retail station for each month of operation during the
1870 year, the original purchase invoices for the period, and any
1871 other information the department deems reasonable and necessary
1872 to establish the certified gallons. The department may review and
1873 audit the retail dealer's records provided to a county to
1874 establish the gallons sold by the new retail station.
1875 Notwithstanding the provisions of this subparagraph, when more
1876 than one county qualifies for a distribution pursuant to this
1877 subparagraph and the requested distributions exceed the total
1878 taxes available for distribution, each county shall receive a
1879 prorated share of the moneys available for distribution.

1880 4. After the distribution of taxes pursuant to subparagraph
1881 2. 3., all additional taxes available for distribution, with the
1882 exception of subparagraph 3., shall be distributed based on
1883 vehicular diesel fuel storage capacities in each county pursuant
1884 to this subparagraph. The total vehicular diesel fuel storage
1885 capacity shall be established for each fiscal year based on the
1886 registration of facilities with the Department of Environmental
1887 Protection as required by s. 376.303 for the following facility
1888 types: retail stations, fuel user/nonretail, state government,
1889 local government, and county government. Each county shall
1890 receive a share of the total taxes available for distribution
1891 pursuant to this subparagraph equal to a fraction, the numerator
1892 of which is the storage capacity located within the county for
1893 vehicular diesel fuel in the facility types listed in this
1894 subparagraph and the denominator of which is the total statewide



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1895 storage capacity for vehicular diesel fuel in those facility
1896 types. The vehicular diesel fuel storage capacity for each county
1897 and facility type shall be that established by the Department of
1898 Environmental Protection by June 1, 1997, for the 1996-1997
1899 fiscal year, and by January 31 for each succeeding fiscal year.
1900 The storage capacities so established shall be final. The storage
1901 capacity for any new retail station for which a county receives a
1902 distribution pursuant to subparagraph 3. shall not be included
1903 in the calculations pursuant to this subparagraph.

1904 Section 31. Paragraph (b) of subsection (2) of section
1905 443.1215, Florida Statutes, is amended to read:

1906 443.1215 Employers.--

1907 (2)

1908 (b) In determining whether an employing unit for which
1909 service, other than agricultural labor, is also performed is an
1910 employer under paragraph (1)(a), paragraph (1)(b), paragraph
1911 (1)(c), or subparagraph (1)(d)2., the wages earned or the
1912 employment of an employee performing service in agricultural
1913 labor may not be taken into account. If an employing unit is
1914 determined to be an employer of agricultural labor, the employing
1915 unit is considered an employer for purposes of paragraph (1)(a)
1916 ~~subsection (1)~~.

1917 Section 32. Subsection (2) of section 443.1316, Florida
1918 Statutes, is amended to read:

1919 443.1316 Unemployment tax collection services; interagency
1920 agreement.--

1921 (2)~~(a)~~ The Department of Revenue is considered to be
1922 administering a revenue law of this state when the department
1923 implements this chapter, or otherwise provides unemployment tax



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1924 collection services, under contract with the Agency for Workforce
1925 Innovation through the interagency agreement.

1926 ~~(3)-(b)~~ Sections 213.015(1)-(3), (5)-(7), (9)-(19), and
1927 (21); 213.018; 213.025; 213.051; 213.053; 213.0535; 213.055;
1928 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25;
1929 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37; 213.50;
1930 213.67; 213.69; 213.691; 213.692; 213.73; 213.733; 213.74; ~~and~~
1931 213.757, and 213.758 apply to the collection of unemployment
1932 contributions and reimbursements by the Department of Revenue
1933 unless prohibited by federal law.

1934 Section 33. Subsection (1) and paragraph (a) of subsection
1935 (3) of section 443.141, Florida Statutes, are amended to read:

1936 443.141 Collection of contributions and reimbursements.--

1937 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
1938 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.--

1939 (a) Interest.--Contributions or reimbursements unpaid on
1940 the date due shall bear interest at the rate of 1 percent per
1941 month from and after that date until payment plus accrued
1942 interest is received by the tax collection service provider,
1943 unless the service provider finds that the employing unit has or
1944 had good reason for failure to pay the contributions or
1945 reimbursements when due. Interest collected under this subsection
1946 must be paid into the Special Employment Security Administration
1947 Trust Fund.

1948 (b) Penalty for delinquent, erroneous, incomplete, or
1949 insufficient reports.--

1950 1. An employing unit that fails to file a ~~any~~ report
1951 required by the Agency for Workforce Innovation or its tax
1952 collection service provider, in accordance with rules for
1953 administering this chapter, shall pay to the tax collection



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1954 service provider for each delinquent report the sum of \$25 for
1955 each 30 days or fraction thereof that the employing unit is
1956 delinquent, unless the agency or its service provider, whichever
1957 required the report, finds that the employing unit has or had
1958 good reason for failure to file the report. The agency or its
1959 service provider may assess penalties only through the date of
1960 the issuance of the final assessment notice. However, additional
1961 penalties accrue if the delinquent report is subsequently filed.

1962 2. An employing unit that files an erroneous, incomplete,
1963 or insufficient report required by the Agency for Workforce
1964 Innovation, or its tax collection service provider, shall pay a
1965 penalty of \$50 or 10 percent of any tax due, whichever is
1966 greater, which is added to any tax, penalty, or interest
1967 otherwise due. This penalty may not exceed \$300 per report and
1968 shall be waived if the employing unit shall file an accurate,
1969 complete, and sufficient report within 30 days after the agency
1970 or its tax collection service provider issues a penalty notice to
1971 the employing unit, however, the department is required to waive
1972 this penalty no more than twice in a 12-month period. For
1973 purposes of this chapter, an "erroneous, incomplete, or
1974 insufficient report" is one so lacking in information,
1975 completeness, or arrangement that the report cannot be readily
1976 understood, verified, or reviewed. This includes, but is not
1977 limited to, reports having missing wage or employee information,
1978 missing or incorrect social security numbers, or illegible
1979 entries; reports submitted in a format that was not approved by
1980 the agency or its tax collection service provider; and those
1981 showing gross wages that do not equal the total of each
1982 individual's wage.



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1983 ~~3.2.~~ Sums collected as penalties under this paragraph
1984 ~~subparagraph 1.~~ must be deposited in the Special Employment
1985 Security Administration Trust Fund.

1986 ~~4.3.~~ The penalty and interest for a delinquent, erroneous,
1987 incomplete, or insufficient report may be waived if ~~when~~ the
1988 penalty or interest is inequitable. The provisions of s.
1989 213.24(1) apply to any penalty or interest that is imposed under
1990 this paragraph ~~section~~.

1991 (c) Application of partial payments.--~~If~~ ~~When~~ a delinquency
1992 exists in the employment record of an employer not in bankruptcy,
1993 a partial payment less than the total delinquency amount shall be
1994 applied to the employment record as the payor directs. In the
1995 absence of specific direction, the partial payment shall be
1996 applied to the payor's employment record as prescribed in the
1997 rules of the Agency for Workforce Innovation or the state agency
1998 providing tax collection services.

1999 (3) COLLECTION PROCEEDINGS.--

2000 (a) Lien for payment of contributions or reimbursements.--

2001 1. There is created a lien in favor of the tax collection
2002 service provider upon all the property, both real and personal,
2003 of any employer liable for payment of any contribution or
2004 reimbursement levied and imposed under this chapter for the
2005 amount of the contributions or reimbursements due, together with
2006 any interest, costs, and penalties. If any contribution or
2007 reimbursement levied ~~imposed under this chapter~~ or any portion of
2008 that contribution, reimbursement, interest, or penalty is not
2009 paid within 60 days after becoming delinquent, the tax collection
2010 service provider may ~~subsequently~~ issue a notice of lien that may
2011 be filed in the office of the clerk of the circuit court of the
2012 ~~any~~ county in which the delinquent employer owns property or



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2013 | conducts ~~has conducted~~ business. The notice of lien must include
2014 | the periods for which the contributions, reimbursements,
2015 | interest, or penalties are demanded and the amounts due. A copy
2016 | of the notice ~~of lien~~ must be mailed to the employer at her or
2017 | his last known address. The notice of lien may not be issued and
2018 | recorded until 15 days after the date the assessment becomes
2019 | final under subsection (2). Upon presentation of the notice ~~of~~
2020 | ~~lien~~, the clerk of the circuit court shall record it in a book
2021 | maintained for that purpose, and the amount of the notice of
2022 | lien, together with the cost of recording and interest accruing
2023 | upon the amount of the contribution or reimbursement, becomes a
2024 | lien upon the title to and interest, whether legal or equitable,
2025 | in any real property, chattels real, or personal property of the
2026 | employer against whom the notice of lien is issued, in the same
2027 | manner as a judgment of the circuit court docketed in the office
2028 | of the circuit court clerk, with execution issued to the sheriff
2029 | for levy. This lien is prior, preferred, and superior to all
2030 | mortgages or other liens filed, recorded, or acquired after the
2031 | notice of lien is filed. Upon the payment of the amounts due, or
2032 | upon determination by the tax collection service provider that
2033 | the notice of lien was erroneously issued, the lien is satisfied
2034 | when the service provider acknowledges in writing that the lien
2035 | is fully satisfied. A lien's satisfaction does not need to be
2036 | acknowledged before any notary or other public officer, and the
2037 | signature of the director of the tax collection service provider
2038 | or his or her designee is conclusive evidence of the satisfaction
2039 | of the lien, which ~~satisfaction~~ shall be recorded by the clerk of
2040 | the circuit court who receives the fees for those services.

2041 | 2. The tax collection service provider may subsequently
2042 | issue a warrant directed to any sheriff in this state, commanding



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2043 him or her to levy upon and sell any real or personal property of
2044 the employer liable for any amount under this chapter within his
2045 or her jurisdiction, for payment, with the added penalties and
2046 interest and the costs of executing the warrant, together with
2047 the costs of the clerk of the circuit court in recording and
2048 docketing the notice of lien, and to return the warrant to the
2049 service provider with payment. The warrant may only be issued and
2050 enforced for all amounts due to the tax collection service
2051 provider on the date the warrant is issued, together with
2052 interest accruing on the contribution or reimbursement due from
2053 the employer to the date of payment at the rate provided in this
2054 section. In the event of sale of any assets of the employer,
2055 however, priorities under the warrant shall be determined in
2056 accordance with the priority established by any notices of lien
2057 filed by the tax collection service provider and recorded by the
2058 clerk of the circuit court. The sheriff shall execute the warrant
2059 in the same manner prescribed by law for executions issued by the
2060 clerk of the circuit court for judgments of the circuit court.
2061 The sheriff is entitled to the same fees for executing the
2062 warrant as for a writ of execution out of the circuit court, and
2063 these fees must be collected in the same manner.

2064 3. The lien created under this paragraph shall expire 10
2065 years after the notice of lien is recorded, and an action may not
2066 be commenced to collect the tax after the expiration of the lien.

2067 Section 34. Paragraph (c) is added to subsection (6) of
2068 section 509.261, Florida Statutes, to read:

2069 509.261 Revocation or suspension of licenses; fines;
2070 procedure.--



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2071 (6) The division may fine, suspend, or revoke the license
2072 of any public lodging establishment or public food service
2073 establishment when:

2074 (c) The licensee is delinquent in the payment of any tax,
2075 fee, or surcharge, including penalty and interest, imposed or
2076 administered under chapter 212, and the Department of Revenue has
2077 issued a warrant or filed a judgment lien certificate against the
2078 licensee's property.

2079 Section 35. Paragraph (b) of subsection (5) of section
2080 624.509, Florida Statutes, is amended to read:

2081 624.509 Premium tax; rate and computation.--

2082 (5)

2083 (b) For purposes of this subsection:

2084 1. The term "salaries" does not include amounts paid as
2085 commissions.

2086 2. The term "employees" does not include independent
2087 contractors or any person whose duties require that the person
2088 hold a valid license under the Florida Insurance Code, except
2089 adjusters, managing general agents, and service representatives,
2090 as defined in s. 626.015.

2091 3. The term "net tax" means the tax imposed by this section
2092 after applying the calculations and credits set forth in
2093 subsection (4).

2094 4. An affiliated group of corporations that created a
2095 service company within its affiliated group on July 30, 2002,
2096 shall allocate the salary of each service company employee
2097 covered by contracts with affiliated group members to the
2098 companies for which the employees perform services. The salary
2099 allocation is based on the amount of time during the tax year
2100 that the individual employee spends performing services or



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2101 otherwise working for each company over the total amount of time
2102 the employee spends performing services or otherwise working for
2103 all companies. The total amount of salary allocated to an
2104 insurance company within the affiliated group shall be included
2105 as that insurer's employee salaries for purposes of this section.

2106 a. Except as provided in subparagraph (a)2., the term
2107 "affiliated group of corporations" means two or more corporations
2108 that are entirely owned by a single corporation and that
2109 constitute an affiliated group of corporations as defined in s.
2110 1504(a) of the Internal Revenue Code.

2111 b. The term "service company" means a separate corporation
2112 within the affiliated group of corporations whose employees
2113 provide services to affiliated group members and which are
2114 treated as service company employees for unemployment
2115 compensation and common law purposes. The holding company of an
2116 affiliated group may not qualify as a service company. An
2117 insurance company may not qualify as a service company.

2118 c. If an insurance company fails to substantiate, whether
2119 by means of adequate records or otherwise, its eligibility to
2120 claim the service company exception under this section, or its
2121 salary allocation under this section, no credit shall be allowed.

2122 ~~5. A service company that is a subsidiary of a mutual~~
2123 ~~insurance holding company, which mutual insurance holding company~~
2124 ~~was in existence on or before January 1, 2000, shall allocate the~~
2125 ~~salary of each service company employee covered by contracts with~~
2126 ~~members of the mutual insurance holding company system to the~~
2127 ~~companies for which the employees perform services. The salary~~
2128 ~~allocation is based on the ratio of the amount of time during the~~
2129 ~~tax year which the individual employee spends performing services~~
2130 ~~or otherwise working for each company to the total amount of time~~



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2131 ~~the employee spends performing services or otherwise working for~~
2132 ~~all companies. The total amount of salary allocated to an~~
2133 ~~insurance company within the mutual insurance holding company~~
2134 ~~system shall be included as that insurer's employee salaries for~~
2135 ~~purposes of this section. However, this subparagraph does not~~
2136 ~~apply for any tax year unless funds sufficient to offset the~~
2137 ~~anticipated salary credits have been appropriated to the General~~
2138 ~~Revenue Fund prior to the due date of the final return for that~~
2139 ~~year.~~

2140 ~~a. The term "mutual insurance holding company system" means~~
2141 ~~two or more corporations that are subsidiaries of a mutual~~
2142 ~~insurance holding company and in compliance with part IV of~~
2143 ~~chapter 628.~~

2144 ~~b. The term "service company" means a separate corporation~~
2145 ~~within the mutual insurance holding company system whose~~
2146 ~~employees provide services to other members of the mutual~~
2147 ~~insurance holding company system and are treated as service~~
2148 ~~company employees for unemployment compensation and common law~~
2149 ~~purposes. The mutual insurance holding company may not qualify as~~
2150 ~~a service company.~~

2151 ~~e. If an insurance company fails to substantiate, whether~~
2152 ~~by means of adequate records or otherwise, its eligibility to~~
2153 ~~claim the service company exception under this section, or its~~
2154 ~~salary allocation under this section, no credit shall be allowed.~~

2155 Section 36. Section 695.22, Florida Statutes, is amended to
2156 read:

2157 695.22 Daily schedule of deeds and conveyances filed for
2158 record to be furnished property appraiser.--After October 1,
2159 1945, the several clerks of the circuit courts shall keep and
2160 furnish to the respective county property appraisers in the



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2161 counties where such instruments are recorded a daily schedule of
2162 the aforesaid deeds and conveyances so filed for recordation, in
2163 which schedule shall be set forth the name of the grantor or
2164 grantors, the names and addresses of each grantee, the actual
2165 purchase price or other valuable consideration paid for the
2166 property conveyed, and a description of the land as specified in
2167 each instrument so filed.

2168 Section 37. Paragraph (g) is added to subsection (1) of
2169 section 695.26, Florida Statutes, to read:

2170 695.26 Requirements for recording instruments affecting
2171 real property.--

2172 (1) No instrument by which the title to real property or
2173 any interest therein is conveyed, assigned, encumbered, or
2174 otherwise disposed of shall be recorded by the clerk of the
2175 circuit court unless:

2176 (g) The actual purchase price or other valuable
2177 consideration paid for the real property or interest conveyed,
2178 assigned, encumbered, or otherwise disposed is legibly printed,
2179 typewritten, or stamped upon the instrument.

2180 Section 38. Section 213.054, Florida Statutes, is repealed.

2181 Section 39. Except as otherwise expressly provided in this
2182 act and except for this section, which shall take effect upon
2183 becoming a law, this act shall take effect July 1, 2008.

2184
2185 ===== T I T L E A M E N D M E N T =====

2186 And the title is amended as follows:

2187 Delete everything before the enacting clause
2188 and insert:

2189 A bill to be entitled



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2190 An act relating to tax administration; amending s. 72.011,
2191 F.S.; revising the time for commencing actions to contest
2192 a tax matter; amending s. 125.0104, F.S.; revising the
2193 list of living quarters or accommodations that are subject
2194 to taxation; providing definitions; providing for taxation
2195 of regulated short-term products; providing that the
2196 occupancy of a timeshare resort and membership or
2197 transaction fee paid by a timeshare owner are not a
2198 privilege subject to taxation; providing that
2199 consideration paid for the purchase of a timeshare license
2200 in a timeshare plan is rent subject to taxation;
2201 authorizing the Department of Revenue to establish audit
2202 procedures and to access for delinquent taxes; requiring
2203 the person operating transient accommodations to
2204 separately state the tax charged on a receipt or other
2205 documentation; providing that persons facilitating the
2206 booking of reservations are not required to separately
2207 state tax amounts charged; requiring that such amounts be
2208 remitted as tax and classified as county funds; providing
2209 additional specified uses for certain tourist tax revenue
2210 by certain counties; specifying that certain provisions of
2211 the act are clarifying and remedial in nature and are not
2212 a basis for assessments of tax or for refunds of tax for
2213 periods before the effective date of the act; amending s.
2214 125.0108, F.S.; revising the list of living quarters or
2215 accommodations that are subject to taxation; providing
2216 definitions; providing for taxation of regulated short-
2217 term products; providing that the occupancy of a timeshare
2218 resort and membership or transaction fee paid by a
2219 timeshare owner are not a privilege subject to taxation;



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2220 providing that consideration paid for the purchase of a
2221 timeshare license in a timeshare plan is rent subject to
2222 taxation; authorizing the Department of Revenue to
2223 establish audit procedures and to access for delinquent
2224 taxes; requiring the person operating transient
2225 accommodations to separately state the tax charged on a
2226 receipt or other documentation; providing that persons
2227 facilitating the booking of reservations are not required
2228 to separately state tax amounts charged; requiring that
2229 such amounts be remitted as tax and classified as county
2230 funds; specifying that certain provisions of the act are
2231 clarifying and remedial in nature and are not a basis for
2232 assessments of tax or for refunds of tax for periods
2233 before the effective date of the act; amending s. 196.192,
2234 F.S.; providing that educational institutions owned by
2235 exempt entities are also exempt from ad valorem taxation;
2236 amending s. 201.02, F.S.; requiring a notation indicating
2237 a nonprofit's exemption from the documentary stamp tax;
2238 amending ss. 212.03 and 212.0305, F.S.; revising the list
2239 of living quarters or sleeping or housekeeping
2240 accommodations that are subject to taxation; providing
2241 definitions; providing for taxation of regulated short-
2242 term products; providing that the occupancy of an
2243 accommodation of a timeshare resort and membership or
2244 transaction fee paid by a timeshare owner is not a
2245 privilege subject to taxation; providing that
2246 consideration paid for the purchase of a timeshare license
2247 in a timeshare plan is rent subject to taxation; requiring
2248 the person operating transient accommodations to
2249 separately state the tax charged on a receipt or other



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2250 | documentation; providing that persons facilitating the
2251 | booking of reservations are not required to separately
2252 | state tax amounts charged; requiring that such amounts be
2253 | remitted as tax and classified as county funds; specifying
2254 | that certain provisions of the act are clarifying and
2255 | remedial in nature and are not a basis for assessments of
2256 | tax or for refunds of tax for periods before the effective
2257 | date of the act; amending s. 212.031, F.S.; conforming a
2258 | cross-reference; amending s. 212.055, F.S.; authorizing
2259 | certain counties to levy a hospital surtax subject to
2260 | referendum approval; providing for the allocation and uses
2261 | of the surtax proceeds; amending s. 212.07, F.S.;
2262 | conforming a cross-reference; providing penalties for
2263 | knowingly failing to collect taxes due; amending s.
2264 | 212.08, F.S.; revising provisions relating to the tax
2265 | exemption for building materials used to rehabilitate real
2266 | property in enterprise zones; amending s. 212.12, F.S.;
2267 | revising penalties for failing to report taxes due;
2268 | amending s. 212.18, F.S.; revising penalties for failing
2269 | to register as a dealer; amending s. 213.015, F.S.;
2270 | conforming a cross-reference; amending s. 213.053, F.S.;
2271 | revising provisions relating to confidentiality;
2272 | authorizing the Department of Revenue to send certain
2273 | general information to taxpayers by electronic means;
2274 | deleting a provision that allows the disclosure of certain
2275 | information to the Chief Financial Officer; authorizing
2276 | the department to provide taxpayer information to the
2277 | Division of Hotels and Restaurants; providing an
2278 | additional exception from the public-records exemption;
2279 | authorizing the Department of Revenue to publish a list of



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2280 delinquent taxpayers; authorizing the department to adopt
2281 rules; creating s. 213.0532, F.S.; providing definitions;
2282 requiring financial institutions to enter into agreements
2283 with the department to conduct data matches to identify
2284 delinquent taxpayers; providing definitions; requiring the
2285 department to pay a fee to cover the cost to the
2286 institution; providing immunity from liability for certain
2287 actions by the institution; authorizing the department to
2288 institute civil actions; authorizing the department to
2289 adopt rules; amending s. 213.25, F.S.; clarifying that the
2290 department's authority to reduce tax refunds or credits by
2291 the amount of other taxes owed applies to unemployment
2292 compensation taxes; amending s. 213.67, F.S.; revising the
2293 time for commencing actions to contest a tax levy;
2294 creating s. 213.691, F.S.; authorizing the Department of
2295 Revenue to issue or file integrated warrants and judgment
2296 lien certificates; creating s. 213.692, F.S.; authorizing
2297 the department to file a single consolidated tax warrant
2298 for multiple taxes due and to revoke a taxpayer's
2299 certificate of registration if the taxpayer owes any taxes
2300 to the state; requiring a cash deposit or other security
2301 for issuing a new certificate of registration; authorizing
2302 the department to adopt rules; authorizing emergency
2303 rules; creating s. 213.758, F.S.; providing definitions;
2304 assigning tax liability when property is transferred;
2305 requiring a taxpayer who quits the business without
2306 benefit of a purchaser to make a final return and full
2307 payment within a specified period; providing for the
2308 Department of Legal Affairs to issue an injunction;
2309 specifying a transferee's liability for tax, interest, and



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2310 penalties; authorizing the Department of Revenue to adopt
2311 rules; amending s. 220.193, F.S.; allowing a corporation
2312 that owns a partnership or limited liability company that
2313 produces and sells electricity from a new or expanded
2314 renewable energy facility to claim a renewable energy
2315 production credit; providing for proration among multiple
2316 owners; providing for retroactive application; amending s.
2317 220.21, F.S.; revising provisions relating to the
2318 electronic filing of corporate taxes; providing for
2319 retroactivity; amending s. 336.021, F.S.; revising the
2320 order for distributing the local option fuel tax revenues;
2321 amending s. 443.1215, F.S.; revising a cross-reference;
2322 amending s. 443.1316, F.S.; conforming provisions to
2323 changes made by the act; amending s. 443.141, F.S.;
2324 providing penalties for erroneous, incomplete, or
2325 insufficient unemployment compensation tax reports filed
2326 by employers; providing a statute of limitation on liens
2327 for the collection of unpaid unemployment taxes; amending
2328 s. 509.261, F.S.; authorizing the Division of Hotels and
2329 Restaurants to fine, suspend, or revoke a license for
2330 violating state tax laws; amending s. 624.509, F.S.;
2331 deleting the alternative salary tax credit calculation for
2332 mutual holding companies; amending s. 695.22, F.S.;
2333 requiring the actual purchase price to be included on
2334 deeds and conveyances filed for record; amending s.
2335 695.26, F.S.; requiring the actual purchase price to be
2336 shown on an instrument by which the title to real property
2337 or any interest therein is conveyed; repealing s. 213.054,
2338 F.S., relating to a report naming persons who claim a
2339 deduction for the net earnings of an international banking



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facility; providing for retroactive application of
specified provisions; providing effective dates.