



516968

593-06048A-08

Proposed Committee Substitute by the Committee on Finance and Tax

1                   A bill to be entitled  
2           An act relating to tax administration; amending s. 72.011,  
3           F.S.; revising the time for commencing actions to contest  
4           a tax matter; amending s. 125.0104, F.S.; revising the  
5           list of living quarters or accommodations that are subject  
6           to taxation; providing definitions; providing for taxation  
7           of regulated short-term products; providing that the  
8           occupancy of a timeshare resort and membership or  
9           transaction fee paid by a timeshare owner are not a  
10          privilege subject to taxation; providing that  
11          consideration paid for the purchase of a timeshare license  
12          in a timeshare plan is rent subject to taxation;  
13          authorizing the Department of Revenue to establish audit  
14          procedures and to access for delinquent taxes; requiring  
15          the person operating transient accommodations to  
16          separately state the tax charged on a receipt or other  
17          documentation; providing that persons facilitating the  
18          booking of reservations are not required to separately  
19          state tax amounts charged; requiring that such amounts be  
20          remitted as tax and classified as county funds; specifying  
21          that certain provisions of the act are clarifying and  
22          remedial in nature and are not a basis for assessments of  
23          tax or for refunds of tax for periods before the effective  
24          date of the act; amending s. 192.0105, F.S.; revising the  
25          list of tax-related forms that a taxpayer has a right to  
26          keep confidential; amending s. 196.192; providing that  
27          educational institutions owned by exempt entities are also  
28          exempt from ad valorem taxation; amending s. 201.02, F.S.;



516968

593-06048A-08

29 requiring a notation indicating a nonprofit's exemption  
30 from the documentary stamp tax; amending s. 202.125, F.S.;  
31 providing an exemption from the communications services  
32 tax for communications services used for a pari-mutuel  
33 permitholder's simulcasting and intertrack wagering  
34 activities; providing for retroactive application;  
35 amending ss. 212.03 and 212.0305, F.S.; revising the list  
36 of living quarters or sleeping or housekeeping  
37 accommodations that are subject to taxation; providing  
38 definitions; providing for taxation of regulated short-  
39 term products; providing that the occupancy of an  
40 accommodation of a timeshare resort and membership or  
41 transaction fee paid by a timeshare owner is not a  
42 privilege subject to taxation; providing that  
43 consideration paid for the purchase of a timeshare license  
44 in a timeshare plan is rent subject to taxation; requiring  
45 the person operating transient accommodations to  
46 separately state the tax charged on a receipt or other  
47 documentation; providing that persons facilitating the  
48 booking of reservations are not required to separately  
49 state tax amounts charged; requiring that such amounts be  
50 remitted as tax and classified as county funds; specifying  
51 that certain provisions of the act are clarifying and  
52 remedial in nature and are not a basis for assessments of  
53 tax or for refunds of tax for periods before the effective  
54 date of the act; amending s. 212.031, F.S.; conforming a  
55 cross-reference; amending s. 212.07, F.S.; conforming a  
56 cross-reference; providing penalties for knowingly failing  
57 to collect taxes due; amending s. 212.08, F.S.; revising  
58 provisions relating to the tax exemption for building



516968

593-06048A-08

59 materials used to rehabilitate real property in enterprise  
60 zones; providing an exemption from the sales and use tax  
61 for an aircraft that is temporarily used in this state;  
62 providing that proof of temporary usage may be shown by  
63 specific documentation; amending s. 212.12, F.S.; revising  
64 penalties for failing to report taxes due; amending s.  
65 212.18, F.S.; revising penalties for failing to register  
66 as a dealer; amending s. 213.015, F.S.; conforming a  
67 cross-reference; amending s. 213.053, F.S.; revising  
68 provisions relating to confidentiality; authorizing the  
69 Department of Revenue to send certain general information  
70 to taxpayers by electronic means; deleting a provision  
71 that allows the disclosure of certain information to the  
72 Chief Financial Officer; authorizing the department to  
73 provide taxpayer information to the Division of Hotels and  
74 Restaurants; providing an additional exception from the  
75 public-records exemption; authorizing the Department of  
76 Revenue to publish a list of delinquent taxpayers;  
77 authorizing the department to adopt rules; creating s.  
78 213.0532, F.S.; requiring financial institutions to enter  
79 into agreements with the department to conduct data  
80 matches to identify delinquent taxpayers; providing  
81 definitions; requiring the department to pay a fee to  
82 cover the cost to the institution; providing immunity from  
83 liability for certain actions by the institution;  
84 authorizing the department to institute civil actions;  
85 authorizing the department to adopt rules; amending s.  
86 213.25, F.S.; clarifying that the department's authority  
87 to reduce tax refunds or credits by the amount of other  
88 taxes owed applies to unemployment compensation taxes;



516968

593-06048A-08

89 | amending s. 213.67, F.S.; revising the time for commencing  
90 | actions to contest a tax levy; creating s. 213.691, F.S.;  
91 | authorizing the Department of Revenue to issue or file  
92 | integrated warrants and judgment lien certificates;  
93 | creating s. 213.692, F.S.; authorizing the department to  
94 | file a single consolidated tax warrant for multiple taxes  
95 | due and to revoke a taxpayer's certificate of registration  
96 | if the taxpayer owes any taxes to the state; requiring a  
97 | cash deposit or other security for issuing a new  
98 | certificate of registration; authorizing the department to  
99 | adopt rules; authorizing emergency rules; creating s.  
100 | 213.758, F.S.; assigning tax liability when property is  
101 | transferred; requiring a taxpayer who quits the business  
102 | without benefit of a purchaser to make a final return and  
103 | full payment within a specified period; providing for the  
104 | Department of Legal Affairs to issue an injunction;  
105 | specifying a transferee's liability for tax, interest, and  
106 | penalties; authorizing the Department of Revenue to adopt  
107 | rules; amending s. 220.193, F.S.; allowing a corporation  
108 | that owns a partnership or limited liability company that  
109 | produces and sells electricity from a new or expanded  
110 | renewable energy facility to claim a renewable energy  
111 | production credit; providing for proration among multiple  
112 | owners; providing for retroactive application; amending s.  
113 | 220.21, F.S.; revising provisions relating to the  
114 | electronic filing of corporate taxes; providing for  
115 | retroactivity; amending s. 336.021, F.S.; revising the  
116 | order for distributing the local option fuel tax revenues;  
117 | amending s. 443.1215, F.S.; revising a cross-reference;  
118 | amending s. 443.1316, F.S.; conforming provisions to



516968

593-06048A-08

119 | changes made by the act; amending s. 443.141, F.S.;

120 | providing penalties for erroneous, incomplete, or

121 | insufficient unemployment compensation tax reports filed

122 | by employers; providing a statute of limitation on liens

123 | for the collection of unpaid unemployment taxes; amending

124 | s. 509.261, F.S.; authorizing the Division of Hotels and

125 | Restaurants to fine, suspend, or revoke a license for

126 | violating state tax laws; amending s. 624.509, F.S.;

127 | deleting the alternative salary tax credit calculation for

128 | mutual holding companies; repealing s. 213.054, F.S.,

129 | relating to a report naming persons who claim a deduction

130 | for the net earnings of an international banking facility;

131 | providing for retroactive application of specified

132 | provisions; providing effective dates.

133 |

134 | Be It Enacted by the Legislature of the State of Florida:

135 |

136 | Section 1. Paragraph (a) of subsection (2) of section

137 | 72.011, Florida Statutes, is amended to read:

138 | 72.011 Jurisdiction of circuit courts in specific tax

139 | matters; administrative hearings and appeals; time for commencing

140 | action; parties; deposits.--

141 | (2) (a) An action may not be brought to contest an

142 | assessment of any tax, interest, or penalty assessed under a

143 | section or chapter specified in subsection (1) if the petition is

144 | postmarked or the action is filed more than 60 days after the

145 | date the assessment becomes final. An action may not be brought

146 | to contest a denial of refund of any tax, interest, or penalty

147 | paid under a section or chapter specified in subsection (1) if



516968

593-06048A-08

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

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

152 125.0104 Tourist development tax; procedure for levying;  
153 authorized uses; referendum; enforcement.--

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

155 (a) It is declared to be the intent of the Legislature that  
156 every person who rents, leases, or lets for consideration any  
157 living quarters or accommodations in any hotel, apartment hotel,  
158 motel, resort motel, apartment, apartment motel, roominghouse,  
159 mobile home park, recreational vehicle park, ~~or~~ condominium, or  
160 timeshare resort for a term of 6 months or less is exercising a  
161 privilege which is subject to taxation under this section, unless  
162 such person rents, leases, or lets for consideration any living  
163 quarters or accommodations which are exempt according to the  
164 provisions of chapter 212.

165 (b) As used in this section, the terms "consideration,"  
166 "rental," and "rents" mean the amount received by a person  
167 operating transient accommodations for the use or securing the  
168 use of any living quarters or sleeping or housekeeping  
169 accommodations in, from, or a part of, or in connection with any  
170 hotel, apartment house, roominghouse, timeshare resort, tourist  
171 or trailer camp, mobile home park, recreational vehicle park, or  
172 condominium. The term "person operating transient accommodations"  
173 means the person conducting the daily affairs of the physical  
174 facilities furnishing transient accommodations who is responsible  
175 for providing the services commonly associated with operating the  
176 facilities furnishing transient accommodations regardless of  
177 whether such commonly associated services are provided by third



516968

593-06048A-08

178 parties. The terms "consideration" and "rents" do not include  
179 payments received by unrelated persons for facilitating the  
180 booking of reservations for or on behalf of the lessees or  
181 licensees at hotels, apartment houses, roominghouses, timeshare  
182 resorts, tourist or trailer camps, mobile home parks,  
183 recreational vehicle parks, or condominiums in this state.  
184 "Unrelated person" means a person who is not in the same  
185 affiliated group of corporations pursuant to s. 1504 of the  
186 Internal Revenue Code of 1986, as amended.

187 (c) Tax shall be due on the consideration paid for  
188 occupancy in the county pursuant to a regulated short-term  
189 product, as defined in chapter 721, or occupancy in the county  
190 pursuant to a product that would be deemed a regulated short-term  
191 product if the agreement to purchase the short-term right were  
192 executed in this state. Such tax shall be collected on the last  
193 day of occupancy within the county unless the consideration is  
194 applied to the purchase of a timeshare estate. Notwithstanding  
195 paragraphs (a) and (b), the occupancy of an accommodation of a  
196 timeshare resort pursuant to a timeshare plan, a multisite  
197 timeshare plan, or an exchange transaction in an exchange  
198 program, as defined in chapter 721, by the owner of a timeshare  
199 interest or such owner's guest, which guest is not paying  
200 monetary consideration to the owner or to a third party for the  
201 benefit of the owner, is not a privilege subject to taxation  
202 under this section. A membership or transaction fee paid by a  
203 timeshare owner which does not provide the timeshare owner with  
204 the right to occupy any specific timeshare unit but merely  
205 provides the timeshare owner with the opportunity to exchange a  
206 timeshare interest through an exchange program is a service  
207 charge and is not subject to taxation.



516968

593-06048A-08

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

211           (e)~~(b)~~ Subject to the provisions of this section, any county  
212 in this state may levy and impose a tourist development tax on the  
213 exercise within its boundaries of the taxable privilege described  
214 in paragraph (a), except that there shall be no additional levy  
215 under this section in any cities or towns presently imposing a  
216 municipal resort tax as authorized under chapter 67-930, Laws of  
217 Florida, and this section shall not in any way affect the powers  
218 and existence of any tourist development authority created pursuant  
219 to chapter 67-930, Laws of Florida. No county authorized to levy a  
220 convention development tax pursuant to s. 212.0305, or to s. 8 of  
221 chapter 84-324, Laws of Florida, shall be allowed to levy more than  
222 the 2-percent tax authorized by this section. A county may elect to  
223 levy and impose the tourist development tax in a subcounty special  
224 district of the county. However, if a county so elects to levy and  
225 impose the tax on a subcounty special district basis, the district  
226 shall embrace all or a significant contiguous portion of the  
227 county, and the county shall assist the Department of Revenue in  
228 identifying the rental units subject to tax in the district.

229           (f)~~(e)~~ The tourist development tax shall be levied,  
230 imposed, and set by the governing board of the county at a rate  
231 of 1 percent or 2 percent of each dollar and major fraction of  
232 each dollar of the total consideration charged for such lease or  
233 rental. When receipt of consideration is by way of property other  
234 than money, the tax shall be levied and imposed on the fair  
235 market value of such nonmonetary consideration.

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





516968

593-06048A-08

238 county may levy, impose, and set an additional 1 percent of each  
239 dollar above the tax rate set under paragraph (f) ~~(e)~~ by the  
240 extraordinary vote of the governing board for the purposes set  
241 forth in subsection (5) or by referendum approval by the  
242 registered electors within the county or subcounty special  
243 district. No county shall levy, impose, and set the tax  
244 authorized under this paragraph unless the county has imposed the  
245 1-percent or 2-percent tax authorized under paragraph (f) ~~(e)~~ for  
246 a minimum of 3 years prior to the effective date of the levy and  
247 imposition of the tax authorized by this paragraph. Revenues  
248 raised by the additional tax authorized under this paragraph  
249 shall not be used for debt service on or refinancing of existing  
250 facilities as specified in subparagraph (5) (a)1. unless approved  
251 by a resolution adopted by an extraordinary majority of the total  
252 membership of the governing board of the county. If the 1-percent  
253 or 2-percent tax authorized in paragraph (f) ~~(e)~~ is levied within  
254 a subcounty special taxing district, the additional tax  
255 authorized in this paragraph shall only be levied therein. The  
256 provisions of paragraphs (4) (a)-(d) shall not apply to the  
257 adoption of the additional tax authorized in this paragraph. The  
258 effective date of the levy and imposition of the tax authorized  
259 under this paragraph shall be the first day of the second month  
260 following approval of the ordinance by the governing board or the  
261 first day of any subsequent month as may be specified in the  
262 ordinance. A certified copy of such ordinance shall be furnished  
263 by the county to the Department of Revenue within 10 days after  
264 approval of such ordinance.

265 (h) ~~(e)~~ The tourist development tax shall be in addition to  
266 any other tax imposed pursuant to chapter 212 and in addition to  
267 all other taxes and fees and the consideration for the rental or



516968

593-06048A-08

268 | lease.

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

273 |        (j)~~(g)~~ The person receiving the consideration for such  
274 | rental or lease shall receive, account for, and remit the tax to  
275 | the Department of Revenue at the time and in the manner provided  
276 | for persons who collect and remit taxes under s. 212.03. The same  
277 | duties and privileges imposed by chapter 212 upon dealers in  
278 | tangible property, respecting the collection and remission of  
279 | tax; the making of returns; the keeping of books, records, and  
280 | accounts; and compliance with the rules of the Department of  
281 | Revenue in the administration of that chapter shall apply to and  
282 | be binding upon all persons who are subject to the provisions of  
283 | this section. However, the Department of Revenue may authorize a  
284 | quarterly return and payment when the tax remitted by the dealer  
285 | for the preceding quarter did not exceed \$25.

286 |        (k)~~(h)~~ The Department of Revenue shall keep records showing  
287 | the amount of taxes collected, which records shall also include  
288 | records disclosing the amount of taxes collected for and from  
289 | each county in which the tax authorized by this section is  
290 | applicable. These records shall be open for inspection during the  
291 | regular office hours of the Department of Revenue, subject to the  
292 | provisions of s. 213.053.

293 |        (l)~~(i)~~ Collections received by the Department of Revenue  
294 | from the tax, less costs of administration of this section, shall  
295 | be paid and returned monthly to the county which imposed the tax,  
296 | for use by the county in accordance with the provisions of this  
297 | section. They shall be placed in the county tourist development



516968

593-06048A-08

298 trust fund of the respective county, which shall be established  
299 by each county as a condition precedent to receipt of such funds.

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

303 (n)-(k) The Department of Revenue shall adopt ~~promulgate~~  
304 ~~such~~ rules and ~~shall~~ prescribe and publish ~~such~~ forms as ~~may be~~  
305 necessary to effectuate the purposes of this section. The  
306 department may establish audit procedures to assess for  
307 delinquent taxes. The person operating transient accommodations  
308 shall state the tax separately from the rental charged on the  
309 receipt, invoice, or other documentation issued with respect to  
310 charges for transient accommodations. Persons facilitating the  
311 booking of reservations who are unrelated to the person operating  
312 the transient accommodations in which the reservation is booked  
313 are not required to separately state amounts charged on the  
314 receipt, invoice, or other documentation issued by the person  
315 facilitating the booking of the reservation. Any amounts  
316 specifically collected as a tax are county funds and must be  
317 remitted as tax.

318 (o)-(l) In addition to any other tax which is imposed  
319 pursuant to this section, a county may impose up to an additional  
320 1-percent tax on the exercise of the privilege described in  
321 paragraph (a) by majority vote of the governing board of the  
322 county in order to:

323 1. Pay the debt service on bonds issued to finance the  
324 construction, reconstruction, or renovation of a professional  
325 sports franchise facility, or the acquisition, construction,  
326 reconstruction, or renovation of a retained spring training  
327 franchise facility, either publicly owned and operated, or



516968

593-06048A-08

328 | publicly owned and operated by the owner of a professional sports  
329 | franchise or other lessee with sufficient expertise or financial  
330 | capability to operate such facility, and to pay the planning and  
331 | design costs incurred prior to the issuance of such bonds.

332 |         2. Pay the debt service on bonds issued to finance the  
333 | construction, reconstruction, or renovation of a convention  
334 | center, and to pay the planning and design costs incurred prior  
335 | to the issuance of such bonds.

336 |         3. Pay the operation and maintenance costs of a convention  
337 | center for a period of up to 10 years. Only counties that have  
338 | elected to levy the tax for the purposes authorized in  
339 | subparagraph 2. may use the tax for the purposes enumerated in  
340 | this subparagraph. Any county that elects to levy the tax for the  
341 | purposes authorized in subparagraph 2. after July 1, 2000, may  
342 | use the proceeds of the tax to pay the operation and maintenance  
343 | costs of a convention center for the life of the bonds.

344 |         4. Promote and advertise tourism in the State of Florida  
345 | and nationally and internationally; however, if tax revenues are  
346 | expended for an activity, service, venue, or event, the activity,  
347 | service, venue, or event shall have as one of its main purposes  
348 | the attraction of tourists as evidenced by the promotion of the  
349 | activity, service, venue, or event to tourists.

350 |  
351 | The provision of paragraph (e) ~~(b)~~ which prohibits any county  
352 | authorized to levy a convention development tax pursuant to s.  
353 | 212.0305 from levying more than the 2-percent tax authorized by  
354 | this section, and the provisions of paragraphs (4) (a)-(d), shall  
355 | not apply to the additional tax authorized in this paragraph. The  
356 | effective date of the levy and imposition of the tax authorized  
357 | under this paragraph shall be the first day of the second month



516968

593-06048A-08

358 following approval of the ordinance by the governing board or the  
359 first day of any subsequent month as may be specified in the  
360 ordinance. A certified copy of such ordinance shall be furnished  
361 by the county to the Department of Revenue within 10 days after  
362 approval of such ordinance.

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

370 2. A county is considered to be a high tourism impact  
371 county after the Department of Revenue has certified to such  
372 county that the sales subject to the tax levied pursuant to this  
373 section exceeded \$600 million during the previous calendar year,  
374 or were at least 18 percent of the county's total taxable sales  
375 under chapter 212 where the sales subject to the tax levied  
376 pursuant to this section were a minimum of \$200 million, except  
377 that no county authorized to levy a convention development tax  
378 pursuant to s. 212.0305 shall be considered a high tourism impact  
379 county. Once a county qualifies as a high tourism impact county,  
380 it shall retain this designation for the period the tax is levied  
381 pursuant to this paragraph.

382 3. The provisions of paragraphs (4) (a)-(d) shall not apply  
383 to the adoption of the additional tax authorized in this  
384 paragraph. The effective date of the levy and imposition of the  
385 tax authorized under this paragraph shall be the first day of the  
386 second month following approval of the ordinance by the governing  
387 board or the first day of any subsequent month as may be



516968

593-06048A-08

388 | specified in the ordinance. A certified copy of such ordinance  
389 | shall be furnished by the county to the Department of Revenue  
390 | within 10 days after approval of such ordinance.

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

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

398 |       a. The construction, reconstruction, or renovation of a  
399 | facility either publicly owned and operated, or publicly owned  
400 | and operated by the owner of a professional sports franchise or  
401 | other lessee with sufficient expertise or financial capability to  
402 | operate such facility, and to pay the planning and design costs  
403 | incurred prior to the issuance of such bonds for a new  
404 | professional sports franchise as defined in s. 288.1162.

405 |       b. The acquisition, construction, reconstruction, or  
406 | renovation of a facility either publicly owned and operated, or  
407 | publicly owned and operated by the owner of a professional sports  
408 | franchise or other lessee with sufficient expertise or financial  
409 | capability to operate such facility, and to pay the planning and  
410 | design costs incurred prior to the issuance of such bonds for a  
411 | retained spring training franchise.

412 |       2. Promote and advertise tourism in the State of Florida  
413 | and nationally and internationally; however, if tax revenues are  
414 | expended for an activity, service, venue, or event, the activity,  
415 | service, venue, or event shall have as one of its main purposes  
416 | the attraction of tourists as evidenced by the promotion of the  
417 | activity, service, venue, or event to tourists.



516968

593-06048A-08

418  
419 A county that imposes the tax authorized in this paragraph may  
420 not expend any ad valorem tax revenues for the acquisition,  
421 construction, reconstruction, or renovation of a facility for  
422 which tax revenues are used pursuant to subparagraph 1. The  
423 provision of paragraph (e) ~~(b)~~ which prohibits any county  
424 authorized to levy a convention development tax pursuant to s.  
425 212.0305 from levying more than the 2-percent tax authorized by  
426 this section shall not apply to the additional tax authorized by  
427 this paragraph in counties which levy convention development  
428 taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not  
429 apply to the adoption of the additional tax authorized in this  
430 paragraph. The effective date of the levy and imposition of the  
431 tax authorized under this paragraph is the first day of the  
432 second month following approval of the ordinance by the board of  
433 county commissioners or the first day of any subsequent month  
434 specified in the ordinance. A certified copy of such ordinance  
435 shall be furnished by the county to the Department of Revenue  
436 within 10 days after approval of the ordinance.

437 Section 3. The amendments made by this act to s. 125.0104,  
438 Florida Statutes, are intended as clarifying and remedial in  
439 nature and are not a basis for assessments of tax for periods  
440 before July 1, 2008, or for refunds of tax for periods before  
441 July 1, 2008.

442 Section 4. Effective January 1, 2009, paragraph (a) of  
443 subsection (4) of section 192.0105, Florida Statutes, is amended  
444 to read:

445 192.0105 Taxpayer rights.--There is created a Florida  
446 Taxpayer's Bill of Rights for property taxes and assessments to  
447 guarantee that the rights, privacy, and property of the taxpayers



516968

593-06048A-08

448 of this state are adequately safeguarded and protected during tax  
449 levy, assessment, collection, and enforcement processes  
450 administered under the revenue laws of this state. The Taxpayer's  
451 Bill of Rights compiles, in one document, brief but comprehensive  
452 statements that summarize the rights and obligations of the  
453 property appraisers, tax collectors, clerks of the court, local  
454 governing boards, the Department of Revenue, and taxpayers.  
455 Additional rights afforded to payors of taxes and assessments  
456 imposed under the revenue laws of this state are provided in s.  
457 213.015. The rights afforded taxpayers to assure that their  
458 privacy and property are safeguarded and protected during tax  
459 levy, assessment, and collection are available only insofar as  
460 they are implemented in other parts of the Florida Statutes or  
461 rules of the Department of Revenue. The rights so guaranteed to  
462 state taxpayers in the Florida Statutes and the departmental  
463 rules include:

464 (4) THE RIGHT TO CONFIDENTIALITY.--

465 (a) The right to have information kept confidential,  
466 including federal tax information, ad valorem tax returns, social  
467 security numbers, all financial records produced by the taxpayer,  
468 Form DR-219 Return for Transfers of Interest in Real Property,  
469 returns required by s. 201.022 ~~for documentary stamp tax~~  
470 ~~information~~, and sworn statements of gross income, copies of  
471 federal income tax returns for the prior year, wage and earnings  
472 statements (W-2 forms), and other documents (see ss. 192.105,  
473 193.074, 193.114(5), 195.027(3) and (6), and 196.101(4)(c)).

474 Section 5. Section 196.192, Florida Statutes, is amended to  
475 read:

476 196.192 Exemptions from ad valorem taxation.--Subject to  
477 the provisions of this chapter:





516968

593-06048A-08

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

481 (2) All property owned by an exempt entity, including an  
482 educational institution, and used predominantly for exempt  
483 purposes shall be exempted from ad valorem taxation to the extent  
484 of the ratio that such predominant use bears to the nonexempt  
485 use.

486 (3) All tangible personal property loaned or leased by a  
487 natural person, by a trust holding property for a natural person,  
488 or by an exempt entity to an exempt entity for public display or  
489 exhibition on a recurrent schedule is exempt from ad valorem  
490 taxation if the property is loaned or leased for no consideration  
491 or for nominal consideration.

492  
493 For purposes of this section, each use to which the property is  
494 being put must be considered in granting an exemption from ad  
495 valorem taxation, including any economic use in addition to any  
496 physical use. For purposes of this section, property owned by a  
497 limited liability company, the sole member of which is an exempt  
498 entity, shall be treated as if the property were owned directly  
499 by the exempt entity. This section does not apply in determining  
500 the exemption for property owned by governmental units pursuant  
501 to s. 196.199.

502 Section 6. Effective January 1, 2009, subsection (6) of  
503 section 201.02, Florida Statutes, is amended to read:

504 201.02 Tax on deeds and other instruments relating to real  
505 property or interests in real property.--

506 (6) Taxes imposed by this section shall not apply to any  
507 assignment, transfer, or other disposition, or any document,



516968

593-06048A-08

508 | which arises out of a transfer of real property from a nonprofit  
509 | organization to the Board of Trustees of the Internal Improvement  
510 | Trust Fund, to any state agency, to any water management  
511 | district, or to any local government. For purposes of this  
512 | subsection, "nonprofit organization" means an organization whose  
513 | purpose is the preservation of natural resources and which is  
514 | exempt from federal income tax under s. 501(c)(3) of the Internal  
515 | Revenue Code. The following notation must be placed on the  
516 | document assigning, transferring, or otherwise disposing of the  
517 | property, adjacent to the official record stamp of the county, at  
518 | the time of its recording in the public records: "This document  
519 | is exempt from documentary stamp tax pursuant to s. 201.02(6),  
520 | F.S." ~~The Department of Revenue shall provide a form, or a place~~  
521 | ~~on an existing form, for the nonprofit organization to indicate~~  
522 | ~~its exempt status.~~

523 |       Section 7. Effective upon this act becoming a law and  
524 | applicable to charges for communications services incurred on or  
525 | after October 1, 2001, subsection (5) is added to section  
526 | 202.125, Florida Statutes, to read:

527 |       202.125 Sales of communications services; specified  
528 | exemptions.--

529 |       (5) The sale of communications services to a pari-mutuel  
530 | permitholder licensed under chapter 550 is exempt from the taxes  
531 | imposed or administered pursuant to ss. 202.12 and 202.19 if the  
532 | communications services are used for the permitholder's  
533 | simulcasting and intertrack wagering activities.

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

536 |       212.03 Transient rentals tax; rate, procedure, enforcement,  
537 | exemptions.--



516968

593-06048A-08

538 (1) It is hereby declared to be the legislative intent that  
539 every person is exercising a taxable privilege who engages in the  
540 business of renting, leasing, letting, or granting a license to  
541 use any living quarters or sleeping or housekeeping  
542 accommodations in, from, or a part of, or in connection with any  
543 hotel, apartment house, roominghouse, ~~or~~ tourist or trailer camp,  
544 mobile home park, recreational vehicle park, condominium, or  
545 timeshare resort. However, any person who rents, leases, lets, or  
546 grants a license to others to use, occupy, or enter upon any  
547 living quarters or sleeping or housekeeping accommodations in  
548 apartment houses, roominghouses, tourist camps, ~~or~~ trailer camps,  
549 mobile home park, recreational vehicle park, condominium, or  
550 timeshare resort, and who exclusively enters into a bona fide  
551 written agreement for continuous residence for longer than 6  
552 months in duration at such property is not exercising a taxable  
553 privilege. For the exercise of such taxable privilege, a tax is  
554 hereby levied in an amount equal to 6 percent of and on the total  
555 rental charged for such living quarters or sleeping or  
556 housekeeping accommodations by the person charging or collecting  
557 the rental. Such tax shall apply to hotels, apartment houses,  
558 roominghouses, ~~or~~ tourist or trailer camps, mobile home parks,  
559 recreational vehicle parks, condominiums, or timeshare resorts  
560 whether or not these facilities have there is in connection with  
561 any of the same any dining rooms, cafes, or other places where  
562 meals or lunches are sold or served to guests.

563 (2) As used in this section, the terms "rent," "rental,"  
564 "rentals," and "rental payments" mean the amount received by a  
565 person operating transient accommodations for the use or securing  
566 of any living quarters or sleeping or housekeeping accommodations  
567 in, from, or a part of, or in connection with any hotel,



516968

593-06048A-08

568 apartment house, roominghouse, mobile home park, recreational  
569 vehicle park, condominium, timeshare resort, or tourist or  
570 trailer camp. The phrase "person operating transient  
571 accommodations" means the person conducting the daily affairs of  
572 the physical facilities furnishing transient accommodations who  
573 is responsible for providing the services commonly associated  
574 with operating the facilities furnishing transient accommodations  
575 regardless of whether such commonly associated services are  
576 provided by third parties. The terms "consideration" and "rents"  
577 do not include payments received by unrelated persons for  
578 facilitating the booking of reservations for or on behalf of the  
579 lessees or licensees at hotels, apartment houses, roominghouses,  
580 mobile home parks, recreational vehicle parks, condominiums,  
581 timeshare resorts, or tourist or trailer camps in this state.  
582 "Unrelated person" means a person who is not in the same  
583 affiliated group of corporations pursuant to s. 1504 of the  
584 Internal Revenue Code of 1986, as amended.

585 (3) Tax shall be due on the consideration paid for  
586 occupancy in this state pursuant to a regulated short-term  
587 product, as defined in chapter 721, or occupancy in this state  
588 pursuant to a product that would be deemed a regulated short-term  
589 product if the agreement to purchase the short-term right was  
590 executed in this state. Such tax shall be collected on the last  
591 day of occupancy within the state unless such consideration is  
592 applied to the purchase of a timeshare estate. Notwithstanding  
593 subsections (1) and (2), the occupancy of an accommodation of a  
594 timeshare resort pursuant to a timeshare plan, a multisite  
595 timeshare plan, or an exchange transaction in an exchange  
596 program, as defined in chapter 721, by the owner of a timeshare  
597 interest or such owner's guest, which guest is not paying



516968

593-06048A-08

598 monetary consideration to the owner or to a third party for the  
599 benefit of the owner, is not a privilege subject to taxation  
600 under this section. A membership or transaction fee paid by a  
601 timeshare owner which does not provide the timeshare owner with  
602 the right to occupy any specific timeshare unit but merely  
603 provides the timeshare owner with the opportunity to exchange a  
604 timeshare interest through an exchange program is a service  
605 charge and not subject to tax.

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

609 (5)(2) The tax provided for herein shall be in addition to  
610 the total amount of the rental, shall be charged by the ~~lessor or~~  
611 person operating transient accommodations subject to the tax  
612 under this chapter ~~receiving the rent~~ in and by said rental  
613 arrangement to the ~~lessee or~~ person paying the rental, and shall  
614 be due and payable at the time of the receipt of such rental  
615 payment by the ~~lessor or~~ person operating transient  
616 accommodations, ~~as defined in this chapter, who receives said~~  
617 ~~rental or payment~~. The ~~owner, lessor, or~~ person operating  
618 transient accommodations ~~receiving the rent~~ shall remit the tax  
619 to the department on the amount of rent received at the times and  
620 in the manner hereinafter provided for dealers to remit taxes  
621 under this chapter. The same duties imposed by this chapter upon  
622 dealers in tangible personal property respecting the collection  
623 and remission of the tax; the making of returns; the keeping of  
624 books, records, and accounts; and the compliance with the rules  
625 and regulations of the department in the administration of this  
626 chapter shall apply to and be binding upon all persons who manage  
627 or operate hotels, apartment houses, roominghouses, tourist and



516968

593-06048A-08

628 trailer camps, and the rental of condominium units, and to all  
629 persons who collect or receive such rents on behalf of such owner  
630 or lessor taxable under this chapter. The person operating  
631 transient accommodations shall separately state the tax from the  
632 rental charged on the receipt, invoice, or other documentation  
633 issued with respect to charges for transient accommodations.  
634 Persons facilitating the booking of reservations who are  
635 unrelated to the person operating the transient accommodations in  
636 which the reservation is booked are not required to separately  
637 state amounts charged on the receipt, invoice, or other  
638 documentation issued by the person facilitating the booking of  
639 the reservation. Any amounts specifically collected as a tax are  
640 state funds and must be remitted as tax.

641 (6)-(3) When rentals are received by way of property, goods,  
642 wares, merchandise, services, or other things of value, the tax  
643 shall be at the rate of 6 percent of the value of the property,  
644 goods, wares, merchandise, services, or other things of value.

645 (7)-(4) The tax levied by this section shall not apply to,  
646 be imposed upon, or collected from any person who shall have  
647 entered into a bona fide written lease for longer than 6 months  
648 in duration for continuous residence at any one hotel, apartment  
649 house, roominghouse, tourist or trailer camp, or condominium, or  
650 to any person who shall reside continuously longer than 6 months  
651 at any one hotel, apartment house, roominghouse, tourist or  
652 trailer camp, or condominium and shall have paid the tax levied  
653 by this section for 6 months of residence in any one hotel,  
654 roominghouse, apartment house, tourist or trailer camp, or  
655 condominium. Notwithstanding other provisions of this chapter, no  
656 tax shall be imposed upon rooms provided guests when there is no  
657 consideration involved between the guest and the public lodging



516968

593-06048A-08

658 establishment. Further, any person who, on the effective date of  
659 this act, has resided continuously for 6 months at any one hotel,  
660 apartment house, roominghouse, tourist or trailer camp, or  
661 condominium, or, if less than 6 months, has paid the tax imposed  
662 herein until he or she shall have resided continuously for 6  
663 months, shall thereafter be exempt, so long as such person shall  
664 continuously reside at such location. The Department of Revenue  
665 shall have the power to reform the rental contract for the  
666 purposes of this chapter if the rental payments are collected in  
667 other than equal daily, weekly, or monthly amounts so as to  
668 reflect the actual consideration to be paid in the future for the  
669 right of occupancy during the first 6 months.

670 (8)~~(5)~~ The tax imposed by this section shall constitute a  
671 lien on the property of the lessee or rentee of any sleeping  
672 accommodations in the same manner as and shall be collectible as  
673 are liens authorized and imposed by ss. 713.68 and 713.69.

674 (9)~~(6)~~ It is the legislative intent that every person is  
675 engaging in a taxable privilege who leases or rents parking or  
676 storage spaces for motor vehicles in parking lots or garages, who  
677 leases or rents docking or storage spaces for boats in boat docks  
678 or marinas, or who leases or rents tie-down or storage space for  
679 aircraft at airports. For the exercise of this privilege, a tax  
680 is hereby levied at the rate of 6 percent on the total rental  
681 charged.

682 (10)~~(7)~~(a) Full-time students enrolled in an institution  
683 offering postsecondary education and military personnel currently  
684 on active duty who reside in the facilities described in  
685 subsection (1) shall be exempt from the tax imposed by this  
686 section. The department shall be empowered to determine what  
687 shall be deemed acceptable proof of full-time enrollment. The



516968

593-06048A-08

688 exemption contained in this subsection shall apply irrespective  
689 of any other provisions of this section. The tax levied by this  
690 section shall not apply to or be imposed upon or collected on the  
691 basis of rentals to any person who resides in any building or  
692 group of buildings intended primarily for lease or rent to  
693 persons as their permanent or principal place of residence.

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

699 (c) The rental of facilities, as defined in s.  
700 212.02(10)(f), which are intended primarily for rental as a  
701 principal or permanent place of residence is exempt from the tax  
702 imposed by this chapter. The rental of such facilities that  
703 primarily serve transient guests is not exempt by this  
704 subsection. In the application of this law, or in making any  
705 determination against the exemption, the department shall  
706 consider the facility as primarily serving transient guests  
707 unless the facility owner makes a verified declaration on a form  
708 prescribed by the department that more than half of the total  
709 rental units available are occupied by tenants who have a  
710 continuous residence in excess of 3 months. The owner of a  
711 facility declared to be exempt by this paragraph must make a  
712 determination of the taxable status of the facility at the end of  
713 the owner's accounting year using any consecutive 3-month period  
714 at least one month of which is in the accounting year. The owner  
715 must use a selected consecutive 3-month period during each annual  
716 redetermination. In the event that an exempt facility no longer  
717 qualifies for exemption by this paragraph, the owner must notify





516968

593-06048A-08

718 | the department on a form prescribed by the department by the 20th  
719 | day of the first month of the owner's next succeeding accounting  
720 | year that the facility no longer qualifies for such exemption.  
721 | The tax levied by this section shall apply to the rental of  
722 | facilities that no longer qualify for exemption under this  
723 | paragraph beginning the first day of the owner's next succeeding  
724 | accounting year. The provisions of this paragraph do not apply to  
725 | mobile home lots regulated under chapter 723.

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

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

734 |             212.0305 Convention development taxes; intent;  
735 | administration; authorization; use of proceeds.--

736 |             (3) APPLICATION; ADMINISTRATION; PENALTIES.--

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



516968

593-06048A-08

748 use any living quarters or accommodations which are exempt from  
749 the tax imposed under s. 212.03 shall likewise be exempt from any  
750 tax imposed under this section.

751 (b) As used in this section, the terms "payment" and  
752 "consideration" mean the amount received by a person operating  
753 transient accommodations for the use or securing the use of any  
754 living quarters or sleeping or housekeeping accommodations in,  
755 from, or a part of, or in connection with any hotel, apartment  
756 house, roominghouse, timeshare resort, or tourist or trailer  
757 camp. The phrase "person operating transient accommodations"  
758 means the person conducting the daily affairs of the physical  
759 facilities furnishing transient accommodations who is responsible  
760 for providing the services commonly associated with operating the  
761 facilities furnishing transient accommodations regardless of  
762 whether such commonly associated services are provided by third  
763 parties. The terms "consideration" and "rents" do not include  
764 payments received by unrelated persons for facilitating the  
765 booking of reservations for or on behalf of the lessees or  
766 licensees at hotels, apartment houses, roominghouses, mobile home  
767 parks, recreational vehicle parks, condominiums, timeshare  
768 resorts, or tourist or trailer camps in this state. "Unrelated  
769 person" means a person who is not in the same affiliated group of  
770 corporations pursuant to s. 1504 of the Internal Revenue Code of  
771 1986, as amended.

772 (c) Tax shall be due on the consideration paid for  
773 occupancy in the county pursuant to a regulated short-term  
774 product, as defined in chapter 721, or occupancy in the county  
775 pursuant to a product that would be deemed a regulated short-term  
776 product if the agreement to purchase the short-term right was  
777 executed in this state. Such tax shall be collected on the last



516968

593-06048A-08

778 day of occupancy within the county unless such consideration is  
779 applied to the purchase of a timeshare estate. Notwithstanding  
780 the provisions of paragraph (b), the occupancy of an  
781 accommodation of a timeshare resort pursuant to a timeshare plan,  
782 a multisite timeshare plan, or an exchange transaction in an  
783 exchange program, as defined in chapter 721, by the owner of a  
784 timeshare interest or such owner's guest, which guest is not  
785 paying monetary consideration to the owner or to a third party  
786 for the benefit of the owner, is not a privilege subject to  
787 taxation under this section. A membership or transaction fee paid  
788 by a timeshare owner which does not provide the timeshare owner  
789 with the right to occupy any specific timeshare unit but merely  
790 provides the timeshare owner with the opportunity to exchange a  
791 timeshare interest through an exchange program is a service  
792 charge and not subject to tax.

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

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



516968

593-06048A-08

808 the booking of the reservation. Any amounts specifically  
809 collected as a tax are county funds and must be remitted as tax.

810 (f)(e) The person receiving the consideration for such  
811 rental or lease shall receive, account for, and remit the tax to  
812 the department at the time and in the manner provided for persons  
813 who collect and remit taxes under s. 212.03. The same duties and  
814 privileges imposed by this chapter upon dealers in tangible  
815 property respecting the collection and remission of tax; the  
816 making of returns; the keeping of books, records, and accounts;  
817 and compliance with the rules of the department in the  
818 administration of this chapter apply to and are binding upon all  
819 persons who are subject to the provisions of this section.  
820 However, the department may authorize a quarterly return and  
821 payment when the tax remitted by the dealer for the preceding  
822 quarter did not exceed \$25.

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

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

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



516968

593-06048A-08

838 delinquent taxes.

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

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

849 ~~(l)(i)~~ A ~~No~~ person may not ~~shall~~ advertise or hold out to  
850 the public in any manner, directly or indirectly, that he or she  
851 will absorb all or any part of the tax; that he or she will  
852 relieve the person paying the rental of the payment of all or any  
853 part of the tax; or that the tax will not be added to the rental  
854 or lease consideration or, if added, that the tax or any part  
855 thereof will be refunded or refused, either directly or  
856 indirectly, by any method whatsoever. Any person who willfully  
857 violates any provision of this paragraph is guilty of a  
858 misdemeanor of the first degree, punishable as provided in s.  
859 775.082 or s. 775.083.

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

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



516968

593-06048A-08

868        (o)~~(1)~~ The department shall administer the taxes levied  
869 herein as increases in the rate of the tax authorized in s.  
870 125.0104. The department shall collect and enforce the provisions  
871 of this section and s. 125.0104 in conjunction with each other in  
872 those counties authorized to levy the taxes authorized herein.  
873 The department shall distribute the proceeds received from the  
874 taxes levied pursuant to this section and s. 125.0104 in  
875 proportion to the rates of the taxes authorized to the  
876 appropriate trust funds as provided by law. In the event of  
877 underpayment of the total amount due by a taxpayer pursuant to  
878 this section and s. 125.0104, the department shall distribute the  
879 amount received in proportion to the rates of the taxes  
880 authorized to the appropriate trust funds as provided by law and  
881 the penalties and interest due on both of said taxes shall be  
882 applicable.

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

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

890        212.031 Tax on rental or license fee for use of real  
891 property.--

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

- 896            1. Assessed as agricultural property under s. 193.461.  
897            2. Used exclusively as dwelling units.



516968

593-06048A-08

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

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

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

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

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



516968

593-06048A-08

928 | property onto or from aircraft or for fueling aircraft.

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

938 |       b. The amount charged for the use of any property at the  
939 | port in excess of the amount charged for tonnage actually  
940 | imported or exported shall remain subject to tax except as  
941 | provided in sub-subparagraph a.

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

948 |       a. Photography, sound and recording, casting, location  
949 | managing and scouting, shooting, creation of special and optical  
950 | effects, animation, adaptation (language, media, electronic, or  
951 | otherwise), technological modifications, computer graphics, set  
952 | and stage support (such as electricians, lighting designers and  
953 | operators, greensmen, prop managers and assistants, and grips),  
954 | wardrobe (design, preparation, and management), hair and makeup  
955 | (design, production, and application), performing (such as  
956 | acting, dancing, and playing), designing and executing stunts,  
957 | coaching, consulting, writing, scoring, composing,





516968

593-06048A-08

958 choreographing, script supervising, directing, producing,  
959 transmitting dailies, dubbing, mixing, editing, cutting, looping,  
960 printing, processing, duplicating, storing, and distributing;

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

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

969

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

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

986 11. Property occupied pursuant to an instrument calling for  
987 payments which the department has declared, in a Technical



516968

593-06048A-08

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

995 12. Rented, leased, subleased, or licensed to a  
996 concessionaire by a convention hall, exhibition hall, auditorium,  
997 stadium, theater, arena, civic center, performing arts center, or  
998 publicly owned recreational facility, during an event at the  
999 facility, to be used by the concessionaire to sell souvenirs,  
1000 novelties, or other event-related products. This subparagraph  
1001 applies only to that portion of the rental, lease, or license  
1002 payment which is based on a percentage of sales and not based on  
1003 a fixed price. This subparagraph is repealed July 1, 2009.

1004 13. Property used or occupied predominantly for space  
1005 flight business purposes. As used in this subparagraph, "space  
1006 flight business" means the manufacturing, processing, or assembly  
1007 of a space facility, space propulsion system, space vehicle,  
1008 satellite, or station of any kind possessing the capacity for  
1009 space flight, as defined by s. 212.02(23), or components thereof,  
1010 and also means the following activities supporting space flight:  
1011 vehicle launch activities, flight operations, ground control or  
1012 ground support, and all administrative activities directly  
1013 related thereto. Property shall be deemed to be used or occupied  
1014 predominantly for space flight business purposes if more than 50  
1015 percent of the property, or improvements thereon, is used for one  
1016 or more space flight business purposes. Possession by a landlord,  
1017 lessor, or licensor of a signed written statement from the



516968

593-06048A-08

1018 | tenant, lessee, or licensee claiming the exemption shall relieve  
1019 | the landlord, lessor, or licensor from the responsibility of  
1020 | collecting the tax, and the department shall look solely to the  
1021 | tenant, lessee, or licensee for recovery of such tax if it  
1022 | determines that the exemption was not applicable.

1023 |       Section 12. Paragraph (b) of subsection (1) and subsection  
1024 | (3) of section 212.07, Florida Statutes, are amended to read:

1025 |       212.07 Sales, storage, use tax; tax added to purchase  
1026 | price; dealer not to absorb; liability of purchasers who cannot  
1027 | prove payment of the tax; penalties; general exemptions.--

1028 |       (1)

1029 |       (b) A resale must be in strict compliance with s. 212.18  
1030 | and the rules and regulations, and any dealer who makes a sale  
1031 | for resale which is not in strict compliance with s. 212.18 and  
1032 | the rules and regulations shall himself or herself be liable for  
1033 | and pay the tax. Any dealer who makes a sale for resale shall  
1034 | document the exempt nature of the transaction, as established by  
1035 | rules promulgated by the department, by retaining a copy of the  
1036 | purchaser's resale certificate. In lieu of maintaining a copy of  
1037 | the certificate, a dealer may document, prior to the time of  
1038 | sale, an authorization number provided telephonically or  
1039 | electronically by the department, or by such other means  
1040 | established by rule of the department. The dealer may rely on a  
1041 | resale certificate issued pursuant to s. 212.18(3)(d) ~~s.~~  
1042 | ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,  
1043 | without seeking annual verification of the resale certificate if  
1044 | the dealer makes recurring sales to a purchaser in the normal  
1045 | course of business on a continual basis. For purposes of this  
1046 | paragraph, "recurring sales to a purchaser in the normal course  
1047 | of business" refers to a sale in which the dealer extends credit



516968

593-06048A-08

1048 to the purchaser and records the debt as an account receivable,  
1049 or in which the dealer sells to a purchaser who has an  
1050 established cash or C.O.D. account, similar to an open credit  
1051 account. For purposes of this paragraph, purchases are made from  
1052 a selling dealer on a continual basis if the selling dealer  
1053 makes, in the normal course of business, sales to the purchaser  
1054 no less frequently than once in every 12-month period. A dealer  
1055 may, through the informal protest provided for in s. 213.21 and  
1056 ~~the~~ rules of the Department of Revenue, provide the department  
1057 with evidence of the exempt status of a sale. Consumer  
1058 certificates of exemption executed by ~~those~~ exempt entities that  
1059 were registered with the department at the time of sale, resale  
1060 certificates provided by purchasers who were active dealers at  
1061 the time of sale, and verification by the department of a  
1062 purchaser's active dealer status at the time of sale in lieu of a  
1063 resale certificate shall be accepted by the department when  
1064 submitted during the protest period, but may not be accepted in  
1065 any proceeding under chapter 120 or any circuit court action  
1066 instituted under chapter 72.

1067 (3) (a) ~~Any~~ dealer who fails, neglects, or refuses to  
1068 collect the tax or fees imposed under this chapter herein  
1069 ~~provided, either~~ by himself or herself or through the dealer's  
1070 agents or employees, ~~is,~~ in addition to ~~the penalty of~~ being  
1071 liable for and paying the tax or fees ~~himself or herself,~~ commits  
1072 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
1073 provided in s. 775.082 or s. 775.083.

1074 (b) A dealer who willfully fails to collect the tax or fees  
1075 imposed under this chapter after the department provides notice  
1076 of the duty to collect the tax or fees shall, in addition to  
1077 being liable for and paying the tax or fees and for any other



516968

593-06048A-08

1078 penalties provided by law, be liable for a specific penalty of  
1079 100 percent of any uncollected tax or fees and, upon conviction,  
1080 for fine and punishment as provided in s. 775.082, s. 775.083, or  
1081 s. 775.084:

1082 1. If the total amount of uncollected taxes or fees is less  
1083 than \$300, the first offense is a misdemeanor of the second  
1084 degree, the second offense is a misdemeanor of the first degree,  
1085 and the third and all subsequent offenses are felonies of the  
1086 third degree.

1087 2. If the total amount of the uncollected taxes or fees is  
1088 \$300 or more but less than \$20,000, the offense is a felony of  
1089 the third degree.

1090 3. If the total amount of the uncollected taxes or fees is  
1091 \$20,000 or more but less than \$100,000, the offense is a felony  
1092 of the second degree.

1093 4. If the total amount of the uncollected taxes or fees is  
1094 \$100,000 or more, the offense is a felony of the first degree.

1095 (c) For the purposes of this subsection, "willful" means a  
1096 voluntary, intentional violation of a known legal duty.

1097 (d) The department shall give written notice of the duty to  
1098 collect taxes or fees to the dealer by personal service; or by  
1099 sending notice to the dealer by registered mail, to the dealer's  
1100 last known address; or by both personal service and mailing.

1101 Section 13. Paragraph (g) of subsection (5) of section  
1102 212.08, Florida Statutes, is amended, and paragraph (ggg) is  
1103 added to subsection (7) of that section, to read:

1104 212.08 Sales, rental, use, consumption, distribution, and  
1105 storage tax; specified exemptions.--The sale at retail, the  
1106 rental, the use, the consumption, the distribution, and the



516968

593-06048A-08

1107 storage to be used or consumed in this state of the following are  
1108 hereby specifically exempt from the tax imposed by this chapter.

1109 (5) EXEMPTIONS; ACCOUNT OF USE.--

1110 (g) Building materials used in the rehabilitation of real  
1111 property located in an enterprise zone.--

1112 1. Building materials used in the rehabilitation of real  
1113 property located in an enterprise zone are ~~shall be~~ exempt from  
1114 the tax imposed by this chapter upon an affirmative showing to  
1115 the satisfaction of the department that the items have been used  
1116 for the rehabilitation of real property located in an enterprise  
1117 zone. Except as provided in subparagraph 2., this exemption  
1118 inures to the owner, lessee, or lessor at the time ~~of the~~  
1119 ~~rehabilitated~~ real property located in an enterprise zone is  
1120 rehabilitated, but only through a refund of previously paid  
1121 taxes. To receive a refund pursuant to this paragraph, the owner,  
1122 lessee, or lessor of the rehabilitated real property ~~located in~~  
1123 ~~an enterprise zone~~ must file an application under oath with the  
1124 governing body or enterprise zone development agency having  
1125 jurisdiction over the enterprise zone where the business is  
1126 located, as applicable. A single application for refund may be  
1127 submitted for multiple, contiguous parcels that were parts of a  
1128 single parcel that was divided as part of the rehabilitation of  
1129 the property. All other requirements of this paragraph apply to  
1130 each parcel on an individual basis. The application must include,  
1131 ~~which includes:~~

1132 a. The name and address of the person claiming the refund.

1133 b. An address and assessment roll parcel number of the  
1134 rehabilitated real property ~~in an enterprise zone~~ for which a  
1135 refund of previously paid taxes is being sought.



516968

593-06048A-08

1136 c. A description of the improvements made to accomplish the  
1137 rehabilitation of the real property.

1138 d. A copy of a valid ~~the building~~ permit issued by the  
1139 county or municipal building department for the rehabilitation of  
1140 the real property.

1141 e. A sworn statement, under ~~the~~ penalty of perjury, from  
1142 the general contractor, licensed in this state, with whom the  
1143 applicant contracted to make the improvements necessary to  
1144 rehabilitate ~~accomplish the rehabilitation of~~ the real property,  
1145 which ~~statement~~ lists the building materials used in the  
1146 rehabilitation of the real property, the actual cost of the  
1147 building materials, and the amount of sales tax paid in this  
1148 state on the building materials. If ~~In the event that~~ a general  
1149 contractor has not been used, the applicant shall provide the  
1150 ~~this~~ information in a sworn statement, under ~~the~~ penalty of  
1151 perjury. Copies of the invoices which evidence the purchase of  
1152 the building materials used in the ~~such~~ rehabilitation and the  
1153 payment of sales tax on the building materials shall be attached  
1154 to the sworn statement ~~provided by the general contractor or by~~  
1155 ~~the applicant~~. Unless the actual cost of building materials used  
1156 in the rehabilitation of real property and the payment of sales  
1157 taxes due are ~~thereon is~~ documented by a general contractor or by  
1158 the applicant in this manner, the cost of such building materials  
1159 shall be an amount equal to 40 percent of the increase in  
1160 assessed value for ad valorem tax purposes.

1161 f. The identifying number assigned pursuant to s. 290.0065  
1162 to the enterprise zone in which the rehabilitated real property  
1163 is located.

1164 g. A certification by the local building code inspector  
1165 that the improvements necessary for rehabilitating ~~to accomplish~~



516968

593-06048A-08

1166 ~~the rehabilitation of~~ the real property are substantially  
1167 completed.

1168 h. Whether the business is a small business as defined by  
1169 s. 288.703(1).

1170 i. If applicable, the name and address of each permanent  
1171 employee of the business, including, for each employee who is a  
1172 resident of an enterprise zone, the identifying number assigned  
1173 pursuant to s. 290.0065 to the enterprise zone in which the  
1174 employee resides.

1175 2. This exemption inures to a municipality ~~city~~, county,  
1176 other governmental unit or agency, or nonprofit community-based  
1177 organization ~~through a refund of previously paid taxes~~ if the  
1178 building materials used in the rehabilitation of real property  
1179 located in an enterprise zone are paid ~~for~~ from the funds of a  
1180 community development block grant, State Housing Initiatives  
1181 Partnership Program, or similar grant or loan program. To receive  
1182 a refund of previously paid taxes ~~pursuant to this paragraph~~, a  
1183 municipality ~~city~~, county, other governmental unit or agency, or  
1184 nonprofit community-based organization must file an application  
1185 that ~~which~~ includes the same information required ~~to be provided~~  
1186 in subparagraph 1. ~~by an owner, lessee, or lessor of~~  
1187 ~~rehabilitated real property~~. In addition, the application must  
1188 include a sworn statement signed by the chief executive officer  
1189 of the municipality ~~city~~, county, other governmental unit or  
1190 agency, or nonprofit community-based organization seeking a  
1191 refund which states that the building materials for which a  
1192 refund is sought were paid ~~for~~ from the funds of a community  
1193 development block grant, State Housing Initiatives Partnership  
1194 Program, or similar grant or loan program.





516968

593-06048A-08

1195           3. Within 10 working days after receipt of an application,  
1196 the governing body or enterprise zone development agency shall  
1197 review the application to determine if it contains all the  
1198 information required under ~~pursuant to~~ subparagraph 1. or  
1199 subparagraph 2. and meets the criteria set out in this paragraph.  
1200 The governing body or agency shall certify all applications that  
1201 contain the required information ~~required pursuant to~~  
1202 ~~subparagraph 1. or subparagraph 2.~~ and meet the criteria ~~set out~~  
1203 ~~in this paragraph~~ as eligible to receive a refund. If applicable,  
1204 the governing body or agency shall also certify that ~~if~~ 20  
1205 percent of the employees of the business are residents of an  
1206 enterprise zone, excluding temporary and part-time employees. The  
1207 certification must ~~shall~~ be in writing, and a copy ~~of the~~  
1208 ~~certification shall be~~ transmitted to the executive director of  
1209 the department ~~of Revenue~~. The applicant is ~~shall be~~ responsible  
1210 for forwarding a certified application to the department within  
1211 the time specified in subparagraph 4.

1212           4. An application for a refund pursuant to this paragraph  
1213 must be submitted to the department within 6 months after ~~the~~  
1214 ~~rehabilitation of the property is deemed to be substantially~~  
1215 ~~completed by the local building code inspector or by September 1~~  
1216 ~~after~~ the rehabilitated property is first subject to assessment.

1217           5. Only ~~Not more than~~ one exemption through a refund of  
1218 previously paid taxes for the rehabilitation of real property is  
1219 allowed ~~shall be permitted~~ for any single parcel of property  
1220 unless there is a change in ownership, a new lessor, or a new  
1221 lessee of the real property. A ~~No~~ refund may not ~~shall~~ be granted  
1222 pursuant to this paragraph unless the amount to be refunded  
1223 exceeds \$500. The ~~No~~ refund may not ~~granted pursuant to this~~  
1224 ~~paragraph shall~~ exceed the lesser of 97 percent of the Florida



593-06048A-08

1225 sales or use tax paid on the cost of the building materials used  
1226 in the rehabilitation of the real property as determined pursuant  
1227 to sub-subparagraph 1.e. or \$5,000, or, if at least ~~no less than~~  
1228 20 percent of the employees of the business are residents of an  
1229 enterprise zone, excluding temporary and part-time employees, the  
1230 amount of refund may ~~granted pursuant to this paragraph shall~~ not  
1231 exceed the lesser of 97 percent of the sales tax paid on the cost  
1232 of such building materials or \$10,000. A refund approved pursuant  
1233 to this paragraph must ~~shall~~ be made within 30 days after ~~of~~  
1234 formal approval by the department of the application for the  
1235 refund. This subparagraph shall apply retroactively to July 1,  
1236 2005.

1237 6. The department shall adopt rules governing the manner  
1238 and form of refund applications and may establish guidelines as  
1239 to the requisites for an affirmative showing of qualification for  
1240 exemption under this paragraph.

1241 7. The department shall deduct an amount equal to 10  
1242 percent of each refund granted under ~~the provisions of~~ this  
1243 paragraph from the amount transferred into the Local Government  
1244 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for  
1245 the county area in which the rehabilitated real property is  
1246 located and shall transfer that amount to the General Revenue  
1247 Fund.

1248 8. For the purposes of the exemption provided in this  
1249 paragraph:

1250 a. "Building materials" means tangible personal property  
1251 that ~~which~~ becomes a component part of improvements to real  
1252 property.

1253 b. "Real property" has the same meaning as in s. 192.001  
1254 ~~provided in s. 192.001(12)~~.



516968

593-06048A-08

1255 c. "Rehabilitation of real property" means the  
1256 reconstruction, renovation, restoration, rehabilitation,  
1257 construction, or expansion of improvements to real property.

1258 d. "Substantially completed" has the same meaning as  
1259 ~~provided~~ in s. 192.042(1).

1260 9. This paragraph expires on the date specified in s.  
1261 290.016 for the expiration of the Florida Enterprise Zone Act.

1262 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any  
1263 entity by this chapter do not inure to any transaction that is  
1264 otherwise taxable under this chapter when payment is made by a  
1265 representative or employee of the entity by any means, including,  
1266 but not limited to, cash, check, or credit card, even when that  
1267 representative or employee is subsequently reimbursed by the  
1268 entity. In addition, exemptions provided to any entity by this  
1269 subsection do not inure to any transaction that is otherwise  
1270 taxable under this chapter unless the entity has obtained a sales  
1271 tax exemption certificate from the department or the entity  
1272 obtains or provides other documentation as required by the  
1273 department. Eligible purchases or leases made with such a  
1274 certificate must be in strict compliance with this subsection and  
1275 departmental rules, and any person who makes an exempt purchase  
1276 with a certificate that is not in strict compliance with this  
1277 subsection and the rules is liable for and shall pay the tax. The  
1278 department may adopt rules to administer this subsection.

1279 (ggg) Aircraft temporarily in state. Notwithstanding  
1280 paragraph (8) (a), an aircraft is exempt from the use tax under  
1281 this chapter if it enters and remains in this state for less than  
1282 21 days during the 6-month period after the date of purchase. The  
1283 temporary use of the aircraft and subsequent removal from the  
1284 state may be proven by invoices for fuel, tie-down, or hangar



516968

593-06048A-08

1285 charges issued by out-of-state vendors or suppliers or similar  
1286 documentation.

1287 Section 14. Paragraph (d) of subsection (2) of section  
1288 212.12, Florida Statutes, is amended to read:

1289 212.12 Dealer's credit for collecting tax; penalties for  
1290 noncompliance; powers of Department of Revenue in dealing with  
1291 delinquents; brackets applicable to taxable transactions; records  
1292 required.--

1293 (2)

1294 (d) Any person who makes a false or fraudulent return with  
1295 a willful intent to evade payment of any tax or fee imposed under  
1296 this chapter; ~~any person who, after the department's delivery of~~  
1297 ~~a written notice to the person's last known address specifically~~  
1298 ~~alerting the person of the requirement to register the person's~~  
1299 ~~business as a dealer, intentionally fails to register the~~  
1300 ~~business; and any person who, after the department's delivery of~~  
1301 ~~a written notice to the person's last known address specifically~~  
1302 ~~alerting the person of the requirement to collect tax on specific~~  
1303 ~~transactions, intentionally fails to collect such tax, shall, in~~  
1304 addition to the other penalties provided by law, be liable for a  
1305 specific penalty of 100 percent of any unreported ~~or any~~  
1306 ~~uncollected~~ tax or fee and, upon conviction, for fine and  
1307 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.  
1308 ~~Delivery of written notice may be made by certified mail, or by~~  
1309 ~~the use of such other method as is documented as being necessary~~  
1310 ~~and reasonable under the circumstances. The civil and criminal~~  
1311 ~~penalties imposed herein for failure to comply with a written~~  
1312 ~~notice alerting the person of the requirement to register the~~  
1313 ~~person's business as a dealer or to collect tax on specific~~  
1314 ~~transactions shall not apply if the person timely files a written~~



516968

593-06048A-08

1315 ~~challenge to such notice in accordance with procedures~~  
1316 ~~established by the department by rule or the notice fails to~~  
1317 ~~clearly advise that failure to comply with or timely challenge~~  
1318 ~~the notice will result in the imposition of the civil and~~  
1319 ~~criminal penalties imposed herein.~~

1320       1. If the total amount of unreported ~~or uncollected~~ taxes  
1321 or fees is less than \$300, the first offense resulting in  
1322 conviction is a misdemeanor of the second degree, the second  
1323 offense ~~resulting in conviction~~ is a misdemeanor of the first  
1324 degree, and the third and all subsequent offenses ~~resulting in~~  
1325 ~~conviction is a misdemeanor of the first degree, and the third~~  
1326 ~~and all subsequent offenses resulting in conviction~~ are felonies  
1327 of the third degree.

1328       2. If the total amount of unreported ~~or uncollected~~ taxes  
1329 or fees is \$300 or more but less than \$20,000, the offense is a  
1330 felony of the third degree.

1331       3. If the total amount of unreported ~~or uncollected~~ taxes  
1332 or fees is \$20,000 or more but less than \$100,000, the offense is  
1333 a felony of the second degree.

1334       4. If the total amount of unreported ~~or uncollected~~ taxes  
1335 or fees is \$100,000 or more, the offense is a felony of the first  
1336 degree.

1337       Section 15. Paragraphs (c), (d), and (e) of subsection (3)  
1338 of section 212.18, Florida Statutes, are renumbered as paragraphs  
1339 (d), (e), and (f), respectively, and paragraph (b) of that  
1340 subsection is amended, to read:

1341       212.18 Administration of law; registration of dealers;  
1342 rules.--

1343       (3)



516968

593-06048A-08

1344 (b) The department, upon receipt of such application, shall  
1345 ~~will~~ grant to the applicant a separate certificate of  
1346 registration for each place of business, which certificate may be  
1347 canceled by the department or its designated assistants for any  
1348 failure by the certificateholder to comply with any of the  
1349 provisions of this chapter. The certificate is not assignable and  
1350 is valid only for the person, firm, copartnership, or corporation  
1351 to which issued. The certificate must be placed in a conspicuous  
1352 place in the business or businesses for which it is issued and  
1353 must be displayed at all times. Except as provided in this  
1354 subsection, no person shall engage in business as a dealer or in  
1355 leasing, renting, or letting of or granting licenses in living  
1356 quarters or sleeping or housekeeping accommodations in hotels,  
1357 apartment houses, roominghouses, tourist or trailer camps, or  
1358 real property ~~as hereinbefore defined~~, nor shall any person sell  
1359 or receive anything of value by way of admissions, without first  
1360 having obtained ~~such~~ a certificate or after such certificate has  
1361 been canceled; no person shall receive any license from any  
1362 authority within the state to engage in any such business without  
1363 first having obtained such a certificate or after such  
1364 certificate has been canceled. The engaging in the business of  
1365 selling or leasing tangible personal property or services or as a  
1366 dealer, ~~as defined in this chapter~~, or the engaging in leasing,  
1367 renting, or letting of or granting licenses in living quarters or  
1368 sleeping or housekeeping accommodations in hotels, apartment  
1369 houses, roominghouses, or tourist or trailer camps that are  
1370 taxable under this chapter, or real property, or the engaging in  
1371 the business of selling or receiving anything of value by way of  
1372 admissions, without such certificate first being obtained or



516968

593-06048A-08

1373 after such certificate has been canceled by the department, is  
1374 prohibited.

1375 (c)1. The failure or refusal of any person, firm,  
1376 copartnership, or corporation to register ~~so qualify when~~  
1377 ~~required hereunder~~ is a misdemeanor of the first degree,  
1378 punishable as provided in s. 775.082 or s. 775.083, or subject to  
1379 injunctive proceedings as provided by law. Such failure or  
1380 refusal also subjects the offender to a \$100 initial registration  
1381 fee in lieu of the \$5 registration fee authorized in paragraph  
1382 (a). However, the department may waive the increase in the  
1383 registration fee if it determines ~~is determined by the department~~  
1384 that the failure to register was due to reasonable cause and not  
1385 to willful negligence, willful neglect, or fraud.

1386 2. Any person who willfully fails to register after the  
1387 department provides notice of the duty to register as a dealer  
1388 for the purpose of engaging in or conducting business in the  
1389 state, commits a felony of the third degree, punishable as  
1390 provided in s. 775.082, s. 775.083, or s. 775.084.

1391 a. For the purposes of this section, "willful" means a  
1392 voluntary, intentional violation of a known legal duty.

1393 b. The department shall give written notice of the duty to  
1394 register to the person by personal service, by sending notice by  
1395 registered mail to the person's last known address, or by  
1396 personal service and mailing.

1397 Section 16. Subsection (6) of section 213.015, Florida  
1398 Statutes, is amended to read:

1399 213.015 Taxpayer rights.--There is created a Florida  
1400 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
1401 and property of Florida taxpayers are adequately safeguarded and  
1402 protected during tax assessment, collection, and enforcement



516968

593-06048A-08

1403 processes administered under the revenue laws of this state. The  
1404 Taxpayer's Bill of Rights compiles, in one document, brief but  
1405 comprehensive statements which explain, in simple, nontechnical  
1406 terms, the rights and obligations of the Department of Revenue  
1407 and taxpayers. Section 192.0105 provides additional rights  
1408 afforded to payors of property taxes and assessments. The rights  
1409 afforded taxpayers to ensure that their privacy and property are  
1410 safeguarded and protected during tax assessment and collection  
1411 are available only insofar as they are implemented in other parts  
1412 of the Florida Statutes or rules of the Department of Revenue.  
1413 The rights so guaranteed Florida taxpayers in the Florida  
1414 Statutes and the departmental rules are:

1415 (6) The right to be informed of impending collection  
1416 actions which require sale or seizure of property or freezing of  
1417 assets, except jeopardy assessments, and the right to at least 30  
1418 days' notice in which to pay the liability or seek further review  
1419 (see ss. 198.20, 199.262, 201.16, 206.075, 206.24, 211.125(5),  
1420 212.03(5), 212.0305(3)(m) ~~212.0305(3)(j)~~, 212.04(7), 212.14(1),  
1421 213.73(3), 213.731, and 220.739).

1422 Section 17. Paragraph (a) of subsection (2), subsection  
1423 (5), and paragraph (d) of subsection (8) of section 213.053,  
1424 Florida Statutes, are amended, paragraph (z) is added to  
1425 subsection (8) of that section, and subsection (19) is added to  
1426 that section, to read:

1427 213.053 Confidentiality and information sharing.--

1428 (2)(a) All information contained in returns, reports,  
1429 accounts, or declarations received by the department, including  
1430 investigative reports and information, and including letters of  
1431 technical advice, telephone numbers, and electronic mail  
1432 addresses collected and maintained by the department for the





593-06048A-08

1433 purpose of communicating with taxpayers, is confidential except  
1434 for official purposes and is exempt from s. 119.07(1).

1435 (5) Nothing contained in this section shall prevent the  
1436 department from:

1437 (a) Publishing statistics so ~~classified~~ as to prevent the  
1438 identification of particular accounts, reports, declarations, or  
1439 returns. ~~;~~ ~~or~~

1440 (b) Using telephone, electronic mail, facsimile, or other  
1441 electronic means to:

1442 1. Distribute tax information regarding changes in law, tax  
1443 rates, or interest rates, or other information that is not  
1444 specific to a particular taxpayer;

1445 2. Provide reminders of due dates;

1446 3. Respond to a taxpayer that has provided and authorized  
1447 the department to use an electronic mail address that does not  
1448 support encryption; or

1449 4. Request taxpayers to contact the department ~~Disclosing to~~  
1450 ~~the Chief Financial Officer the names and addresses of those~~  
1451 ~~taxpayers who have claimed an exemption pursuant to former s.~~  
1452 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

1453 (8) Notwithstanding any other provision of this section,  
1454 the department may provide:

1455 (d) Information relating to chapter 212 and chapter 509  
1456 ~~Names, addresses, and sales tax registration information~~ to the  
1457 Division of Hotels and Restaurants of the Department of Business  
1458 and Professional Regulation in the conduct of its official  
1459 duties.

1460 (z) Names and taxpayer identification numbers relating to  
1461 information sharing agreements with financial institutions  
1462 pursuant to s. 213.0532.



593-06048A-08

1463  
1464 Disclosure of information under this subsection shall be pursuant  
1465 to a written agreement between the executive director and the  
1466 agency. Such agencies, governmental or nongovernmental, shall be  
1467 bound by the same requirements of confidentiality as the  
1468 Department of Revenue. Breach of confidentiality is a misdemeanor  
1469 of the first degree, punishable as provided by s. 775.082 or s.  
1470 775.083.

1471 (19) The department may publish a list of taxpayers against  
1472 whom it has issued a warrant or filed a judgment lien against a  
1473 taxpayer's property if the taxpayers are delinquent in the  
1474 payment of any tax, fee, penalty, interest, or surcharge  
1475 administered by the department. The list shall identify each  
1476 taxpayer by name, address, amounts and types of taxes, fees, or  
1477 surcharges and the employer identification number or other  
1478 taxpayer identification number.

1479 (a) The list shall be available for public inspection at  
1480 the department or by other means of publication, including the  
1481 Internet. The department may provide a copy of the list to any  
1482 agency of the state for similar publication.

1483 (b) The department shall update the list at least monthly  
1484 to reflect payments for resolution of deficiencies and to  
1485 otherwise add or remove taxpayers from the list.

1486 (c) The department may adopt rules for the administration  
1487 of this subsection.

1488 Section 18. Section 213.0532, Florida Statutes, is created  
1489 to read:

1490 213.0532 Agreements with financial institutions.--

1491 (1) As used in this section, the term:

1492 (a) "Financial institution" means:



516968

593-06048A-08

- 1493        1. A depository institution as defined in 12 U.S.C. s.  
1494 1813(c);
- 1495        2. An institution-affiliated party as defined in 12 U.S.C.  
1496 s. 1813(u);
- 1497        3. Any federal credit union or state credit union as  
1498 defined in 12 U.S.C. s. 1752, including an institution-affiliated  
1499 party of such a credit union as defined in 12 U.S.C s. 1786(r);  
1500 and
- 1501        4. Any benefit association, insurance company, safe-deposit  
1502 company, money market mutual fund, or similar entity authorized  
1503 to do business in this state.
- 1504        (b) "Account" means a demand deposit account, checking or  
1505 negotiable withdrawal order account, savings account, time  
1506 deposit account, or money-market mutual fund account.
- 1507        (c) "Department" means the Department of Revenue.
- 1508        (d) "Obligor" means any person against whose property the  
1509 department has issued a warrant or filed a judgment lien  
1510 certificate.
- 1511        (e) "Person" has the same meaning as in s. 212.02.
- 1512        (2) The department shall request information and assistance  
1513 from a financial institution as necessary to enforce the tax laws  
1514 of the state. Pursuant to such purpose, financial institutions  
1515 doing business in the state shall enter into agreements with the  
1516 department to develop and operate a data match system, using an  
1517 automated data exchange to the maximum extent feasible, in which  
1518 the financial institution must provide for each calendar quarter  
1519 the name, record address, social security number or other  
1520 taxpayer identification number, average daily account balance,  
1521 and other identifying information for:



516968

593-06048A-08

1522 (a) Each obligor who maintains an account at the financial  
1523 institution as identified to the institution by the department by  
1524 name and social security number or other taxpayer identification  
1525 number; or

1526 (b) At the financial institution's option, each person who  
1527 maintains an account at the institution.

1528  
1529 The department shall use the information received pursuant to  
1530 this section only for the purpose of enforcing the collection of  
1531 taxes and fees administered by the department.

1532 (3) The department shall, to the extent possible and in  
1533 compliance with state and federal law, administer this section in  
1534 conjunction with s. 409.25657 in order to avoid duplication and  
1535 reduce the burden on financial institutions.

1536 (4) The department shall pay a reasonable fee to the  
1537 financial institution for conducting the data match provided for  
1538 in this section, which may not exceed actual costs incurred by  
1539 the financial institution.

1540 (5) A financial institution is not required to provide  
1541 notice to its customers and is not liable to any person for:

1542 (a) Disclosure to the department of any information  
1543 required under this section.

1544 (b) Encumbering or surrendering any assets held by the  
1545 financial institution in response to a notice of lien or levy  
1546 issued by the department.

1547 (c) Disclosing any information in connection with a data  
1548 match.

1549 (d) Any other action taken in good faith to comply with the  
1550 requirements of this section.

1551 (6) Any financial records obtained pursuant to this section



516968

593-06048A-08

1552 may be disclosed only for the purpose of, and to the extent  
1553 necessary to administer and enforce, the tax laws of this state.

1554 (7) The department may institute civil proceedings against  
1555 financial institutions, as necessary, to enforce the provisions  
1556 of this section.

1557 (8) The department may adopt rules establishing the  
1558 procedures and requirements for conducting automated data matches  
1559 with financial institutions under this section.

1560 Section 19. Section 213.25, Florida Statutes, is amended to  
1561 read:

1562 213.25 Refunds; credits; right of setoff.-- If In any  
1563 instance that a taxpayer has a refund or credit due for an  
1564 overpayment of taxes assessed under chapter 443 or any of the  
1565 chapters specified in s. 72.011(1), the department may reduce  
1566 such refund or credit to the extent of any billings not subject  
1567 to protest under chapter 443 or s. 213.21 for the same or any  
1568 other tax owed by the same taxpayer.

1569 Section 20. Subsection (8) of section 213.67, Florida  
1570 Statutes, is amended to read:

1571 213.67 Garnishment.--

1572 (8) An action may not be brought to contest a notice of  
1573 intent to levy under chapter 120 or in circuit court if the  
1574 petition is postmarked or the action is filed more, later than 21  
1575 days after the date of receipt of the notice of intent to levy.

1576 Section 21. Section 213.691, Florida Statutes, is created  
1577 to read:

1578 213.691 Integrated warrants and judgment lien  
1579 certificates.--In addition to the department's authority to issue  
1580 warrants and file judgment lien certificates for any unpaid tax,  
1581 fee, or surcharge it administers, the department may issue a



516968

593-06048A-08

1582 single integrated warrant and file a single integrated judgment  
1583 lien certificate evidencing a taxpayer's total liability for all  
1584 taxes, fees, or surcharges administered by the department. Each  
1585 integrated warrant or integrated judgment lien certificate issued  
1586 or filed must separately identify and itemize the total amount  
1587 due for each tax, fee, or surcharge, including any related  
1588 interest and penalty. In order for a taxpayer's total liability  
1589 to be included in an integrated warrant or judgment lien  
1590 certificate, the department must have authority to file a warrant  
1591 or judgment lien certificate for each tax, fee, or surcharge.

1592 Section 22. Section 213.692, Florida Statutes, is created  
1593 to read:

1594 213.692 Integrated enforcement authority.--

1595 (1) If a taxpayer is delinquent in the payment of any tax,  
1596 fee, or surcharge administered by the department, the department  
1597 may revoke all of the taxpayer's certificates of registration,  
1598 permits, or licenses issued by the department. For the purposes  
1599 of this section, a taxpayer is considered delinquent only if the  
1600 department has issued a warrant or filed a judgment lien  
1601 certificate against the taxpayer's property.

1602 (a) Prior to revocation of the taxpayer's certificates of  
1603 registration, permits, or licenses, the department must schedule  
1604 an informal conference, which the taxpayer is required to attend  
1605 and at which the taxpayer may present evidence regarding the  
1606 department's intended revocation or may enter into a compliance  
1607 agreement with the department. The department must provide  
1608 written notice to the taxpayer at the taxpayer's last known  
1609 address of its intended action and the time, place, and date of  
1610 the scheduled informal conference. The department shall issue an  
1611 administrative complaint under chapter 120 if the taxpayer fails



593-06048A-08

1612 to attend the department's informal conference, fails to enter  
1613 into a compliance agreement with the department, or fails to  
1614 comply with the executed compliance agreement.

1615 (b) A taxpayer whose certificates of registration, permits,  
1616 or licenses have been revoked may not be issued a new certificate  
1617 of registration, permit, or license unless:

1618 1. The taxpayer's outstanding liabilities have been  
1619 satisfied; or

1620 2. The department enters into a written agreement with the  
1621 taxpayer regarding the liability and, as part of such agreement,  
1622 agrees to issue a new certificate of registration, permit, or  
1623 license to the taxpayer.

1624 (c) The department shall require a cash deposit, bond, or  
1625 other security as a condition of issuing a new certificate of  
1626 registration pursuant to the requirements of s. 212.14(4).

1627 (d) If the department issues a warrant or files a judgment  
1628 lien certificate in connection with a jeopardy assessment, the  
1629 procedures specified in s. 213.732 must be complied with prior to  
1630 or in conjunction with those provided in this section.

1631 (2) The department may adopt rules to administer this  
1632 section.

1633 Section 23. The Executive Director of the Department of  
1634 Revenue is authorized, and all conditions are deemed met, to  
1635 adopt emergency rules under ss. 120.563(1) and 120.54(4), Florida  
1636 Statutes, to administer s. 213.692, Florida Statutes.

1637 Notwithstanding any other provision of law, the emergency rules  
1638 shall remain effective for 6 months after the date of their  
1639 adoption and may be renewed during the pendency of procedures to  
1640 adopt rules addressing the subject of the emergency rules.



516968

593-06048A-08

1641 Section 24. Section 213.758, Florida Statutes, is created  
1642 to read:

1643 213.758 Transfer of tax liabilities.--

1644 (1) As used in this section, the term:

1645 (a) "Involuntary transfers" means transfers made without  
1646 the consent of the transferor, including, but not limited to:

1647 1. Transfers that occur due to the foreclosure of a  
1648 security interest issued to a person who is not an insider as  
1649 defined by s. 726.102;

1650 2. Transfers that result from eminent domain and  
1651 condemnation actions; and

1652 3. Transfers made under the authority of chapter 61,  
1653 chapter 702, chapter 727, or the United States Bankruptcy Code.

1654 (b) "Transfer" means every mode, direct or indirect, with  
1655 or without consideration, of disposing of or parting with a  
1656 business or stock of goods, and includes, but is not limited to,  
1657 assigning, conveying, devising, gifting, granting, or selling.

1658 (2) Any taxpayer who is liable for any tax, interest, or  
1659 penalty administered by the department in accordance with chapter  
1660 443 or s. 72.011(1), excluding corporate income tax, and who  
1661 quits the business without the benefit of a purchaser,  
1662 successors, or assigns or without transferring the business or  
1663 stock of goods to a transferee, must make a final return and full  
1664 payment within 15 days after quitting the business. A taxpayer  
1665 failing to file a final return and make payment may not engage in  
1666 any business in the state until the final return has been filed  
1667 and the all tax, interest, and penalties due have been paid. If  
1668 requested by the department, the Department of Legal Affairs may  
1669 proceed by injunction to prevent further business activity until  
1670 such tax, interest, or penalties are paid, and a temporary





516968

593-06048A-08

1671 injunction enjoining further business activity shall be granted  
1672 without notice by any court of competent jurisdiction.

1673 (3) Any taxpayer liable for any tax, interest, or penalty  
1674 levied under chapter 443 or any of the chapters specified in s.  
1675 213.05, excluding corporate income tax, who transfers the  
1676 taxpayer's business or stock of goods, must file a final return  
1677 and make full payment within 15 days after the date of transfer.

1678 (4) Unless a taxpayer who transfers a business or stock of  
1679 goods provides a receipt or certificate from the department to  
1680 the transferee showing that the taxpayer has no further liability  
1681 for tax, interest, or penalty, the transferee must pay the tax,  
1682 interest, or penalty due or, if consideration is part of the  
1683 transfer, withhold a sufficient portion of the purchase money to  
1684 pay the taxes, interest, or penalties due.

1685 (a) If the transferee withholds any portion of the  
1686 consideration pursuant to this subsection, the transferee shall  
1687 pay that portion of the consideration to the department within 30  
1688 days after the date of transfer.

1689 (b) If the consideration withheld is insufficient, the  
1690 transferee is liable for the remaining amount owed.

1691 (c) Any transferee acquiring the business or stock of goods  
1692 who fails to pay the tax, interest, and penalty due shall be  
1693 denied the right to engage in any business in the state until the  
1694 tax, interest, and penalty have been paid. If requested by the  
1695 department, the Department of Legal Affairs may proceed by  
1696 injunction to prevent further business activity until such tax,  
1697 interest, and penalties are paid, and a temporary injunction  
1698 enjoining further business activity shall be granted without  
1699 notice by any court of competent jurisdiction.



516968

593-06048A-08

1700        (d) This subsection does not apply to transfers in which  
1701 parts of the business or stock of goods are transferred to  
1702 various taxpayers unless more than 50 percent of the business or  
1703 stock of goods are transferred to one taxpayer or a group of  
1704 taxpayers acting in concert.

1705        (5) A receipt or certificate from the department does not,  
1706 without an audit of the transferring taxpayer's books and records  
1707 by the department, guarantee that there is not a tax deficiency  
1708 owed to the state from operation of the transferring taxpayer's  
1709 business. To secure protection from transferee liability under  
1710 this section, the transferring taxpayer or the transferee may  
1711 request an audit of the transferring taxpayer's books and  
1712 records. The department may charge for the cost of the audit if  
1713 the department has not yet issued a notice of intent to audit at  
1714 the time the department receives the request to perform the  
1715 audit.

1716        (6) The transferee of a business or stock of goods is  
1717 jointly and severally liable with any former owner for the  
1718 payment of the taxes, interest, or penalties accruing and unpaid  
1719 on account of the operation of the business by any former owner  
1720 up to the fair market value of the property transferred or the  
1721 total purchase price, whichever is higher.

1722        (7) This section does not apply to involuntary transfers.

1723        (8) After notice by the department of transferee liability  
1724 under this section, the taxpayer shall have 60 days within which  
1725 to file an action as provided in chapter 72.

1726        (9) The department may adopt rules necessary to administer  
1727 and enforce this section.

1728        Section 25. Paragraph (j) is added to subsection (3) of  
1729 section 220.193, Florida Statutes, to read:



516968

593-06048A-08

1730 220.193 Florida renewable energy production credit.--

1731 (3) An annual credit against the tax imposed by this  
1732 section shall be allowed to a taxpayer, based on the taxpayer's  
1733 production and sale of electricity from a new or expanded Florida  
1734 renewable energy facility. For a new facility, the credit shall  
1735 be based on the taxpayer's sale of the facility's entire  
1736 electrical production. For an expanded facility, the credit shall  
1737 be based on the increases in the facility's electrical production  
1738 that are achieved after May 1, 2006.

1739 (j) The credit shall be allowed to a corporation that owns  
1740 a partnership or limited liability company that has elected to be  
1741 treated as a partnership for federal income tax purposes when the  
1742 partnership or limited liability company produces and sells  
1743 electricity from a new or expanded renewable energy facility. If  
1744 the partnership or limited liability company that produces or  
1745 sells the electricity is owned by more than one corporation, the  
1746 value of the credit shall be prorated among the owners in the  
1747 same manner as items of income and expense are prorated for  
1748 federal income tax purposes.

1749 Section 26. It is the intent of the Legislature that s.  
1750 220.193(3)(j), Florida Statutes, as created by this act, is  
1751 remedial in nature and applies retroactively to the effective  
1752 date of the law establishing the credit.

1753 Section 27. Subsection (2) of section 220.21, Florida  
1754 Statutes, is amended to read:

1755 220.21 Returns and records; regulations.--

1756 (2) A taxpayer who is required to file its federal income  
1757 tax return by electronic means on a separate or consolidated  
1758 basis shall also file returns required by this chapter by  
1759 electronic means. Pursuant to ~~For the reasons described in s.~~



593-06048A-08

1760 213.755(9), the department may waive the requirement to file a  
1761 return by electronic means for taxpayers that are unable to  
1762 comply despite good faith efforts or due to circumstances beyond  
1763 the taxpayer's reasonable control. The provisions of this  
1764 subsection are in addition to the requirements of s. 213.755 to  
1765 electronically file returns and remit payments ~~required~~ under  
1766 this chapter. The department may prescribe by rule the format and  
1767 instructions ~~necessary~~ for electronic filing to ensure a full  
1768 collection of taxes due. In addition to the authority granted  
1769 under s. 213.755, the acceptable method of transfer, the method,  
1770 form, and content of the electronic data interchange, and the  
1771 means, if any, by which the taxpayer is ~~will be~~ provided with an  
1772 acknowledgment may be prescribed by the department. If the  
1773 taxpayer fails ~~In the case of any failure~~ to comply with the  
1774 electronic filing requirements of this subsection, a penalty  
1775 shall be added to the amount of tax due with the ~~such~~ return  
1776 equal to 5 percent of the amount of such tax ~~for the first 30~~  
1777 ~~days the return is not filed electronically, with an additional 5~~  
1778 ~~percent of such tax for each additional month or fraction~~  
1779 ~~thereof~~, not to exceed \$250 in the aggregate. The department may  
1780 settle or compromise the penalty pursuant to s. 213.21. This  
1781 penalty is in addition to any other penalty that may be  
1782 applicable and shall be assessed, collected, and paid in the same  
1783 manner as taxes.

1784 Section 28. Subsection (2) of section 220.21, Florida  
1785 Statutes, as amended by this act, shall take effect and apply to  
1786 returns due on or after January 1, 2008.

1787 Section 29. Paragraph (c) of subsection (1) of section  
1788 336.021, Florida Statutes, is amended to read:



516968

593-06048A-08

1789 | 336.021 County transportation system; levy of ninth-cent  
1790 | fuel tax on motor fuel and diesel fuel.--

1791 | (1)

1792 | (c) Local option taxes collected on sales or use of diesel  
1793 | fuel in this state shall be distributed in the following manner:

1794 | 1. The fiscal year of July 1, 1995, through June 30, 1996,  
1795 | shall be the base year for all distributions.

1796 | 2. Each year the tax collected, less the service and  
1797 | administrative charges enumerated in s. 215.20 and the allowances  
1798 | allowed under s. 206.91, on the number of gallons reported, up to  
1799 | the total number of gallons reported in the base year, shall be  
1800 | distributed to each county using the distribution percentage  
1801 | calculated for the base year.

1802 | 3. After the distribution of taxes pursuant to subparagraph  
1803 | 4. 2., additional taxes available for distribution shall first be  
1804 | distributed pursuant to this subparagraph. A distribution shall  
1805 | be made to each county in which a qualified new retail station is  
1806 | located. A qualified new retail station is a retail station that  
1807 | began operation after June 30, 1996, and that has sales of diesel  
1808 | fuel exceeding 50 percent of the sales of diesel fuel reported in  
1809 | the county in which it is located during the 1995-1996 state  
1810 | fiscal year. The determination of whether a new retail station is  
1811 | qualified shall be based on the total gallons of diesel fuel sold  
1812 | at the station during each full month of operation during the 12-  
1813 | month period ending January 31, divided by the number of full  
1814 | months of operation during those 12 months, and the result  
1815 | multiplied by 12. The amount distributed pursuant to this  
1816 | subparagraph to each county in which a qualified new retail  
1817 | station is located shall equal the local option taxes due on the  
1818 | gallons of diesel fuel sold by the new retail station during the



516968

593-06048A-08

1819 | year ending January 31, less the service charges enumerated in s.  
1820 | 215.20 and the dealer allowance provided for by s. 206.91.  
1821 | Gallons of diesel fuel sold at the qualified new retail station  
1822 | shall be certified to the department by the county requesting the  
1823 | additional distribution by June 15, 1997, and by March 1 in each  
1824 | subsequent year. The certification shall include the beginning  
1825 | inventory, fuel purchases and sales, and the ending inventory for  
1826 | the new retail station for each month of operation during the  
1827 | year, the original purchase invoices for the period, and any  
1828 | other information the department deems reasonable and necessary  
1829 | to establish the certified gallons. The department may review and  
1830 | audit the retail dealer's records provided to a county to  
1831 | establish the gallons sold by the new retail station.  
1832 | Notwithstanding the provisions of this subparagraph, when more  
1833 | than one county qualifies for a distribution pursuant to this  
1834 | subparagraph and the requested distributions exceed the total  
1835 | taxes available for distribution, each county shall receive a  
1836 | prorated share of the moneys available for distribution.

1837 |       4. After the distribution of taxes pursuant to subparagraph  
1838 | 2. 3., all additional taxes available for distribution, with the  
1839 | exception of subparagraph 3., shall be distributed based on  
1840 | vehicular diesel fuel storage capacities in each county pursuant  
1841 | to this subparagraph. The total vehicular diesel fuel storage  
1842 | capacity shall be established for each fiscal year based on the  
1843 | registration of facilities with the Department of Environmental  
1844 | Protection as required by s. 376.303 for the following facility  
1845 | types: retail stations, fuel user/nonretail, state government,  
1846 | local government, and county government. Each county shall  
1847 | receive a share of the total taxes available for distribution  
1848 | pursuant to this subparagraph equal to a fraction, the numerator



516968

593-06048A-08

1849 | of which is the storage capacity located within the county for  
1850 | vehicular diesel fuel in the facility types listed in this  
1851 | subparagraph and the denominator of which is the total statewide  
1852 | storage capacity for vehicular diesel fuel in those facility  
1853 | types. The vehicular diesel fuel storage capacity for each county  
1854 | and facility type shall be that established by the Department of  
1855 | Environmental Protection by June 1, 1997, for the 1996-1997  
1856 | fiscal year, and by January 31 for each succeeding fiscal year.  
1857 | The storage capacities so established shall be final. The storage  
1858 | capacity for any new retail station for which a county receives a  
1859 | distribution pursuant to subparagraph 3. shall not be included  
1860 | in the calculations pursuant to this subparagraph.

1861 |       Section 30. Paragraph (b) of subsection (2) of section  
1862 | 443.1215, Florida Statutes, is amended to read:

1863 |       443.1215 Employers.--

1864 |       (2)

1865 |       (b) In determining whether an employing unit for which  
1866 | service, other than agricultural labor, is also performed is an  
1867 | employer under paragraph (1)(a), paragraph (1)(b), paragraph  
1868 | (1)(c), or subparagraph (1)(d)2., the wages earned or the  
1869 | employment of an employee performing service in agricultural  
1870 | labor may not be taken into account. If an employing unit is  
1871 | determined to be an employer of agricultural labor, the employing  
1872 | unit is considered an employer for purposes of paragraph (1)(a)  
1873 | ~~subsection (1)~~.

1874 |       Section 31. Subsection (2) of section 443.1316, Florida  
1875 | Statutes, is amended to read:

1876 |       443.1316 Unemployment tax collection services; interagency  
1877 | agreement.--



516968

593-06048A-08

1878           (2)~~(a)~~ The Department of Revenue is considered to be  
1879 administering a revenue law of this state when the department  
1880 implements this chapter, or otherwise provides unemployment tax  
1881 collection services, under contract with the Agency for Workforce  
1882 Innovation through the interagency agreement.

1883           (3)~~(b)~~ Sections 213.015(1)-(3), (5)-(7), (9)-(19), and  
1884 (21); 213.018; 213.025; 213.051; 213.053; 213.0535; 213.055;  
1885 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25;  
1886 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37; 213.50;  
1887 213.67; 213.69; 213.691; 213.692; 213.73; 213.733; 213.74; ~~and~~  
1888 213.757, and 213.758 apply to the collection of unemployment  
1889 contributions and reimbursements by the Department of Revenue  
1890 unless prohibited by federal law.

1891           Section 32. Subsection (1) and paragraph (a) of subsection  
1892 (3) of section 443.141, Florida Statutes, are amended to read:

1893           443.141 Collection of contributions and reimbursements.--

1894           (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
1895 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.--

1896           (a) Interest.--Contributions or reimbursements unpaid on  
1897 the date due shall bear interest at the rate of 1 percent per  
1898 month from and after that date until payment plus accrued  
1899 interest is received by the tax collection service provider,  
1900 unless the service provider finds that the employing unit has or  
1901 had good reason for failure to pay the contributions or  
1902 reimbursements when due. Interest collected under this subsection  
1903 must be paid into the Special Employment Security Administration  
1904 Trust Fund.

1905           (b) Penalty for delinquent, erroneous, incomplete, or  
1906 insufficient reports.--





516968

593-06048A-08

1907 |       1. An employing unit that fails to file a any report  
1908 | required by the Agency for Workforce Innovation or its tax  
1909 | collection service provider, in accordance with rules for  
1910 | administering this chapter, shall pay to the tax collection  
1911 | service provider for each delinquent report the sum of \$25 for  
1912 | each 30 days or fraction thereof that the employing unit is  
1913 | delinquent, unless the agency or its service provider, whichever  
1914 | required the report, finds that the employing unit has or had  
1915 | good reason for failure to file the report. The agency or its  
1916 | service provider may assess penalties only through the date of  
1917 | the issuance of the final assessment notice. However, additional  
1918 | penalties accrue if the delinquent report is subsequently filed.

1919 |       2. An employing unit that files an erroneous, incomplete,  
1920 | or insufficient report required by the Agency for Workforce  
1921 | Innovation, or its tax collection service provider, shall pay a  
1922 | penalty of \$50 or 10 percent of any tax due, whichever is  
1923 | greater, which is added to any tax, penalty, or interest  
1924 | otherwise due. This penalty may not exceed \$300 per report. For  
1925 | purposes of this chapter, an "erroneous, incomplete, or  
1926 | insufficient report" is one so lacking in information,  
1927 | completeness, or arrangement that the report cannot be readily  
1928 | understood, verified, or reviewed. This includes, but is not  
1929 | limited to, reports having missing wage or employee information,  
1930 | missing or incorrect social security numbers, or illegible  
1931 | entries; reports submitted in a format that was not approved by  
1932 | the agency or its tax collection service provider; and those  
1933 | showing gross wages that do not equal the total of each  
1934 | individual's wage.



516968

593-06048A-08

1935            ~~3.2.~~ Sums collected as penalties under this paragraph  
1936 ~~subparagraph 1.~~ must be deposited in the Special Employment  
1937 Security Administration Trust Fund.

1938            ~~4.3.~~ The penalty and interest for a delinquent, erroneous,  
1939 incomplete, or insufficient report may be waived if ~~when~~ the  
1940 penalty or interest is inequitable. The provisions of s.  
1941 213.24(1) apply to any penalty or interest that is imposed under  
1942 this paragraph section.

1943            (c) Application of partial payments.--~~If~~ ~~When~~ a delinquency  
1944 exists in the employment record of an employer not in bankruptcy,  
1945 a partial payment less than the total delinquency amount shall be  
1946 applied to the employment record as the payor directs. In the  
1947 absence of specific direction, the partial payment shall be  
1948 applied to the payor's employment record as prescribed in the  
1949 rules of the Agency for Workforce Innovation or the state agency  
1950 providing tax collection services.

1951            (3) COLLECTION PROCEEDINGS.--

1952            (a) Lien for payment of contributions or reimbursements.--

1953            1. There is created a lien in favor of the tax collection  
1954 service provider upon all the property, both real and personal,  
1955 of any employer liable for payment of any contribution or  
1956 reimbursement levied and imposed under this chapter for the  
1957 amount of the contributions or reimbursements due, together with  
1958 any interest, costs, and penalties. If any contribution or  
1959 reimbursement levied ~~imposed under this chapter~~ or any portion of  
1960 that contribution, reimbursement, interest, or penalty is not  
1961 paid within 60 days after becoming delinquent, the tax collection  
1962 service provider may ~~subsequently~~ issue a notice of lien that may  
1963 be filed in the office of the clerk of the circuit court of the  
1964 ~~any~~ county in which the delinquent employer owns property or



516968

593-06048A-08

1965 | conducts ~~has conducted~~ business. The notice of lien must include  
1966 | the periods for which the contributions, reimbursements,  
1967 | interest, or penalties are demanded and the amounts due. A copy  
1968 | of the notice ~~of lien~~ must be mailed to the employer at her or  
1969 | his last known address. The notice of lien may not be issued and  
1970 | recorded until 15 days after the date the assessment becomes  
1971 | final under subsection (2). Upon presentation of the notice ~~of~~  
1972 | ~~lien~~, the clerk of the circuit court shall record it in a book  
1973 | maintained for that purpose, and the amount of the notice of  
1974 | lien, together with the cost of recording and interest accruing  
1975 | upon the amount of the contribution or reimbursement, becomes a  
1976 | lien upon the title to and interest, whether legal or equitable,  
1977 | in any real property, chattels real, or personal property of the  
1978 | employer against whom the notice of lien is issued, in the same  
1979 | manner as a judgment of the circuit court docketed in the office  
1980 | of the circuit court clerk, with execution issued to the sheriff  
1981 | for levy. This lien is prior, preferred, and superior to all  
1982 | mortgages or other liens filed, recorded, or acquired after the  
1983 | notice of lien is filed. Upon the payment of the amounts due, or  
1984 | upon determination by the tax collection service provider that  
1985 | the notice of lien was erroneously issued, the lien is satisfied  
1986 | when the service provider acknowledges in writing that the lien  
1987 | is fully satisfied. A lien's satisfaction does not need to be  
1988 | acknowledged before any notary or other public officer, and the  
1989 | signature of the director of the tax collection service provider  
1990 | or his or her designee is conclusive evidence of the satisfaction  
1991 | of the lien, which ~~satisfaction~~ shall be recorded by the clerk of  
1992 | the circuit court who receives the fees for those services.

1993 |         2. The tax collection service provider may subsequently  
1994 | issue a warrant directed to any sheriff in this state, commanding



516968

593-06048A-08

1995 | him or her to levy upon and sell any real or personal property of  
1996 | the employer liable for any amount under this chapter within his  
1997 | or her jurisdiction, for payment, with the added penalties and  
1998 | interest and the costs of executing the warrant, together with  
1999 | the costs of the clerk of the circuit court in recording and  
2000 | docketing the notice of lien, and to return the warrant to the  
2001 | service provider with payment. The warrant may only be issued and  
2002 | enforced for all amounts due to the tax collection service  
2003 | provider on the date the warrant is issued, together with  
2004 | interest accruing on the contribution or reimbursement due from  
2005 | the employer to the date of payment at the rate provided in this  
2006 | section. In the event of sale of any assets of the employer,  
2007 | however, priorities under the warrant shall be determined in  
2008 | accordance with the priority established by any notices of lien  
2009 | filed by the tax collection service provider and recorded by the  
2010 | clerk of the circuit court. The sheriff shall execute the warrant  
2011 | in the same manner prescribed by law for executions issued by the  
2012 | clerk of the circuit court for judgments of the circuit court.  
2013 | The sheriff is entitled to the same fees for executing the  
2014 | warrant as for a writ of execution out of the circuit court, and  
2015 | these fees must be collected in the same manner.

2016 | 3. The lien created under this paragraph shall expire 10  
2017 | years after the notice of lien is recorded and no action may be  
2018 | commenced to collect the tax after the expiration of the lien.

2019 | Section 33. Paragraph (c) is added to subsection (6) of  
2020 | section 509.261, Florida Statutes, to read:

2021 | 509.261 Revocation or suspension of licenses; fines;  
2022 | procedure.--



516968

593-06048A-08

2023 (6) The division may fine, suspend, or revoke the license  
2024 of any public lodging establishment or public food service  
2025 establishment when:

2026 (c) The licensee is delinquent in the payment of any tax,  
2027 fee, or surcharge, including penalty and interest, imposed or  
2028 administered under chapter 212, and the Department of Revenue has  
2029 issued a warrant or filed a judgment lien certificate against the  
2030 licensee's property.

2031 Section 34. Paragraph (b) of subsection (5) of section  
2032 624.509, Florida Statutes, is amended to read:

2033 624.509 Premium tax; rate and computation.--

2034 (5)

2035 (b) For purposes of this subsection:

2036 1. The term "salaries" does not include amounts paid as  
2037 commissions.

2038 2. The term "employees" does not include independent  
2039 contractors or any person whose duties require that the person  
2040 hold a valid license under the Florida Insurance Code, except  
2041 adjusters, managing general agents, and service representatives,  
2042 as defined in s. 626.015.

2043 3. The term "net tax" means the tax imposed by this section  
2044 after applying the calculations and credits set forth in  
2045 subsection (4).

2046 4. An affiliated group of corporations that created a  
2047 service company within its affiliated group on July 30, 2002,  
2048 shall allocate the salary of each service company employee  
2049 covered by contracts with affiliated group members to the  
2050 companies for which the employees perform services. The salary  
2051 allocation is based on the amount of time during the tax year  
2052 that the individual employee spends performing services or



516968

593-06048A-08

2053 otherwise working for each company over the total amount of time  
2054 the employee spends performing services or otherwise working for  
2055 all companies. The total amount of salary allocated to an  
2056 insurance company within the affiliated group shall be included  
2057 as that insurer's employee salaries for purposes of this section.

2058 a. Except as provided in subparagraph (a)2., the term  
2059 "affiliated group of corporations" means two or more corporations  
2060 that are entirely owned by a single corporation and that  
2061 constitute an affiliated group of corporations as defined in s.  
2062 1504(a) of the Internal Revenue Code.

2063 b. The term "service company" means a separate corporation  
2064 within the affiliated group of corporations whose employees  
2065 provide services to affiliated group members and which are  
2066 treated as service company employees for unemployment  
2067 compensation and common law purposes. The holding company of an  
2068 affiliated group may not qualify as a service company. An  
2069 insurance company may not qualify as a service company.

2070 c. If an insurance company fails to substantiate, whether  
2071 by means of adequate records or otherwise, its eligibility to  
2072 claim the service company exception under this section, or its  
2073 salary allocation under this section, no credit shall be allowed.

2074 ~~5. A service company that is a subsidiary of a mutual~~  
2075 ~~insurance holding company, which mutual insurance holding company~~  
2076 ~~was in existence on or before January 1, 2000, shall allocate the~~  
2077 ~~salary of each service company employee covered by contracts with~~  
2078 ~~members of the mutual insurance holding company system to the~~  
2079 ~~companies for which the employees perform services. The salary~~  
2080 ~~allocation is based on the ratio of the amount of time during the~~  
2081 ~~tax year which the individual employee spends performing services~~  
2082 ~~or otherwise working for each company to the total amount of time~~



516968

593-06048A-08

2083 ~~the employee spends performing services or otherwise working for~~  
2084 ~~all companies. The total amount of salary allocated to an~~  
2085 ~~insurance company within the mutual insurance holding company~~  
2086 ~~system shall be included as that insurer's employee salaries for~~  
2087 ~~purposes of this section. However, this subparagraph does not~~  
2088 ~~apply for any tax year unless funds sufficient to offset the~~  
2089 ~~anticipated salary credits have been appropriated to the General~~  
2090 ~~Revenue Fund prior to the due date of the final return for that~~  
2091 ~~year.~~

2092 ~~a. The term "mutual insurance holding company system" means~~  
2093 ~~two or more corporations that are subsidiaries of a mutual~~  
2094 ~~insurance holding company and in compliance with part IV of~~  
2095 ~~chapter 628.~~

2096 ~~b. The term "service company" means a separate corporation~~  
2097 ~~within the mutual insurance holding company system whose~~  
2098 ~~employees provide services to other members of the mutual~~  
2099 ~~insurance holding company system and are treated as service~~  
2100 ~~company employees for unemployment compensation and common-law~~  
2101 ~~purposes. The mutual insurance holding company may not qualify as~~  
2102 ~~a service company.~~

2103 ~~e. If an insurance company fails to substantiate, whether~~  
2104 ~~by means of adequate records or otherwise, its eligibility to~~  
2105 ~~claim the service company exception under this section, or its~~  
2106 ~~salary allocation under this section, no credit shall be allowed.~~

2107 Section 35. Section 213.054, Florida Statutes, is repealed.

2108 Section 36. Except as otherwise expressly provided in this  
2109 act and except for this section, which shall take effect upon  
2110 becoming a law, this act shall take effect July 1, 2008.