

By Senator Haridopolos

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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. 192.0105, F.S.; revising the
5 list of tax-related forms that a taxpayer has a right to
6 keep confidential; amending s. 201.02, F.S.; revising
7 provisions relating to forms for indicating nonprofit
8 status; amending s. 201.022, F.S.; revising provisions
9 relating to the filing of tax returns resulting from the
10 sale of real property; amending s. 212.07, F.S.;
11 conforming a cross-reference; providing penalties for
12 knowingly failing to collect taxes due; amending s.
13 212.08, F.S.; revising provisions relating to the tax
14 exemption for building materials used to rehabilitate real
15 property in enterprise zones; amending s. 212.12, F.S.;
16 revising penalties for failing to report taxes due;
17 amending s. 212.18, F.S.; revising penalties for failing
18 to register as a dealer; amending s. 213.053, F.S.;
19 revising provisions relating to confidentiality;
20 authorizing the Department of Revenue to send certain
21 general information to taxpayers by electronic means;
22 deleting a provision that allows the disclosure of certain
23 information to the Chief Financial Officer; authorizing
24 the department to provide taxpayer information to the
25 Division of Hotels and Restaurants; providing an
26 additional exception from the public-records exemption;
27 authorizing the Department of Revenue to publish a list of
28 delinquent taxpayers; authorizing the department to adopt
29 rules; creating s. 213.0532, F.S.; requiring financial

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30 institutions to enter into agreements with the department
31 to conduct data matches to identify delinquent taxpayers;
32 providing definitions; requiring the department to pay a
33 fee to cover the cost to the institution; providing
34 immunity from liability for certain actions by the
35 institution; authorizing the department to institute civil
36 actions; authorizing the department to adopt rules;
37 amending s. 213.25, F.S.; clarifying that the department's
38 authority to reduce tax refunds or credits by the amount
39 of other taxes owed applies to unemployment compensation
40 taxes; amending s. 213.67, F.S.; revising the time for
41 commencing actions to contest a tax levy; creating s.
42 213.691, F.S.; authorizing the Department of Revenue to
43 issue or file integrated warrants and judgment lien
44 certificates; creating s. 213.692, F.S.; authorizing the
45 department to file a single consolidated tax warrant for
46 multiple taxes due and to revoke a taxpayer's certificate
47 of registration if the taxpayer owes any taxes to the
48 state; requiring a cash deposit or other security for
49 issuing a new certificate of registration; authorizing the
50 department to adopt rules; authorizing emergency rules;
51 creating s. 213.758, F.S.; assigning tax liability when
52 property is transferred; requiring a taxpayer who quits
53 the business without benefit of a purchaser to make a
54 final return and full payment within a specified period;
55 providing for the Department of Legal Affairs to issue an
56 injunction; specifying a transferee's liability for tax,
57 interest, and penalties; authorizing the Department of
58 Revenue to adopt rules; amending s. 220.21, F.S.; revising

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59 provisions relating to the electronic filing of corporate
60 taxes; providing for retroactivity; amending s. 336.021,
61 F.S.; revising the order for distributing the local option
62 fuel tax revenues; amending s. 443.1215, F.S.; revising a
63 cross-reference; amending s. 443.1316, F.S.; conforming
64 provisions to changes made by the act; amending s.
65 443.141, F.S.; providing penalties for erroneous,
66 incomplete, or insufficient unemployment compensation tax
67 reports filed by employers; providing a statute of
68 limitation on liens for the collection of unpaid
69 unemployment taxes; amending s. 509.261, F.S.; authorizing
70 the Division of Hotels and Restaurants to find, suspend or
71 revoke a license for violating state tax laws; amending s.
72 624.509, F.S.; deleting the alternative salary tax credit
73 calculation for mutual holding companies; repealing s.
74 213.054, F.S., relating to a report naming persons who
75 claim a deduction for the net earnings of an international
76 banking facility; providing for retroactive application of
77 specified provisions; providing an effective date.

78
79 Be It Enacted by the Legislature of the State of Florida:

80
81 Section 1. Paragraph (a) of subsection (2) of section
82 72.011, Florida Statutes, is amended to read:

83 72.011 Jurisdiction of circuit courts in specific tax
84 matters; administrative hearings and appeals; time for commencing
85 action; parties; deposits.--

86 (2)(a) An action may not be brought to contest an
87 assessment of any tax, interest, or penalty assessed under a

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88 section or chapter specified in subsection (1) if the petition is
89 postmarked or the action is filed more than 60 days after the
90 date the assessment becomes final. An action may not be brought
91 to contest a denial of refund of any tax, interest, or penalty
92 paid under a section or chapter specified in subsection (1) if
93 the petition is postmarked or the action is filed more than 60
94 days after the date the denial becomes final.

95 Section 2. Effective January 1, 2009, paragraph (a) of
96 subsection (4) of section 192.0105, Florida Statutes, is amended
97 to read:

98 192.0105 Taxpayer rights.--There is created a Florida
99 Taxpayer's Bill of Rights for property taxes and assessments to
100 guarantee that the rights, privacy, and property of the taxpayers
101 of this state are adequately safeguarded and protected during tax
102 levy, assessment, collection, and enforcement processes
103 administered under the revenue laws of this state. The Taxpayer's
104 Bill of Rights compiles, in one document, brief but comprehensive
105 statements that summarize the rights and obligations of the
106 property appraisers, tax collectors, clerks of the court, local
107 governing boards, the Department of Revenue, and taxpayers.
108 Additional rights afforded to payors of taxes and assessments
109 imposed under the revenue laws of this state are provided in s.
110 213.015. The rights afforded taxpayers to assure that their
111 privacy and property are safeguarded and protected during tax
112 levy, assessment, and collection are available only insofar as
113 they are implemented in other parts of the Florida Statutes or
114 rules of the Department of Revenue. The rights so guaranteed to
115 state taxpayers in the Florida Statutes and the departmental
116 rules include:

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117 (4) THE RIGHT TO CONFIDENTIALITY.--

118 (a) The right to have information kept confidential,
119 including federal tax information, ad valorem tax returns, social
120 security numbers, all financial records produced by the taxpayer,
121 Form DR-219 Return for Transfers of Interest in Real Property,
122 returns required by s. 201.022 ~~for documentary stamp tax~~
123 ~~information~~, and sworn statements of gross income, copies of
124 federal income tax returns for the prior year, wage and earnings
125 statements (W-2 forms), and other documents (see ss. 192.105,
126 193.074, 193.114(5), 195.027(3) and (6), and 196.101(4)(c)).

127 Section 3. Effective January 1, 2009, subsection (6) of
128 section 201.02, Florida Statutes, is amended to read:

129 201.02 Tax on deeds and other instruments relating to real
130 property or interests in real property.--

131 (6) Taxes imposed by this section do ~~shall~~ not apply to any
132 assignment, transfer, or other disposition, or any document,
133 which arises out of a transfer of real property from a nonprofit
134 organization to the Board of Trustees of the Internal Improvement
135 Trust Fund, to any state agency, to any water management
136 district, or to any local government. For purposes of this
137 subsection, "nonprofit organization" means an organization whose
138 purpose is the preservation of natural resources and which is
139 exempt from federal income tax under s. 501(c)(3) of the Internal
140 Revenue Code. The return required by s. 201.022 shall provide a
141 place ~~The Department of Revenue shall provide a form, or a place~~
142 ~~on an existing form,~~ for the nonprofit organization to indicate
143 its exempt status. The following notation must be placed on the
144 document assigning, transferring, or otherwise disposing of the
145 property, adjacent to the official records stamp of the county,

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146 at the time of its recording in the public records: "This
147 document is exempt from documentary stamp tax pursuant to s.
148 201.02(6), F.S."

149 Section 4. Effective January 1, 2009, section 201.022,
150 Florida Statutes, is amended to read:

151 201.022 Consideration for realty; filing of return
152 condition precedent to recordation; penalty; compensation of
153 clerks; failure to file does not impair validity.--

154 (1) As a condition precedent to recording ~~the recordation~~
155 ~~of~~ any deed transferring an interest in real property, the
156 grantor or the grantee or agent for grantee shall execute and
157 file a return, in a format prescribed by the Department of
158 Revenue, with the clerk of the circuit court, who may accept the
159 return electronically. The return shall state the actual
160 consideration paid for the interest in real property and. ~~The~~
161 ~~return shall state~~ the parcel identification number maintained by
162 the county property appraiser in a manner prescribed by the
163 department. If the parcel is a split or cutout parcel, the return
164 shall state the parent parcel identification number if the parcel
165 identification number has not been assigned. The return shall not
166 be recorded or otherwise become a public record and is shall be
167 confidential, as provided by s. 193.074, and ~~shall be~~ exempt from
168 ~~the provisions of~~ s. 119.07(1), except that the Department of
169 Environmental Protection or, ~~through the Department of~~
170 ~~Environmental Protection,~~ its contract appraiser, shall have
171 access to the return to verify the consideration paid for the in
172 any transfer of an interest in real property if the, ~~when such~~
173 transfer is ~~considered as~~ part of an appraisal for a proposed
174 land acquisition project conducted pursuant to any Department of

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175 Environmental Protection land acquisition program. The Department
176 of Environmental Protection or its contract appraiser shall not
177 disclose the contents of the return to any other public or
178 private entity. The original return shall be forwarded to the
179 ~~Department of Revenue, and a copy shall be forwarded to the~~
180 property appraiser.

181 (2) If the return required by this section is not executed
182 and filed, any person who is required by this section to execute
183 and file a return with the clerk of the circuit court and who
184 fails to do so is ~~shall be~~ liable for a penalty of \$25 to be
185 collected and retained by the clerk of the circuit court. ~~The~~
186 ~~penalty imposed by this subsection shall be in addition to any~~
187 ~~other penalty imposed by the revenue laws of this state. The~~
188 ~~penalty may be compromised as provided in s. 213.21.~~

189 (3) If the return required by this section is not executed
190 and filed, the clerk of the circuit court shall ~~is required to~~
191 ~~execute and file the return, on paper or electronically, with the~~
192 ~~department.~~ The clerk shall be compensated 1.0 percent of the tax
193 paid on deeds as the cost of processing the return ~~required by~~
194 ~~this section~~ in the form of a deduction from the amount of the
195 tax due and remitted by the clerk, ~~and~~ The department shall
196 allow the deduction ~~to the clerk paying and remitting the tax in~~
197 the manner provided by the department unless. ~~However, no~~
198 ~~deduction or allowance shall be granted when there is a manifest~~
199 failure to maintain proper records or make proper reports. The
200 compensation provided in this subsection is ~~herein shall be~~ in
201 addition to that provided in s. 201.11(2).

202 (4) Failure of any grantee or the grantee's agent to
203 execute and file with the clerk of the circuit court the ~~a~~ return

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204 required in subsection (1) does not impair the validity of any
205 deed ~~heretofore or hereafter~~ recorded that transfers ~~transferring~~
206 an interest in real property.

207 Section 5. Paragraph (b) of subsection (1) and subsection
208 (3) of section 212.07, Florida Statutes, are amended to read:

209 212.07 Sales, storage, use tax; tax added to purchase
210 price; dealer not to absorb; liability of purchasers who cannot
211 prove payment of the tax; penalties; general exemptions.--

212 (1)

213 (b) A resale must be in strict compliance with s. 212.18
214 and the rules and regulations, and any dealer who makes a sale
215 for resale which is not in strict compliance with s. 212.18 and
216 the rules and regulations shall himself or herself be liable for
217 and pay the tax. Any dealer who makes a sale for resale shall
218 document the exempt nature of the transaction, as established by
219 rules promulgated by the department, by retaining a copy of the
220 purchaser's resale certificate. In lieu of maintaining a copy of
221 the certificate, a dealer may document, prior to the time of
222 sale, an authorization number provided telephonically or
223 electronically by the department, or by such other means
224 established by rule of the department. The dealer may rely on a
225 resale certificate issued pursuant to s. 212.18(3)(d) ~~s.~~
226 ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,
227 without seeking annual verification of the resale certificate if
228 the dealer makes recurring sales to a purchaser in the normal
229 course of business on a continual basis. For purposes of this
230 paragraph, "recurring sales to a purchaser in the normal course
231 of business" refers to a sale in which the dealer extends credit
232 to the purchaser and records the debt as an account receivable,

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233 or in which the dealer sells to a purchaser who has an
234 established cash or C.O.D. account, similar to an open credit
235 account. For purposes of this paragraph, purchases are made from
236 a selling dealer on a continual basis if the selling dealer
237 makes, in the normal course of business, sales to the purchaser
238 no less frequently than once in every 12-month period. A dealer
239 may, through the informal protest provided for in s. 213.21 and
240 ~~the~~ rules of the Department of Revenue, provide the department
241 with evidence of the exempt status of a sale. Consumer
242 certificates of exemption executed by ~~those~~ exempt entities that
243 were registered with the department at the time of sale, resale
244 certificates provided by purchasers who were active dealers at
245 the time of sale, and verification by the department of a
246 purchaser's active dealer status at the time of sale in lieu of a
247 resale certificate shall be accepted by the department when
248 submitted during the protest period, but may not be accepted in
249 any proceeding under chapter 120 or any circuit court action
250 instituted under chapter 72.

251 (3) (a) A Any dealer who fails, neglects, or refuses to
252 collect the tax or fees imposed under this chapter herein
253 ~~provided, either~~ by himself or herself or through the dealer's
254 agents or employees, ~~is,~~ in addition to ~~the penalty of~~ being
255 liable for and paying the tax or fees ~~himself or herself,~~ commits
256 ~~guilty of~~ a misdemeanor of the first degree, punishable as
257 provided in s. 775.082 or s. 775.083.

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

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262 penalties provided by law, be liable for a specific penalty of
263 100 percent of any uncollected tax or fees and, upon conviction,
264 for fine and punishment as provided in s. 775.082, s. 775.083, or
265 s. 775.084:

266 1. If the total amount of uncollected taxes or fees is less
267 than \$300, the first offense is a misdemeanor of the second
268 degree, the second offense is a misdemeanor of the first degree,
269 and the third and all subsequent offenses are felonies of the
270 third degree.

271 2. If the total amount of the uncollected taxes or fees is
272 \$300 or more but less than \$20,000, the offense is a felony of
273 the third degree.

274 3. If the total amount of the uncollected taxes or fees is
275 \$20,000 or more but less than \$100,000, the offense is a felony
276 of the second degree.

277 4. If the total amount of the uncollected taxes or fees is
278 \$100,000 or more, the offense is a felony of the first degree.

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

281 (d) The department shall give notice of the duty to collect
282 taxes or fees to the dealer by personal service, oral or written;
283 or by sending notice to the dealer by registered mail, to the
284 dealer's last known address; or by both personal service and
285 mailing.

286 Section 6. Paragraph (g) of subsection (5) of section
287 212.08, Florida Statutes, is amended to read:

288 212.08 Sales, rental, use, consumption, distribution, and
289 storage tax; specified exemptions.--The sale at retail, the
290 rental, the use, the consumption, the distribution, and the

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

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

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

296 1. Building materials used in the rehabilitation of real
297 property located in an enterprise zone are ~~shall be~~ exempt from
298 the tax imposed by this chapter upon an affirmative showing to
299 the satisfaction of the department that the items have been used
300 for the rehabilitation of real property located in an enterprise
301 zone. Except as provided in subparagraph 2., this exemption
302 inures to the owner, lessee, or lessor at the time of ~~of~~ the
303 ~~rehabilitated~~ real property located in an enterprise zone is
304 rehabilitated, but only through a refund of previously paid
305 taxes. To receive a refund pursuant to this paragraph, the owner,
306 lessee, or lessor of the rehabilitated real property ~~located in~~
307 ~~an enterprise zone~~ must file an application under oath with the
308 governing body or enterprise zone development agency having
309 jurisdiction over the enterprise zone where the business is
310 located, as applicable. A single application for refund may be
311 submitted for multiple, contiguous parcels that were parts of a
312 single parcel that was divided as part of the rehabilitation of
313 the property. All other requirements of this paragraph apply to
314 each parcel on an individual basis. The application must include,
315 ~~which includes:~~

- 316 a. The name and address of the person claiming the refund.
317 b. An address and assessment roll parcel number of the
318 rehabilitated real property ~~in an enterprise zone~~ for which a
319 refund of previously paid taxes is being sought.

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320 c. A description of the improvements made to accomplish the
321 rehabilitation of the real property.

322 d. A copy of a valid ~~the building~~ permit issued by the
323 county or municipal building department for the rehabilitation of
324 the real property.

325 e. A sworn statement, under ~~the~~ penalty of perjury, from
326 the general contractor, licensed in this state, with whom the
327 applicant contracted to make the improvements necessary to
328 rehabilitate ~~accomplish the rehabilitation of~~ the real property,
329 which ~~statement~~ lists the building materials used in the
330 rehabilitation of the real property, the actual cost of the
331 building materials, and the amount of sales tax paid in this
332 state on the building materials. If ~~In the event that~~ a general
333 contractor has not been used, the applicant shall provide the
334 ~~this~~ information in a sworn statement, under ~~the~~ penalty of
335 perjury. Copies of the invoices which evidence the purchase of
336 the building materials used in the ~~such~~ rehabilitation and the
337 payment of sales tax on the building materials shall be attached
338 to the sworn statement ~~provided by the general contractor or by~~
339 ~~the applicant~~. Unless the actual cost of building materials used
340 in the rehabilitation of real property and the payment of sales
341 taxes due are ~~thereon is~~ documented by a general contractor or by
342 the applicant in this manner, the cost of such building materials
343 shall be an amount equal to 40 percent of the increase in
344 assessed value for ad valorem tax purposes.

345 f. The identifying number assigned pursuant to s. 290.0065
346 to the enterprise zone in which the rehabilitated real property
347 is located.

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348 g. A certification by the local building code inspector
349 that the improvements necessary for rehabilitating ~~to accomplish~~
350 ~~the rehabilitation of~~ the real property are substantially
351 completed.

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

354 i. If applicable, the name and address of each permanent
355 employee of the business, including, for each employee who is a
356 resident of an enterprise zone, the identifying number assigned
357 pursuant to s. 290.0065 to the enterprise zone in which the
358 employee resides.

359 2. This exemption inures to a municipality ~~city~~, county,
360 other governmental unit or agency, or nonprofit community-based
361 organization ~~through a refund of previously paid taxes~~ if the
362 building materials used in the rehabilitation of real property
363 located in an enterprise zone are paid ~~for~~ from the funds of a
364 community development block grant, State Housing Initiatives
365 Partnership Program, or similar grant or loan program. To receive
366 a refund of previously paid taxes ~~pursuant to this paragraph~~, a
367 municipality ~~city~~, county, other governmental unit or agency, or
368 nonprofit community-based organization must file an application
369 that ~~which~~ includes the same information required ~~to be provided~~
370 in subparagraph 1. ~~by an owner, lessee, or lessor of~~
371 ~~rehabilitated real property~~. In addition, the application must
372 include a sworn statement signed by the chief executive officer
373 of the municipality ~~city~~, county, other governmental unit or
374 agency, or nonprofit community-based organization seeking a
375 refund which states that the building materials for which a
376 refund is sought were paid ~~for~~ from the funds of a community

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377 development block grant, State Housing Initiatives Partnership
378 Program, or similar grant or loan program.

379 3. Within 10 working days after receipt of an application,
380 the governing body or enterprise zone development agency shall
381 review the application to determine if it contains all the
382 information required under ~~pursuant to~~ subparagraph 1. or
383 subparagraph 2. and meets the criteria set out in this paragraph.
384 The governing body or agency shall certify all applications that
385 contain the required information ~~required pursuant to~~
386 ~~subparagraph 1. or subparagraph 2.~~ and meet the criteria ~~set out~~
387 ~~in this paragraph~~ as eligible to receive a refund. If applicable,
388 the governing body or agency shall also certify that ~~if~~ 20
389 percent of the employees of the business are residents of an
390 enterprise zone, excluding temporary and part-time employees. The
391 certification must ~~shall~~ be in writing, and a copy ~~of the~~
392 ~~certification shall be~~ transmitted to the executive director of
393 the department ~~of Revenue~~. The applicant is ~~shall be~~ responsible
394 for forwarding a certified application to the department within
395 the time specified in subparagraph 4.

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

401 5. Only ~~Not more than~~ one exemption through a refund of
402 previously paid taxes for the rehabilitation of real property is
403 allowed ~~shall be permitted~~ for any single parcel of property
404 unless there is a change in ownership, a new lessor, or a new
405 lessee of the real property. A ~~No~~ refund may not ~~shall~~ be granted

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406 pursuant to this paragraph unless the amount to be refunded
407 exceeds \$500. The ~~No refund may not granted pursuant to this~~
408 ~~paragraph shall~~ exceed the lesser of 97 percent of the Florida
409 sales or use tax paid on the cost of the building materials used
410 in the rehabilitation of the real property as determined pursuant
411 to sub-subparagraph 1.e. or \$5,000, or, if at least ~~no less than~~
412 20 percent of the employees of the business are residents of an
413 enterprise zone, excluding temporary and part-time employees, the
414 amount of refund may ~~granted pursuant to this paragraph shall~~ not
415 exceed the lesser of 97 percent of the sales tax paid on the cost
416 of such building materials or \$10,000. A refund approved pursuant
417 to this paragraph must ~~shall~~ be made within 30 days after ~~of~~
418 formal approval by the department of the application for the
419 refund. This subparagraph shall apply retroactively to July 1,
420 2005.

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

425 7. The department shall deduct an amount equal to 10
426 percent of each refund granted under ~~the provisions of~~ this
427 paragraph from the amount transferred into the Local Government
428 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for
429 the county area in which the rehabilitated real property is
430 located and shall transfer that amount to the General Revenue
431 Fund.

432 8. For the purposes of the exemption provided in this
433 paragraph:

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434 a. "Building materials" means tangible personal property
435 that ~~which~~ becomes a component part of improvements to real
436 property.

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

439 c. "Rehabilitation of real property" means the
440 reconstruction, renovation, restoration, rehabilitation,
441 construction, or expansion of improvements to real property.

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

444 9. This paragraph expires on the date specified in s.
445 290.016 for the expiration of the Florida Enterprise Zone Act.

446 Section 7. Paragraph (d) of subsection (2) of section
447 212.12, Florida Statutes, is amended to read:

448 212.12 Dealer's credit for collecting tax; penalties for
449 noncompliance; powers of Department of Revenue in dealing with
450 delinquents; brackets applicable to taxable transactions; records
451 required.--

452 (2)

453 (d) Any person who makes a false or fraudulent return with
454 a willful intent to evade payment of any tax or fee imposed under
455 this chapter; ~~any person who, after the department's delivery of~~
456 ~~a written notice to the person's last known address specifically~~
457 ~~alerting the person of the requirement to register the person's~~
458 ~~business as a dealer, intentionally fails to register the~~
459 ~~business; and any person who, after the department's delivery of~~
460 ~~a written notice to the person's last known address specifically~~
461 ~~alerting the person of the requirement to collect tax on specific~~
462 ~~transactions, intentionally fails to collect such tax, shall, in~~

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463 addition to the other penalties provided by law, be liable for a
464 specific penalty of 100 percent of any unreported ~~or any~~
465 ~~uncollected~~ tax or fee and, upon conviction, for fine and
466 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.
467 ~~Delivery of written notice may be made by certified mail, or by~~
468 ~~the use of such other method as is documented as being necessary~~
469 ~~and reasonable under the circumstances. The civil and criminal~~
470 ~~penalties imposed herein for failure to comply with a written~~
471 ~~notice alerting the person of the requirement to register the~~
472 ~~person's business as a dealer or to collect tax on specific~~
473 ~~transactions shall not apply if the person timely files a written~~
474 ~~challenge to such notice in accordance with procedures~~
475 ~~established by the department by rule or the notice fails to~~
476 ~~clearly advise that failure to comply with or timely challenge~~
477 ~~the notice will result in the imposition of the civil and~~
478 ~~criminal penalties imposed herein.~~

479 1. If the total amount of unreported or uncollected taxes
480 or fees is less than \$300, the first offense resulting in
481 conviction is a misdemeanor of the second degree, the second
482 offense ~~resulting in conviction~~ is a misdemeanor of the first
483 degree, and the third and all subsequent offenses ~~resulting in~~
484 ~~conviction is a misdemeanor of the first degree, and the third~~
485 ~~and all subsequent offenses resulting in conviction~~ are felonies
486 of the third degree.

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

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

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

496 Section 8. Paragraphs (c), (d), and (e) of subsection (3)
497 of section 212.18, Florida Statutes, are renumbered as paragraphs
498 (d), (e), and (f), respectively, and paragraph (b) of that
499 subsection is amended to read:

500 212.18 Administration of law; registration of dealers;
501 rules.--

502 (3)

503 (b) The department, upon receipt of such application, shall
504 ~~will~~ grant to the applicant a separate certificate of
505 registration for each place of business, which certificate may be
506 canceled by the department or its designated assistants for any
507 failure by the certificateholder to comply with any of the
508 provisions of this chapter. The certificate is not assignable and
509 is valid only for the person, firm, copartnership, or corporation
510 to which issued. The certificate must be placed in a conspicuous
511 place in the business or businesses for which it is issued and
512 must be displayed at all times. Except as provided in this
513 subsection, no person shall engage in business as a dealer or in
514 leasing, renting, or letting of or granting licenses in living
515 quarters or sleeping or housekeeping accommodations in hotels,
516 apartment houses, roominghouses, tourist or trailer camps, or
517 real property ~~as hereinbefore defined~~, nor shall any person sell
518 or receive anything of value by way of admissions, without first

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519 | having obtained ~~such~~ a certificate or after such certificate has
520 | been canceled; no person shall receive any license from any
521 | authority within the state to engage in any such business without
522 | first having obtained such a certificate or after such
523 | certificate has been canceled. The engaging in the business of
524 | selling or leasing tangible personal property or services or as a
525 | dealer, ~~as defined in this chapter,~~ or the engaging in leasing,
526 | renting, or letting of or granting licenses in living quarters or
527 | sleeping or housekeeping accommodations in hotels, apartment
528 | houses, roominghouses, or tourist or trailer camps that are
529 | taxable under this chapter, or real property, or the engaging in
530 | the business of selling or receiving anything of value by way of
531 | admissions, without such certificate first being obtained or
532 | after such certificate has been canceled by the department, is
533 | prohibited.

534 | (c)1. The failure or refusal of any person, firm,
535 | copartnership, or corporation to register ~~so qualify when~~
536 | ~~required hereunder~~ is a misdemeanor of the first degree,
537 | punishable as provided in s. 775.082 or s. 775.083, or subject to
538 | injunctive proceedings as provided by law. Such failure or
539 | refusal also subjects the offender to a \$100 initial registration
540 | fee in lieu of the \$5 registration fee authorized in paragraph
541 | (a). However, the department may waive the increase in the
542 | registration fee if it determines ~~is determined by the department~~
543 | that the failure to register was due to reasonable cause and not
544 | to willful negligence, willful neglect, or fraud.

545 | 2. Any person who willfully fails to register after the
546 | department provides notice of the duty to register as a dealer
547 | for the purpose of engaging in or conducting business in the

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548 state, commits a felony of the third degree, punishable as
549 provided in s. 775.082, s. 775.083, or s. 775.084.

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

552 b. The department shall give notice of the duty to register
553 to the person by personal service, oral or written; or by sending
554 notice by registered mail to the person's last known address; or
555 by personal service and mailing.

556 Section 9. Paragraph (a) of subsection (2), subsection (5),
557 and paragraph (d) of subsection (8) of section 213.053, Florida
558 Statutes, are amended, paragraph (z) is added to subsection (8)
559 of that section, and subsection (19) is added to that section, to
560 read:

561 213.053 Confidentiality and information sharing.--

562 (2) (a) All information contained in returns, reports,
563 accounts, or declarations received by the department, including
564 investigative reports and information, ~~and including~~ letters of
565 technical advice, telephone numbers, and electronic mail
566 addresses collected and maintained by the department for the
567 purpose of communicating with taxpayers, is confidential except
568 for official purposes and is exempt from s. 119.07(1).

569 (5) Nothing contained in this section shall prevent the
570 department from:

571 (a) Publishing statistics so ~~classified~~ as to prevent the
572 identification of particular accounts, reports, declarations, or
573 returns. ~~;~~ ~~or~~

574 (b) Using telephone, electronic mail, facsimile, or other
575 electronic means to:

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576 1. Distribute tax information regarding changes in law, tax
577 rates, or interest rates, or other information that is not
578 specific to a particular taxpayer;

579 2. Provide reminders of due dates;

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

583 4. Request taxpayers to contact the department ~~Disclosing to~~
584 ~~the Chief Financial Officer the names and addresses of those~~
585 ~~taxpayers who have claimed an exemption pursuant to former s.~~
586 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

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

589 (d) Information relating to chapter 212 and chapter 509
590 ~~Names, addresses, and sales tax registration information to the~~
591 ~~Division of Hotels and Restaurants of the Department of Business~~
592 ~~and Professional Regulation in the conduct of its official~~
593 ~~duties.~~

594 (z) Names and taxpayer identification numbers relating to
595 information sharing agreements with financial institutions
596 pursuant to s. 213.0532.

597
598 Disclosure of information under this subsection shall be pursuant
599 to a written agreement between the executive director and the
600 agency. Such agencies, governmental or nongovernmental, shall be
601 bound by the same requirements of confidentiality as the
602 Department of Revenue. Breach of confidentiality is a misdemeanor
603 of the first degree, punishable as provided by s. 775.082 or s.
604 775.083.

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605 (19) The department may publish a list of all taxpayers
606 against whom it has issued a warrant or filed a judgment lien
607 against a taxpayer's property if the taxpayers are delinquent in
608 the payment of any tax, fee, penalty, interest or surcharge
609 administered by the department. The list shall identify each
610 taxpayer by name, address, amounts and types of taxes, fees, or
611 surcharges, and the employer identification number or other
612 taxpayer identification number.

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

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

620 (c) The department may adopt rules for the administration
621 of this subsection.

622 Section 10. Section 213.0532, Florida Statutes, is created
623 to read:

624 213.0532 Agreements with financial institutions.--

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

626 (a) "Financial institution" means:

627 1. A depository institution as defined in 12 U.S.C. s.
628 1813(c);

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

631 3. Any federal credit union or state credit union as
632 defined in 12 U.S.C. s. 1752, including an institution-affiliated

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633 party of such a credit union as defined in 12 U.S.C s. 1786(r);
634 and

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

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

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

642 (d) "Obligor" means any person against whose property the
643 department has issued a warrant or filed a judgment lien
644 certificate.

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

646 (2) The department shall request information and assistance
647 from a financial institution as necessary to enforce the tax laws
648 of the state. Pursuant to such purpose, financial institutions
649 doing business in the state shall enter into agreements with the
650 department to develop and operate a data match system, using an
651 automated data exchange to the maximum extent feasible, in which
652 the financial institution must provide for each calendar quarter
653 the name, record address, social security number or other
654 taxpayer identification number, average daily account balance,
655 and other identifying information for:

656 (a) Each obligor who maintains an account at the financial
657 institution as identified to the institution by the department by
658 name and social security number or other taxpayer identification
659 number; or

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

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662
663 Use of the information received by the department shall be
664 limited to enforcing the collection of taxes and fees
665 administered by the department.

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

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

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

676 (a) Disclosure to the department of any information
677 required under this section.

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

681 (c) Disclosing any information in connection with a data
682 match.

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

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

688 (7) The department may institute civil proceedings against
689 financial institutions, as necessary, to enforce the provisions
690 of this section.

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

694 Section 11. Section 213.25, Florida Statutes, is amended to
695 read:

696 213.25 Refunds; credits; right of setoff.-- If ~~In any~~
697 ~~instance that~~ a taxpayer has a refund or credit due for an
698 overpayment of taxes assessed under chapter 443 or any of the
699 chapters specified in s. 72.011(1), the department may reduce
700 such refund or credit to the extent of any billings not subject
701 to protest under chapter 443 or s. 213.21 for the same or any
702 other tax owed by the same taxpayer.

703 Section 12. Subsection (8) of section 213.67, Florida
704 Statutes, is amended to read:

705 213.67 Garnishment.--

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

710 Section 13. Section 213.691, Florida Statutes, is created
711 to read:

712 213.691 Integrated warrants and judgment lien
713 certificates.--In addition to the department's authority to issue
714 warrants and file judgment lien certificates for any unpaid tax,
715 fee, or surcharge it administers, the department may issue a
716 single integrated warrant and file a single integrated judgment
717 lien certificate evidencing a taxpayer's total liability for all
718 taxes, fees, or surcharges administered by the department. Each
719 integrated warrant or integrated judgment lien certificate issued

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720 or filed must separately identify and itemize the total amount
721 due for each tax, fee, or surcharge, including any related
722 interest and penalty. In order for a taxpayer's total liability
723 to be included in an integrated warrant or judgment lien
724 certificate, the department must have authority to file a warrant
725 or judgment lien certificate for each tax, fee, or surcharge.

726 Section 14. Section 213.692, Florida Statutes, is created
727 to read:

728 213.692 Integrated enforcement authority.--

729 (1) If a taxpayer is delinquent in the payment of any tax,
730 fee, or surcharge administered by the department, the department
731 may revoke all of the taxpayer's certificates of registration,
732 permits, or licenses issued by the department. For the purposes
733 of this section, a taxpayer is considered delinquent only if the
734 department has issued a warrant or filed a judgment lien
735 certificate against the taxpayer's property.

736 (a) Prior to revocation of the taxpayer's certificates of
737 registration, permits, or licenses, the department must schedule
738 an informal conference, which the taxpayer is required to attend
739 and at which the taxpayer may present evidence regarding the
740 department's intended revocation or may enter into a compliance
741 agreement with the department. The department must provide
742 written notice to the taxpayer at the taxpayer's last known
743 address of its intended action and the time, place, and date of
744 the scheduled informal conference. The department shall issue an
745 administrative complaint under chapter 120 if the taxpayer fails
746 to attend the department's informal conference, fails to enter
747 into a compliance agreement with the department, or fails to
748 comply with the executed compliance agreement.

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

752 1. The taxpayer's outstanding liabilities have been
753 satisfied; or

754 2. The department enters into a written agreement with the
755 taxpayer regarding the liability and, as part of such agreement,
756 agrees to issue a new certificate of registration, permit, or
757 license to the taxpayer.

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

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

765 (2) The department may adopt rules to administer this
766 section.

767 Section 15. The Executive Director of the Department of
768 Revenue is authorized, and all conditions are deemed met, to
769 adopt emergency rules under ss. 120.563(1) and 120.54(4), Florida
770 Statutes, to administer s. 213.692, Florida Statutes.

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

775 Section 16. Section 213.758, Florida Statutes, is created
776 to read:

777 213.758 Transfer of tax liabilities.--

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778 (1) As used in this section, the term:
779 (a) "Involuntary transfers" means transfers made without
780 the consent of the transferor, including, but not limited to:
781 1. Transfers that occur due to the foreclosure of a
782 security interest issued to a person who is not an insider as
783 defined by s. 726.102;
784 2. Transfers that result from eminent domain and
785 condemnation actions; and
786 3. Transfers made under the authority of chapter 61,
787 chapter 702, chapter 727, or the United States Bankruptcy Code.
788 (b) "Transfer" means every mode, direct or indirect, with
789 or without consideration, of disposing of or parting with a
790 business or stock of goods, and includes, but is not limited to,
791 assigning, conveying, devising, gifting, granting, or selling.
792 (2) Any taxpayer who is liable for any tax, interest, or
793 penalty administered by the department in accordance with chapter
794 443 or s. 72.011(1), excluding corporate income tax, and who
795 quits the business without the benefit of a purchaser,
796 successors, or assigns or without transferring the business or
797 stock of goods to a transferee, must make a final return and full
798 payment within 15 days after quitting the business. A taxpayer
799 failing to file a final return and make payment may not engage in
800 any business in the state until the final return has been filed
801 and the all tax, interest, and penalties due have been paid. If
802 requested by the department, the Department of Legal Affairs may
803 proceed by injunction to prevent further business activity until
804 such tax, interest, or penalties are paid, and a temporary
805 injunction enjoining further business activity shall be granted
806 without notice by any court of competent jurisdiction.

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807 (3) Any taxpayer liable for any tax, interest, or penalty
808 levied under chapter 443 or any of the chapters specified in s.
809 213.05, excluding corporate income tax, who transfers the
810 taxpayer's business or stock of goods, must file a final return
811 and make full payment within 15 days after the date of transfer.

812 (4) Unless a taxpayer who transfers a business or stock of
813 goods provides a receipt or certificate from the department to
814 the transferee showing that the taxpayer has no further liability
815 for tax, interest, or penalty, the transferee must pay the tax,
816 interest, or penalty due or, if consideration is part of the
817 transfer, withhold a sufficient portion of the purchase money to
818 pay the taxes, interest, or penalties due.

819 (a) If the transferee withholds any portion of the
820 consideration pursuant to this subsection, the transferee shall
821 pay that portion of the consideration to the department within 30
822 days after the date of transfer.

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

825 (c) Any transferee acquiring the business or stock of goods
826 who fails to pay the tax, interest, and penalty due shall be
827 denied the right to engage in any business in the state until the
828 tax, interest, and penalty have been paid. If requested by the
829 department, the Department of Legal Affairs may proceed by
830 injunction to prevent further business activity until such tax,
831 interest, and penalties are paid, and a temporary injunction
832 enjoining further business activity shall be granted without
833 notice by any court of competent jurisdiction.

834 (d) This subsection does not apply to transfers in which
835 parts of the business or stock of goods are transferred to

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836 various taxpayers unless more than 50 percent of the business or
837 stock of goods are transferred to one taxpayer or a group of
838 taxpayers acting in concert.

839 (5) A receipt or certificate from the department does not,
840 without an audit of the transferring taxpayer's books and records
841 by the department, guarantee that there is not a tax deficiency
842 owed to the state from operation of the transferring taxpayer's
843 business. To secure protection from transferee liability under
844 this section, the transferring taxpayer or the transferee may
845 request an audit of the transferring taxpayer's books and
846 records. The department may charge the cost of the audit to the
847 person requesting the audit.

848 (6) The transferee of a business or stock of goods is
849 jointly and severally liable with any former owner for the
850 payment of the taxes, interest, or penalties accruing and unpaid
851 on account of the operation of the business by any former owner
852 up to the fair market value of the property transferred or the
853 total purchase price, whichever is higher.

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

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

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

860 Section 17. Subsection (2) of section 220.21, Florida
861 Statutes, is amended to read:

862 220.21 Returns and records; regulations.--

863 (2) A taxpayer who is required to file its federal income
864 tax return by electronic means on a separate or consolidated

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865 basis shall also file returns required by this chapter by
866 electronic means. Pursuant to ~~For the reasons described in s.~~
867 213.755(9), the department may waive the requirement to file a
868 return by electronic means for taxpayers that are unable to
869 comply despite good faith efforts or due to circumstances beyond
870 the taxpayer's reasonable control. The provisions of this
871 subsection are in addition to the requirements of s. 213.755 to
872 electronically file returns and remit payments ~~required~~
873 this chapter. The department may prescribe by rule the format and
874 instructions ~~necessary~~ for electronic filing to ensure a full
875 collection of taxes due. In addition to the authority granted
876 under s. 213.755, the acceptable method of transfer, the method,
877 form, and content of the electronic data interchange, and the
878 means, if any, by which the taxpayer is ~~will be~~ provided with an
879 acknowledgment may be prescribed by the department. If the
880 taxpayer fails ~~In the case of any failure~~ to comply with the
881 electronic filing requirements of this subsection, a penalty
882 shall be added to the amount of tax due with the ~~such~~ return
883 equal to 5 percent of the amount of such tax ~~for the first 30~~
884 ~~days the return is not filed electronically, with an additional 5~~
885 ~~percent of such tax for each additional month or fraction~~
886 ~~thereof~~, not to exceed \$250 in the aggregate. The department may
887 settle or compromise the penalty pursuant to s. 213.21. This
888 penalty is in addition to any other penalty that may be
889 applicable and shall be assessed, collected, and paid in the same
890 manner as taxes.

891 Section 18. Subsection (2) of section 220.21, Florida
892 Statutes, as amended by this act, shall take effect and apply to
893 returns due on or after January 1, 2008.

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894 Section 19. Paragraph (c) of subsection (1) of section
895 336.021, Florida Statutes, is amended to read:

896 336.021 County transportation system; levy of ninth-cent
897 fuel tax on motor fuel and diesel fuel.--

898 (1)

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

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

903 2. Each year the tax collected, less the service and
904 administrative charges enumerated in s. 215.20 and the allowances
905 allowed under s. 206.91, on the number of gallons reported, up to
906 the total number of gallons reported in the base year, shall be
907 distributed to each county using the distribution percentage
908 calculated for the base year.

909 3. After the distribution of taxes pursuant to subparagraph
910 4. 2., additional taxes available for distribution shall first be
911 distributed pursuant to this subparagraph. A distribution shall
912 be made to each county in which a qualified new retail station is
913 located. A qualified new retail station is a retail station that
914 began operation after June 30, 1996, and that has sales of diesel
915 fuel exceeding 50 percent of the sales of diesel fuel reported in
916 the county in which it is located during the 1995-1996 state
917 fiscal year. The determination of whether a new retail station is
918 qualified shall be based on the total gallons of diesel fuel sold
919 at the station during each full month of operation during the 12-
920 month period ending January 31, divided by the number of full
921 months of operation during those 12 months, and the result
922 multiplied by 12. The amount distributed pursuant to this

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923 | subparagraph to each county in which a qualified new retail
924 | station is located shall equal the local option taxes due on the
925 | gallons of diesel fuel sold by the new retail station during the
926 | year ending January 31, less the service charges enumerated in s.
927 | 215.20 and the dealer allowance provided for by s. 206.91.
928 | Gallons of diesel fuel sold at the qualified new retail station
929 | shall be certified to the department by the county requesting the
930 | additional distribution by June 15, 1997, and by March 1 in each
931 | subsequent year. The certification shall include the beginning
932 | inventory, fuel purchases and sales, and the ending inventory for
933 | the new retail station for each month of operation during the
934 | year, the original purchase invoices for the period, and any
935 | other information the department deems reasonable and necessary
936 | to establish the certified gallons. The department may review and
937 | audit the retail dealer's records provided to a county to
938 | establish the gallons sold by the new retail station.
939 | Notwithstanding the provisions of this subparagraph, when more
940 | than one county qualifies for a distribution pursuant to this
941 | subparagraph and the requested distributions exceed the total
942 | taxes available for distribution, each county shall receive a
943 | prorated share of the moneys available for distribution.

944 | 4. After the distribution of taxes pursuant to subparagraph
945 | 2. ~~3.~~, all additional taxes available for distribution, with the
946 | exception of subparagraph 3., shall be distributed based on
947 | vehicular diesel fuel storage capacities in each county pursuant
948 | to this subparagraph. The total vehicular diesel fuel storage
949 | capacity shall be established for each fiscal year based on the
950 | registration of facilities with the Department of Environmental
951 | Protection as required by s. 376.303 for the following facility

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952 types: retail stations, fuel user/nonretail, state government,
953 local government, and county government. Each county shall
954 receive a share of the total taxes available for distribution
955 pursuant to this subparagraph equal to a fraction, the numerator
956 of which is the storage capacity located within the county for
957 vehicular diesel fuel in the facility types listed in this
958 subparagraph and the denominator of which is the total statewide
959 storage capacity for vehicular diesel fuel in those facility
960 types. The vehicular diesel fuel storage capacity for each county
961 and facility type shall be that established by the Department of
962 Environmental Protection by June 1, 1997, for the 1996-1997
963 fiscal year, and by January 31 for each succeeding fiscal year.
964 The storage capacities so established shall be final. The storage
965 capacity for any new retail station for which a county receives a
966 distribution pursuant to subparagraph 3. shall not be included
967 in the calculations pursuant to this subparagraph.

968 Section 20. Paragraph (b) of subsection (2) of section
969 443.1215, Florida Statutes, is amended to read:

970 443.1215 Employers.--

971 (2)

972 (b) In determining whether an employing unit for which
973 service, other than agricultural labor, is also performed is an
974 employer under paragraph (1)(a), paragraph (1)(b), paragraph
975 (1)(c), or subparagraph (1)(d)2., the wages earned or the
976 employment of an employee performing service in agricultural
977 labor may not be taken into account. If an employing unit is
978 determined to be an employer of agricultural labor, the employing
979 unit is considered an employer for purposes of paragraph (1)(a)
980 ~~subsection (1)~~.

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981 Section 21. Subsection (2) of section 443.1316, Florida
982 Statutes, is amended to read:

983 443.1316 Unemployment tax collection services; interagency
984 agreement.--

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

990 (3)~~(b)~~ Sections 213.015(1)-(3), (5)-(7), (9)-(19), and
991 (21); 213.018; 213.025; 213.051; 213.053; 213.0535; 213.055;
992 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25;
993 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37; 213.50;
994 213.67; 213.69; 213.691; 213.692; 213.73; 213.733; 213.74; ~~and~~
995 213.757, and 213.758 apply to the collection of unemployment
996 contributions and reimbursements by the Department of Revenue
997 unless prohibited by federal law.

998 Section 22. Subsection (1) and paragraph (a) of subsection
999 (3) of section 443.141, Florida Statutes, are amended to read:

1000 443.141 Collection of contributions and reimbursements.--

1001 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
1002 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.--

1003 (a) Interest.--Contributions or reimbursements unpaid on
1004 the date due shall bear interest at the rate of 1 percent per
1005 month from and after that date until payment plus accrued
1006 interest is received by the tax collection service provider,
1007 unless the service provider finds that the employing unit has or
1008 had good reason for failure to pay the contributions or
1009 reimbursements when due. Interest collected under this subsection

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1010 must be paid into the Special Employment Security Administration
1011 Trust Fund.

1012 (b) Penalty for delinquent, erroneous, incomplete, or
1013 insufficient reports.--

1014 1. An employing unit that fails to file a ~~any~~ report
1015 required by the Agency for Workforce Innovation or its tax
1016 collection service provider, in accordance with rules for
1017 administering this chapter, shall pay to the tax collection
1018 service provider for each delinquent report the sum of \$25 for
1019 each 30 days or fraction thereof that the employing unit is
1020 delinquent, unless the agency or its service provider, whichever
1021 required the report, finds that the employing unit has or had
1022 good reason for failure to file the report. The agency or its
1023 service provider may assess penalties only through the date of
1024 the issuance of the final assessment notice. However, additional
1025 penalties accrue if the delinquent report is subsequently filed.

1026 2. An employing unit that files an erroneous, incomplete,
1027 or insufficient report required by the Agency for Workforce
1028 Innovation or its tax collection service provider, shall pay a
1029 penalty of \$50 or 10 percent of any tax due, whichever is
1030 greater, which is added to any tax, penalty, or interest
1031 otherwise due. This penalty may not exceed \$300 per report. For
1032 purposes of this chapter, an "erroneous, incomplete, or
1033 insufficient report" is one so lacking in information,
1034 completeness, or arrangement that the report cannot be readily
1035 understood, verified, or reviewed. This includes, but is not
1036 limited to, reports having missing wage or employee information,
1037 missing or incorrect social security numbers, or illegible
1038 entries; reports submitted in a format that was not approved by

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1039 the agency or its tax collection service provider; and those
1040 showing gross wages that do not equal the total of each
1041 individual's wage.

1042 ~~3.2.~~ Sums collected as penalties under this paragraph
1043 ~~subparagraph 1.~~ must be deposited in the Special Employment
1044 Security Administration Trust Fund.

1045 ~~4.3.~~ The penalty and interest for a delinquent, erroneous,
1046 incomplete, or insufficient report may be waived if ~~when~~ the
1047 penalty or interest is inequitable. The provisions of s.
1048 213.24(1) apply to any penalty or interest that is imposed under
1049 this paragraph section.

1050 (c) Application of partial payments.--~~If~~ When a delinquency
1051 exists in the employment record of an employer not in bankruptcy,
1052 a partial payment less than the total delinquency amount shall be
1053 applied to the employment record as the payor directs. In the
1054 absence of specific direction, the partial payment shall be
1055 applied to the payor's employment record as prescribed in the
1056 rules of the Agency for Workforce Innovation or the state agency
1057 providing tax collection services.

1058 (3) COLLECTION PROCEEDINGS.--

1059 (a) Lien for payment of contributions or reimbursements.--

1060 1. There is created a lien in favor of the tax collection
1061 service provider upon all the property, both real and personal,
1062 of any employer liable for payment of any contribution or
1063 reimbursement levied and imposed under this chapter for the
1064 amount of the contributions or reimbursements due, together with
1065 any interest, costs, and penalties. If any contribution or
1066 reimbursement levied ~~imposed under this chapter~~ or any portion of
1067 that contribution, reimbursement, interest, or penalty is not

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1068 | paid within 60 days after becoming delinquent, the tax collection
1069 | service provider may ~~subsequently~~ issue a notice of lien that may
1070 | be filed in the office of the clerk of the circuit court of the
1071 | ~~any~~ county in which the delinquent employer owns property or
1072 | conducts ~~has conducted~~ business. The notice of lien must include
1073 | the periods for which the contributions, reimbursements,
1074 | interest, or penalties are demanded and the amounts due. A copy
1075 | of the notice ~~of lien~~ must be mailed to the employer at her or
1076 | his last known address. The notice of lien may not be issued and
1077 | recorded until 15 days after the date the assessment becomes
1078 | final under subsection (2). Upon presentation of the notice ~~of~~
1079 | ~~lien~~, the clerk of the circuit court shall record it in a book
1080 | maintained for that purpose, and the amount of the notice of
1081 | lien, together with the cost of recording and interest accruing
1082 | upon the amount of the contribution or reimbursement, becomes a
1083 | lien upon the title to and interest, whether legal or equitable,
1084 | in any real property, chattels real, or personal property of the
1085 | employer against whom the notice of lien is issued, in the same
1086 | manner as a judgment of the circuit court docketed in the office
1087 | of the circuit court clerk, with execution issued to the sheriff
1088 | for levy. This lien is prior, preferred, and superior to all
1089 | mortgages or other liens filed, recorded, or acquired after the
1090 | notice of lien is filed. Upon the payment of the amounts due, or
1091 | upon determination by the tax collection service provider that
1092 | the notice of lien was erroneously issued, the lien is satisfied
1093 | when the service provider acknowledges in writing that the lien
1094 | is fully satisfied. A lien's satisfaction does not need to be
1095 | acknowledged before any notary or other public officer, and the
1096 | signature of the director of the tax collection service provider

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1097 or his or her designee is conclusive evidence of the satisfaction
1098 of the lien, which ~~satisfaction~~ shall be recorded by the clerk of
1099 the circuit court who receives the fees for those services.

1100 2. The tax collection service provider may subsequently
1101 issue a warrant directed to any sheriff in this state, commanding
1102 him or her to levy upon and sell any real or personal property of
1103 the employer liable for any amount under this chapter within his
1104 or her jurisdiction, for payment, with the added penalties and
1105 interest and the costs of executing the warrant, together with
1106 the costs of the clerk of the circuit court in recording and
1107 docketing the notice of lien, and to return the warrant to the
1108 service provider with payment. The warrant may only be issued and
1109 enforced for all amounts due to the tax collection service
1110 provider on the date the warrant is issued, together with
1111 interest accruing on the contribution or reimbursement due from
1112 the employer to the date of payment at the rate provided in this
1113 section. In the event of sale of any assets of the employer,
1114 however, priorities under the warrant shall be determined in
1115 accordance with the priority established by any notices of lien
1116 filed by the tax collection service provider and recorded by the
1117 clerk of the circuit court. The sheriff shall execute the warrant
1118 in the same manner prescribed by law for executions issued by the
1119 clerk of the circuit court for judgments of the circuit court.
1120 The sheriff is entitled to the same fees for executing the
1121 warrant as for a writ of execution out of the circuit court, and
1122 these fees must be collected in the same manner.

1123 3. The lien created under this paragraph shall expire 10
1124 years after the notice of lien is recorded and no action may be
1125 commenced to collect the tax after the expiration of the lien.

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1126 Section 23. Paragraph (c) is added to subsection (6) of
1127 section 509.261, Florida Statutes, to read:

1128 509.261 Revocation or suspension of licenses; fines;
1129 procedure.--

1130 (6) The division may fine, suspend, or revoke the license
1131 of any public lodging establishment or public food service
1132 establishment when:

1133 (c) The licensee is delinquent in the payment of any tax,
1134 fee, or surcharge, including penalty and interest, imposed or
1135 administered under chapter 212, and the Department of Revenue has
1136 issued a warrant or filed a judgment lien certificate against the
1137 licensee's property.

1138 Section 24. Paragraph (b) of subsection (5) of section
1139 624.509, Florida Statutes, is amended to read:

1140 624.509 Premium tax; rate and computation.--

1141 (5)

1142 (b) For purposes of this subsection:

1143 1. The term "salaries" does not include amounts paid as
1144 commissions.

1145 2. The term "employees" does not include independent
1146 contractors or any person whose duties require that the person
1147 hold a valid license under the Florida Insurance Code, except
1148 adjusters, managing general agents, and service representatives,
1149 as defined in s. 626.015.

1150 3. The term "net tax" means the tax imposed by this section
1151 after applying the calculations and credits set forth in
1152 subsection (4).

1153 4. An affiliated group of corporations that created a
1154 service company within its affiliated group on July 30, 2002,

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1155 shall allocate the salary of each service company employee
1156 covered by contracts with affiliated group members to the
1157 companies for which the employees perform services. The salary
1158 allocation is based on the amount of time during the tax year
1159 that the individual employee spends performing services or
1160 otherwise working for each company over the total amount of time
1161 the employee spends performing services or otherwise working for
1162 all companies. The total amount of salary allocated to an
1163 insurance company within the affiliated group shall be included
1164 as that insurer's employee salaries for purposes of this section.

1165 a. Except as provided in subparagraph (a)2., the term
1166 "affiliated group of corporations" means two or more corporations
1167 that are entirely owned by a single corporation and that
1168 constitute an affiliated group of corporations as defined in s.
1169 1504(a) of the Internal Revenue Code.

1170 b. The term "service company" means a separate corporation
1171 within the affiliated group of corporations whose employees
1172 provide services to affiliated group members and which are
1173 treated as service company employees for unemployment
1174 compensation and common law purposes. The holding company of an
1175 affiliated group may not qualify as a service company. An
1176 insurance company may not qualify as a service company.

1177 c. If an insurance company fails to substantiate, whether
1178 by means of adequate records or otherwise, its eligibility to
1179 claim the service company exception under this section, or its
1180 salary allocation under this section, no credit shall be allowed.

1181 ~~5. A service company that is a subsidiary of a mutual~~
1182 ~~insurance holding company, which mutual insurance holding company~~
1183 ~~was in existence on or before January 1, 2000, shall allocate the~~

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1184 ~~salary of each service company employee covered by contracts with~~
1185 ~~members of the mutual insurance holding company system to the~~
1186 ~~companies for which the employees perform services. The salary~~
1187 ~~allocation is based on the ratio of the amount of time during the~~
1188 ~~tax year which the individual employee spends performing services~~
1189 ~~or otherwise working for each company to the total amount of time~~
1190 ~~the employee spends performing services or otherwise working for~~
1191 ~~all companies. The total amount of salary allocated to an~~
1192 ~~insurance company within the mutual insurance holding company~~
1193 ~~system shall be included as that insurer's employee salaries for~~
1194 ~~purposes of this section. However, this subparagraph does not~~
1195 ~~apply for any tax year unless funds sufficient to offset the~~
1196 ~~anticipated salary credits have been appropriated to the General~~
1197 ~~Revenue Fund prior to the due date of the final return for that~~
1198 ~~year.~~

1199 ~~a. The term "mutual insurance holding company system" means~~
1200 ~~two or more corporations that are subsidiaries of a mutual~~
1201 ~~insurance holding company and in compliance with part IV of~~
1202 ~~chapter 628.~~

1203 ~~b. The term "service company" means a separate corporation~~
1204 ~~within the mutual insurance holding company system whose~~
1205 ~~employees provide services to other members of the mutual~~
1206 ~~insurance holding company system and are treated as service~~
1207 ~~company employees for unemployment compensation and common-law~~
1208 ~~purposes. The mutual insurance holding company may not qualify as~~
1209 ~~a service company.~~

1210 ~~c. If an insurance company fails to substantiate, whether~~
1211 ~~by means of adequate records or otherwise, its eligibility to~~

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1212 ~~claim the service company exception under this section, or its~~
1213 ~~salary allocation under this section, no credit shall be allowed.~~

1214 Section 25. Section 213.054, Florida Statutes, is repealed.

1215 Section 26. Except as otherwise expressly provided in this
1216 act and except for this section, which shall take effect upon
1217 becoming a law, this act shall take effect July 1, 2008.