

Amendment No.

CHAMBER ACTION

Senate

House

.

---

1 Representative Attkisson offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5  
6 Section 1. Paragraph (a) of subsection (2) of section  
7 72.011, Florida Statutes, is amended to read:

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

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

596873

4/30/2008 11:40 PM

Amendment No.

17 to contest a denial of refund of any tax, interest, or penalty  
18 paid under a section or chapter specified in subsection (1) if  
19 the petition is postmarked or delivered to a third-party  
20 commercial carrier for delivery or the action is filed more than  
21 60 days after the date the denial becomes final.

22 Section 2. Subsection (3), paragraph (d) of subsection  
23 (5), paragraphs (a) and (d) of subsection (6), and paragraph (c)  
24 of subsection (10) of section 125.0104, Florida Statutes, are  
25 amended to read:

26 125.0104 Tourist development tax; procedure for levying;  
27 authorized uses; referendum; enforcement.--

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

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

39 (b) As used in this section, the terms "consideration,"  
40 "rental," and "rent" mean the amount received by a person  
41 operating transient accommodations for the use or securing the  
42 use of any living quarters or sleeping or housekeeping  
43 accommodations that are part of, in, from, or in connection with  
44 any hotel, apartment house, roominghouse, timeshare resort,

596873

4/30/2008 11:40 PM

Amendment No.

45 tourist or trailer camp, mobile home park, recreational vehicle  
46 park, or condominium. The term "person operating transient  
47 accommodations" means the person conducting the daily affairs of  
48 the physical facilities furnishing transient accommodations who  
49 is responsible for providing the services commonly associated  
50 with operating the facilities furnishing transient  
51 accommodations regardless of whether such commonly associated  
52 services are provided by third parties. The terms  
53 "consideration," "rental," and "rent" do not include payments  
54 received by an unrelated person for facilitating the booking of  
55 reservations for or on behalf of a lessee or licensee at a  
56 hotel, apartment house, roominghouse, timeshare resort, tourist  
57 or trailer camp, mobile home park, recreational vehicle park, or  
58 condominium in this state. The term "unrelated person" means a  
59 person who is not in the same affiliated group of corporations  
60 pursuant to s. 1504 of the Internal Revenue Code of 1986, as  
61 amended.

62 (c) Tax shall be due on the consideration paid for  
63 occupancy in the county pursuant to a regulated short-term  
64 product as defined in s. 721.05 or occupancy in the county  
65 pursuant to a product that would be deemed a regulated short-  
66 term product if the agreement to purchase the short-term product  
67 were executed in this state. Such tax shall be collected on the  
68 last day of occupancy within the county unless the consideration  
69 is applied to the purchase of a timeshare estate.

70 Notwithstanding paragraphs (a) and (b), the occupancy of an  
71 accommodation of a timeshare resort pursuant to a timeshare  
72 plan, a multisite timeshare plan, or an exchange transaction in

596873

4/30/2008 11:40 PM

Amendment No.

73 an exchange program as defined in s. 721.05 by the owner of a  
74 timeshare interest or such owner's guest, which guest is not  
75 paying monetary consideration to the owner or to a third party  
76 for the benefit of the owner, is not a privilege subject to  
77 taxation under this section. A membership or transaction fee  
78 paid by a timeshare owner that does not provide the timeshare  
79 owner with a right to occupy any specific timeshare unit but  
80 merely provides the timeshare owner with an opportunity to  
81 exchange a timeshare interest through an exchange program is a  
82 service charge and is not subject to taxation.

83 (d) Consideration paid for the purchase of a timeshare  
84 license in a timeshare plan as defined in s. 721.05 is rent  
85 subject to taxation under this section.

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

596873

4/30/2008 11:40 PM

Amendment No.

101 to levy and impose the tax on a subcounty special district  
102 basis, the district shall embrace all or a significant  
103 contiguous portion of the county, and the county shall assist  
104 the Department of Revenue in identifying the rental units  
105 subject to tax in the district.

106 (f)~~(e)~~ The tourist development tax shall be levied,  
107 imposed, and set by the governing board of the county at a rate  
108 of 1 percent or 2 percent of each dollar and major fraction of  
109 each dollar of the total consideration charged for such lease or  
110 rental. When receipt of consideration is by way of property  
111 other than money, the tax shall be levied and imposed on the  
112 fair market value of such nonmonetary consideration.

113 (g)~~(d)~~ In addition to any 1-percent or 2-percent tax  
114 imposed under paragraph (f) ~~(e)~~, the governing board of the  
115 county may levy, impose, and set an additional 1 percent of each  
116 dollar above the tax rate set under paragraph (f) ~~(e)~~ by the  
117 extraordinary vote of the governing board for the purposes set  
118 forth in subsection (5) or by referendum approval by the  
119 registered electors within the county or subcounty special  
120 district. No county shall levy, impose, and set the tax  
121 authorized under this paragraph unless the county has imposed  
122 the 1-percent or 2-percent tax authorized under paragraph (f)  
123 ~~(e)~~ for a minimum of 3 years prior to the effective date of the  
124 levy and imposition of the tax authorized by this paragraph.  
125 Revenues raised by the additional tax authorized under this  
126 paragraph shall not be used for debt service on or refinancing  
127 of existing facilities as specified in subparagraph (5)(a)1.  
128 unless approved by a resolution adopted by an extraordinary

596873

4/30/2008 11:40 PM

Amendment No.

129 majority of the total membership of the governing board of the  
130 county. If the 1-percent or 2-percent tax authorized in  
131 paragraph (f) ~~(e)~~ is levied within a subcounty special taxing  
132 district, the additional tax authorized in this paragraph shall  
133 only be levied therein. The provisions of paragraphs (4)(a)-(d)  
134 shall not apply to the adoption of the additional tax authorized  
135 in this paragraph. The effective date of the levy and imposition  
136 of the tax authorized under this paragraph shall be the first  
137 day of the second month following approval of the ordinance by  
138 the governing board or the first day of any subsequent month as  
139 may be specified in the ordinance. A certified copy of such  
140 ordinance shall be furnished by the county to the Department of  
141 Revenue within 10 days after approval of such ordinance.

142 (h) ~~(e)~~ The tourist development tax shall be in addition to  
143 any other tax imposed pursuant to chapter 212 and in addition to  
144 all other taxes and fees and the consideration for the rental or  
145 lease.

146 (i) ~~(f)~~ The tourist development tax shall be charged by the  
147 person receiving the consideration for the lease or rental, and  
148 it shall be collected from the lessee, tenant, or customer at  
149 the time of payment of the consideration for such lease or  
150 rental.

151 (j) ~~(g)~~ The person receiving the consideration for such  
152 rental or lease shall receive, account for, and remit the tax to  
153 the Department of Revenue at the time and in the manner provided  
154 for persons who collect and remit taxes under s. 212.03. The  
155 same duties and privileges imposed by chapter 212 upon dealers  
156 in tangible property, respecting the collection and remission of  
596873

4/30/2008 11:40 PM

Amendment No.

157 tax; the making of returns; the keeping of books, records, and  
158 accounts; and compliance with the rules of the Department of  
159 Revenue in the administration of that chapter shall apply to and  
160 be binding upon all persons who are subject to the provisions of  
161 this section. However, the Department of Revenue may authorize a  
162 quarterly return and payment when the tax remitted by the dealer  
163 for the preceding quarter did not exceed \$25.

164 (k)~~(h)~~ The Department of Revenue shall keep records  
165 showing the amount of taxes collected, which records shall also  
166 include records disclosing the amount of taxes collected for and  
167 from each county in which the tax authorized by this section is  
168 applicable. These records shall be open for inspection during  
169 the regular office hours of the Department of Revenue, subject  
170 to the provisions of s. 213.053.

171 (l)~~(i)~~ Collections received by the Department of Revenue  
172 from the tax, less costs of administration of this section,  
173 shall be paid and returned monthly to the county which imposed  
174 the tax, for use by the county in accordance with the provisions  
175 of this section. They shall be placed in the county tourist  
176 development trust fund of the respective county, which shall be  
177 established by each county as a condition precedent to receipt  
178 of such funds.

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

182 (n)~~(k)~~ The Department of Revenue shall adopt ~~promulgate~~  
183 ~~such~~ rules and shall prescribe and publish ~~such~~ forms ~~as may be~~  
184 necessary to effectuate the purposes of this section. The

596873

4/30/2008 11:40 PM

Amendment No.

185 department may establish audit procedures and assess for  
186 delinquent taxes. A person operating transient accommodations  
187 shall state the tax separately from the rental charged on the  
188 receipt, invoice, or other documentation issued with respect to  
189 charges for transient accommodations. A person facilitating the  
190 booking of reservations who is unrelated to the person operating  
191 the transient accommodations in which the reservation is booked  
192 is not required to separately state amounts charged on the  
193 receipt, invoice, or other documentation issued by the person  
194 facilitating the booking of the reservation. Any amounts  
195 specifically collected as a tax are county funds and shall be  
196 remitted as tax.

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

202 1. Pay the debt service on bonds issued to finance the  
203 construction, reconstruction, or renovation of a professional  
204 sports franchise facility, or the acquisition, construction,  
205 reconstruction, or renovation of a retained spring training  
206 franchise facility, either publicly owned and operated, or  
207 publicly owned and operated by the owner of a professional  
208 sports franchise or other lessee with sufficient expertise or  
209 financial capability to operate such facility, and to pay the  
210 planning and design costs incurred prior to the issuance of such  
211 bonds.

596873

4/30/2008 11:40 PM



Amendment No.

212           2. Pay the debt service on bonds issued to finance the  
213 construction, reconstruction, or renovation of a convention  
214 center, and to pay the planning and design costs incurred prior  
215 to the issuance of such bonds.

216           3.a. Pay the operation and maintenance costs of a  
217 convention center for a period of up to 10 years. Only counties  
218 that have elected to levy the tax for the purposes authorized in  
219 subparagraph 2. may use the tax for the purposes enumerated in  
220 this subparagraph. Any county that elects to levy the tax for  
221 the purposes authorized in subparagraph 2. after July 1, 2000,  
222 may use the proceeds of the tax to pay the operation and  
223 maintenance costs of a convention center for the life of the  
224 bonds.

225           b. For counties designated as high tourism impact counties  
226 pursuant to subparagraph (p)2., pay the acquisition,  
227 construction, extension, enlargement, remodeling, repair,  
228 improvement, maintenance, operation, or promotion costs of one  
229 or more publicly owned and operated sports stadiums, arenas, or  
230 other sports venues within the boundaries of the county.

231           4. Promote and advertise tourism in the State of Florida  
232 and nationally and internationally; however, if tax revenues are  
233 expended for an activity, service, venue, or event, the  
234 activity, service, venue, or event shall have as one of its main  
235 purposes the attraction of tourists as evidenced by the  
236 promotion of the activity, service, venue, or event to tourists.

237  
238 The provision of paragraph (e) ~~(b)~~ which prohibits any county  
239 authorized to levy a convention development tax pursuant to s.  
596873

4/30/2008 11:40 PM

Amendment No.

240 212.0305 from levying more than the 2-percent tax authorized by  
241 this section, and the provisions of paragraphs (4) (a) - (d), shall  
242 not apply to the additional tax authorized in this paragraph.  
243 The effective date of the levy and imposition of the tax  
244 authorized under this paragraph shall be the first day of the  
245 second month following approval of the ordinance by the  
246 governing board or the first day of any subsequent month as may  
247 be specified in the ordinance. A certified copy of such  
248 ordinance shall be furnished by the county to the Department of  
249 Revenue within 10 days after approval of such ordinance.

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

257 2. A county is considered to be a high tourism impact  
258 county after the Department of Revenue has certified to such  
259 county that the sales subject to the tax levied pursuant to this  
260 section exceeded \$600 million during the previous calendar year,  
261 or were at least 18 percent of the county's total taxable sales  
262 under chapter 212 where the sales subject to the tax levied  
263 pursuant to this section were a minimum of \$200 million, except  
264 that no county authorized to levy a convention development tax  
265 pursuant to s. 212.0305 shall be considered a high tourism  
266 impact county. Once a county qualifies as a high tourism impact

596873

4/30/2008 11:40 PM

Amendment No.

267 county, it shall retain this designation for the period the tax  
268 is levied pursuant to this paragraph.

269 3. The provisions of paragraphs (4) (a)-(d) shall not apply  
270 to the adoption of the additional tax authorized in this  
271 paragraph. The effective date of the levy and imposition of the  
272 tax authorized under this paragraph shall be the first day of  
273 the second month following approval of the ordinance by the  
274 governing board or the first day of any subsequent month as may  
275 be specified in the ordinance. A certified copy of such  
276 ordinance shall be furnished by the county to the Department of  
277 Revenue within 10 days after approval of such ordinance.

278 (q) ~~(n)~~ In addition to any other tax that is imposed under  
279 this section, a county that has imposed the tax under paragraph  
280 (o) ~~(l)~~ may impose an additional tax that is no greater than 1  
281 percent on the exercise of the privilege described in paragraph  
282 (a) by a majority plus one vote of the membership of the board  
283 of county commissioners in order to:

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

285 a. The construction, reconstruction, or renovation of a  
286 facility either publicly owned and operated, or publicly owned  
287 and operated by the owner of a professional sports franchise or  
288 other lessee with sufficient expertise or financial capability  
289 to operate such facility, and to pay the planning and design  
290 costs incurred prior to the issuance of such bonds for a new  
291 professional sports franchise as defined in s. 288.1162.

292 b. The acquisition, construction, reconstruction, or  
293 renovation of a facility either publicly owned and operated, or  
294 publicly owned and operated by the owner of a professional

596873

4/30/2008 11:40 PM

Amendment No.

295 sports franchise or other lessee with sufficient expertise or  
296 financial capability to operate such facility, and to pay the  
297 planning and design costs incurred prior to the issuance of such  
298 bonds for a retained spring training franchise.

299 2. Promote and advertise tourism in the State of Florida  
300 and nationally and internationally; however, if tax revenues are  
301 expended for an activity, service, venue, or event, the  
302 activity, service, venue, or event shall have as one of its main  
303 purposes the attraction of tourists as evidenced by the  
304 promotion of the activity, service, venue, or event to tourists.

305  
306 A county that imposes the tax authorized in this paragraph may  
307 not expend any ad valorem tax revenues for the acquisition,  
308 construction, reconstruction, or renovation of a facility for  
309 which tax revenues are used pursuant to subparagraph 1. The  
310 provision of paragraph (e) ~~(b)~~ which prohibits any county  
311 authorized to levy a convention development tax pursuant to s.  
312 212.0305 from levying more than the 2-percent tax authorized by  
313 this section shall not apply to the additional tax authorized by  
314 this paragraph in counties which levy convention development  
315 taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not  
316 apply to the adoption of the additional tax authorized in this  
317 paragraph. The effective date of the levy and imposition of the  
318 tax authorized under this paragraph is the first day of the  
319 second month following approval of the ordinance by the board of  
320 county commissioners or the first day of any subsequent month  
321 specified in the ordinance. A certified copy of such ordinance

596873

4/30/2008 11:40 PM

Amendment No.

322 shall be furnished by the county to the Department of Revenue  
323 within 10 days after approval of the ordinance.

324 (5) AUTHORIZED USES OF REVENUE.--

325 (d) Any use of the local option tourist development tax  
326 revenues collected pursuant to this section for a purpose not  
327 expressly authorized by paragraph (3) (o) ~~(l)~~ or paragraph  
328 (q) ~~(n)~~ or paragraph (a), paragraph (b), or paragraph (c) of  
329 this subsection is expressly prohibited.

330 (6) REFERENDUM.--

331 (a) No ordinance enacted by any county levying the tax  
332 authorized by paragraphs (3) (e) ~~(b)~~ and (f) ~~(e)~~ shall take effect  
333 until the ordinance levying and imposing the tax has been  
334 approved in a referendum election by a majority of the electors  
335 voting in such election in the county or by a majority of the  
336 electors voting in the subcounty special tax district affected  
337 by the tax.

338 (d) In any case where a referendum levying and imposing  
339 the tax has been approved pursuant to this section and 15  
340 percent of the electors in the county or 15 percent of the  
341 electors in the subcounty special district in which the tax is  
342 levied file a petition with the board of county commissioners  
343 for a referendum to repeal the tax, the board of county  
344 commissioners shall cause an election to be held for the repeal  
345 of the tax which election shall be subject only to the  
346 outstanding bonds for which the tax has been pledged. However,  
347 the repeal of the tax shall not be effective with respect to any  
348 portion of taxes initially levied in November 1989, which has  
349 been pledged or is being used to support bonds under paragraph

596873

4/30/2008 11:40 PM

Amendment No.

350 (3) (g) ~~(d)~~ or paragraph (3) (o) ~~(l)~~ until the retirement of those  
351 bonds.

352 (10) LOCAL ADMINISTRATION OF TAX.--

353 (c) A county adopting an ordinance providing for the  
354 collection and administration of the tax on a local basis shall  
355 also adopt an ordinance electing either to assume all  
356 responsibility for auditing the records and accounts of dealers,  
357 and assessing, collecting, and enforcing payments of delinquent  
358 taxes, or to delegate such authority to the Department of  
359 Revenue. If the county elects to assume such responsibility, it  
360 shall be bound by all rules promulgated by the Department of  
361 Revenue pursuant to paragraph (3) (n) ~~(k)~~, as well as those rules  
362 pertaining to the sales and use tax on transient rentals imposed  
363 by s. 212.03. The county may use any power granted in this  
364 section to the department to determine the amount of tax,  
365 penalties, and interest to be paid by each dealer and to enforce  
366 payment of such tax, penalties, and interest. The county may use  
367 a certified public accountant licensed in this state in the  
368 administration of its statutory duties and responsibilities.  
369 Such certified public accountants are bound by the same  
370 confidentiality requirements and subject to the same penalties  
371 as the county under s. 213.053. If the county delegates such  
372 authority to the department, the department shall distribute any  
373 collections so received, less costs of administration, to the  
374 county. The amount deducted for costs of administration by the  
375 department shall be used only for those costs which are solely  
376 and directly attributable to auditing, assessing, collecting,  
377 processing, and enforcing payments of delinquent taxes

596873

4/30/2008 11:40 PM

Amendment No.

378 authorized in this section. If a county elects to delegate such  
379 authority to the department, the department shall audit only  
380 those businesses in the county that it audits pursuant to  
381 chapter 212.

382 Section 3. The amendments made by this act to section  
383 125.0104, Florida Statutes, are intended to be clarifying and  
384 remedial in nature and are not a basis for assessments of tax  
385 for periods before July 1, 2008, or for refunds of tax for  
386 periods before July 1, 2008.

387 Section 4. Paragraph (b) of subsection (1) and paragraph  
388 (e) of subsection (2) of section 125.0108, Florida Statutes, are  
389 amended to read:

390 125.0108 Areas of critical state concern; tourist impact  
391 tax.--

392 (1)

393 (b)1. It is declared to be the intent of the Legislature  
394 that every person who rents, leases, or lets for consideration  
395 any living quarters or accommodations in any hotel, apartment  
396 hotel, motel, resort motel, apartment, apartment motel,  
397 roominghouse, mobile home park, recreational vehicle park, ~~or~~  
398 condominium, or timeshare resort for a term of 6 months or less,  
399 unless such establishment is exempt from the tax imposed by s.  
400 212.03, is exercising a taxable privilege on the proceeds  
401 therefrom under this section.

402 2. As used in this section, the terms "consideration,"  
403 "rental," and "rent" mean the amount received by a person  
404 operating transient accommodations for the use or securing the  
405 use of any living quarters or sleeping or housekeeping

596873

4/30/2008 11:40 PM

Amendment No.

406 accommodations that are part of, in, from, or in connection with  
407 any hotel, apartment house, roominghouse, timeshare resort,  
408 tourist or trailer camp, mobile home park, recreational vehicle  
409 park, or condominium. The term "person operating transient  
410 accommodations" means the person conducting the daily affairs of  
411 the physical facilities furnishing transient accommodations who  
412 is responsible for providing the services commonly associated  
413 with operating the facilities furnishing transient  
414 accommodations regardless of whether such commonly associated  
415 services are provided by third parties. The terms  
416 "consideration," "rental" and "rent" do not include payments  
417 received by an unrelated person for facilitating the booking of  
418 reservations for or on behalf of a lessee or licensee at a  
419 hotel, apartment house, rooming house, timeshare resort, tourist  
420 or trailer camp, mobile home park, recreational vehicle park, or  
421 condominium in this state. The term "unrelated person" means a  
422 person who is not in the same affiliated group of corporations  
423 pursuant to s. 1504 of the Internal Revenue Code of 1986, as  
424 amended.

425 3. Tax shall be due on the consideration paid for  
426 occupancy in the county pursuant to a regulated short-term  
427 product as defined in s. 721.05 or occupancy in the county  
428 pursuant to a product that would be deemed a regulated short-  
429 term product if the agreement to purchase the short-term product  
430 were executed in this state. Such tax shall be collected on the  
431 last day of occupancy within the county unless the consideration  
432 is applied to the purchase of a timeshare estate.

433 Notwithstanding subparagraphs 1. and 2., the occupancy of an  
596873

4/30/2008 11:40 PM



Amendment No.

434 accommodation of a timeshare resort pursuant to a timeshare  
435 plan, a multisite timeshare plan, or an exchange transaction in  
436 an exchange program as defined in s. 721.05 by the owner of a  
437 timeshare interest or such owner's guest, which guest is not  
438 paying monetary consideration to the owner or to a third party  
439 for the benefit of the owner, is not a privilege subject to  
440 taxation under this section. A membership or transaction fee  
441 paid by a timeshare owner that does not provide the timeshare  
442 owner with a right to occupy any specific timeshare unit but  
443 merely provides the timeshare owner with an opportunity to  
444 exchange a timeshare interest through an exchange program is a  
445 service charge and is not subject to taxation.

446 4. Consideration paid for the purchase of a timeshare  
447 license in a timeshare plan as defined in s. 721.05 is rent  
448 subject to taxation under this section.

449 (2)

450 (e) The Department of Revenue shall adopt ~~is empowered to~~  
451 ~~promulgate such~~ rules and prescribe and publish ~~such~~ forms as  
452 ~~may be~~ necessary to effectuate the purposes of this section. The  
453 department may ~~is authorized to~~ establish audit procedures and  
454 ~~to~~ assess for delinquent taxes. A person operating transient  
455 accommodations shall state the tax separately from the rental  
456 charged on the receipt, invoice, or other documentation issued  
457 with respect to charges for transient accommodations. A person  
458 facilitating the booking of reservations who is unrelated to the  
459 person operating the transient accommodations in which the  
460 reservation is booked is not required to separately state  
461 amounts charged on the receipt, invoice, or other documentation

596873

4/30/2008 11:40 PM

Amendment No.

462 issued by the person facilitating the booking of the  
463 reservation. Any amounts specifically collected as a tax are  
464 county funds and shall be remitted as tax.

465 Section 5. The amendments made by this act to section  
466 125.0108, Florida Statutes, are intended to be clarifying and  
467 remedial in nature and are not a basis for assessments of tax  
468 for periods before July 1, 2008, or for refunds of tax for  
469 periods before July 1, 2008.

470 Section 6. Section 196.192, Florida Statutes, is amended  
471 to read:

472 196.192 Exemptions from ad valorem taxation.--Subject to  
473 the provisions of this chapter:

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

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

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

488

596873

4/30/2008 11:40 PM

Amendment No.

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

498 Section 7. Effective January 1, 2009, subsection (6) of  
499 section 201.02, Florida Statutes, is amended to read:

500 201.02 Tax on deeds and other instruments relating to real  
501 property or interests in real property.--

502 (6) Taxes imposed by this section shall not apply to any  
503 assignment, transfer, or other disposition, or any document,  
504 which arises out of a transfer of real property from a nonprofit  
505 organization to the Board of Trustees of the Internal  
506 Improvement Trust Fund, to any state agency, to any water  
507 management district, or to any local government. For purposes of  
508 this subsection, "nonprofit organization" means an organization  
509 whose purpose is the preservation of natural resources and which  
510 is exempt from federal income tax under s. 501(c)(3) of the  
511 Internal Revenue Code. The following notation must be placed on  
512 the document assigning, transferring, or otherwise disposing of  
513 the property, adjacent to the official record stamp of the  
514 county, at the time of the document's recording in the public  
515 records: "This document is exempt from documentary stamp tax  
516 pursuant to s. 201.02(6), F.S." ~~The Department of Revenue shall~~

596873

4/30/2008 11:40 PM

Amendment No.

517 ~~provide a form, or a place on an existing form, for the~~  
518 ~~nonprofit organization to indicate its exempt status.~~

519 Section 8. Subsections (4) and (5) are added to section  
520 202.29, Florida Statutes, to read:

521 202.29 Bad debts.--

522 (4) A taxpayer may report the credit for bad debt allowed  
523 under this section by applying such credit against the tax due  
524 to the state pursuant to s. 202.12 or to a local jurisdiction  
525 pursuant to s. 202.19, but such application shall not reduce to  
526 below zero the amount due to the state or to any local  
527 jurisdiction.

528 (5) For purposes of determining the amount of bad debt  
529 attributable to the state or to a local jurisdiction, a taxpayer  
530 may employ a proportionate allocation method based on current  
531 gross taxes due or another reasonable allocation method approved  
532 by the department.

533 Section 9. Section 212.03, Florida Statutes, is amended to  
534 read:

535 212.03 Transient rentals tax; rate, procedure,  
536 enforcement, exemptions.--

537 (1) It is hereby declared to be the legislative intent  
538 that every person is exercising a taxable privilege who engages  
539 in the business of renting, leasing, letting, or granting a  
540 license to use any living quarters or sleeping or housekeeping  
541 accommodations that are part of, in, from, or a part of, or in  
542 connection with any hotel, apartment house, roominghouse, ~~or~~  
543 tourist or trailer camp, mobile home park, recreational vehicle  
544 park, condominium, or timeshare resort. However, any person who

596873

4/30/2008 11:40 PM

Amendment No.

545 rents, leases, lets, or grants a license to others to use,  
546 occupy, or enter upon any living quarters or sleeping or  
547 housekeeping accommodations in apartment houses, roominghouses,  
548 ~~tourist camps,~~ or trailer camps, mobile home parks, recreational  
549 vehicle parks, condominiums, or timeshare resorts, and who  
550 exclusively enters into a bona fide written agreement for  
551 continuous residence for longer than 6 months in duration at  
552 such property is not exercising a taxable privilege. For the  
553 exercise of such taxable privilege, a tax is hereby levied in an  
554 amount equal to 6 percent of and on the total rental charged for  
555 such living quarters or sleeping or housekeeping accommodations  
556 by the person charging or collecting the rental. Such tax shall  
557 apply to hotels, apartment houses, roominghouses, ~~or~~ tourist or  
558 trailer camps, mobile home parks, recreational vehicle parks,  
559 condominiums, or timeshare resorts whether or not these  
560 facilities have ~~there is in connection with any of the same any~~  
561 dining rooms, cafes, or other places where meals or lunches are  
562 sold or served to guests.

563 (2) As used in this section, the terms "rent," "rental,"  
564 and "rental payment" mean the amount received by a person  
565 operating transient accommodations for the use or securing of  
566 any living quarters or sleeping or housekeeping accommodations  
567 that are part of, in, from, or in connection with any hotel,  
568 apartment house, roominghouse, mobile home park, recreational  
569 vehicle park, condominium, timeshare resort, or tourist or  
570 trailer camp. The term "person operating transient  
571 accommodations" means the person conducting the daily affairs of  
572 the physical facilities furnishing transient accommodations who

596873

4/30/2008 11:40 PM

Amendment No.

573 is responsible for providing the services commonly associated  
574 with operating the facilities furnishing transient  
575 accommodations regardless of whether such commonly associated  
576 services are provided by third parties. The terms  
577 "consideration," "rental," and "rent" do not include payments  
578 received by an unrelated person for facilitating the booking of  
579 reservations for or on behalf of a lessee or licensee at a  
580 hotel, apartment house, roominghouse, mobile home park,  
581 recreational vehicle park, condominium, timeshare resort, or  
582 tourist or trailer camp in this state. The term "unrelated  
583 person" means a person who is not in the same affiliated group  
584 of corporations pursuant to s. 1504 of the Internal Revenue Code  
585 of 1986, as amended.

586 (3) Tax shall be due on the consideration paid for  
587 occupancy in this state pursuant to a regulated short-term  
588 product as defined in s. 721.05 or occupancy in this state  
589 pursuant to a product that would be deemed a regulated short-  
590 term product if the agreement to purchase the short-term product  
591 were executed in this state. Such tax shall be collected on the  
592 last day of occupancy within the state unless the consideration  
593 is applied to the purchase of a timeshare estate.

594 Notwithstanding subsections (1) and (2), the occupancy of an  
595 accommodation of a timeshare resort pursuant to a timeshare  
596 plan, a multisite timeshare plan, or an exchange transaction in  
597 an exchange program as defined in s. 721.05 by the owner of a  
598 timeshare interest or such owner's guest, which guest is not  
599 paying monetary consideration to the owner or to a third party  
600 for the benefit of the owner, is not a privilege subject to

596873

4/30/2008 11:40 PM

Amendment No.

601 taxation under this section. A membership or transaction fee  
602 paid by a timeshare owner that does not provide the timeshare  
603 owner with a right to occupy any specific timeshare unit but  
604 merely provides the timeshare owner with an opportunity to  
605 exchange a timeshare interest through an exchange program is a  
606 service charge and is not subject to taxation.

607 (4) Consideration paid for the purchase of a timeshare  
608 license in a timeshare plan as defined in s. 721.05 is rent  
609 subject to taxation under this section.

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

596873

4/30/2008 11:40 PM

Amendment No.

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

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

648 ~~(7)(4)~~ The tax levied by this section shall not apply to,  
649 be imposed upon, or collected from any person who shall have  
650 entered into a bona fide written lease for longer than 6 months  
651 in duration for continuous residence at any one hotel, apartment  
652 house, roominghouse, tourist or trailer camp, or condominium, or  
653 to any person who shall reside continuously longer than 6 months  
654 at any one hotel, apartment house, roominghouse, tourist or  
655 trailer camp, or condominium and shall have paid the tax levied  
656 by this section for 6 months of residence in any one hotel,

596873

4/30/2008 11:40 PM



Amendment No.

657 roominghouse, apartment house, tourist or trailer camp, or  
658 condominium. Notwithstanding other provisions of this chapter,  
659 no tax shall be imposed upon rooms provided guests when there is  
660 no consideration involved between the guest and the public  
661 lodging establishment. Further, any person who, on the effective  
662 date of this act, has resided continuously for 6 months at any  
663 one hotel, apartment house, roominghouse, tourist or trailer  
664 camp, or condominium, or, if less than 6 months, has paid the  
665 tax imposed herein until he or she shall have resided  
666 continuously for 6 months, shall thereafter be exempt, so long  
667 as such person shall continuously reside at such location. The  
668 Department of Revenue shall have the power to reform the rental  
669 contract for the purposes of this chapter if the rental payments  
670 are collected in other than equal daily, weekly, or monthly  
671 amounts so as to reflect the actual consideration to be paid in  
672 the future for the right of occupancy during the first 6 months.

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

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

596873

4/30/2008 11:40 PM

Amendment No.

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

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

702        (c) The rental of facilities, as defined in s.  
703 212.02(10)(f), which are intended primarily for rental as a  
704 principal or permanent place of residence is exempt from the tax  
705 imposed by this chapter. The rental of such facilities that  
706 primarily serve transient guests is not exempt by this  
707 subsection. In the application of this law, or in making any  
708 determination against the exemption, the department shall  
709 consider the facility as primarily serving transient guests  
710 unless the facility owner makes a verified declaration on a form  
711 prescribed by the department that more than half of the total  
712 rental units available are occupied by tenants who have a

596873

4/30/2008 11:40 PM

Amendment No.

713 continuous residence in excess of 3 months. The owner of a  
714 facility declared to be exempt by this paragraph must make a  
715 determination of the taxable status of the facility at the end  
716 of the owner's accounting year using any consecutive 3-month  
717 period at least one month of which is in the accounting year.  
718 The owner must use a selected consecutive 3-month period during  
719 each annual redetermination. In the event that an exempt  
720 facility no longer qualifies for exemption by this paragraph,  
721 the owner must notify the department on a form prescribed by the  
722 department by the 20th day of the first month of the owner's  
723 next succeeding accounting year that the facility no longer  
724 qualifies for such exemption. The tax levied by this section  
725 shall apply to the rental of facilities that no longer qualify  
726 for exemption under this paragraph beginning the first day of  
727 the owner's next succeeding accounting year. The provisions of  
728 this paragraph do not apply to mobile home lots regulated under  
729 chapter 723.

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

736 Section 10. Subsection (3) and paragraph (c) of subsection  
737 (5) of section 212.0305, Florida Statutes, are amended to read:

738 212.0305 Convention development taxes; intent;  
739 administration; authorization; use of proceeds.--

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

596873

4/30/2008 11:40 PM

Amendment No.

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

755 (b) As used in this section, the terms "payment" and  
756 "consideration" mean the amount received by a person operating  
757 transient accommodations for the use or securing the use of any  
758 living quarters or sleeping or housekeeping accommodations that  
759 are part of, in, from, or in connection with any hotel,  
760 apartment house, roominghouse, timeshare resort, or tourist or  
761 trailer camp. The term "person operating transient  
762 accommodations" means the person conducting the daily affairs of  
763 the physical facilities furnishing transient accommodations who  
764 is responsible for providing the services commonly associated  
765 with operating the facilities furnishing transient  
766 accommodations regardless of whether such commonly associated  
767 services are provided by third parties. The terms "payment" and  
768 "consideration" do not include payments received by an unrelated

596873

4/30/2008 11:40 PM

Amendment No.

769 person for facilitating the booking of reservations for or on  
770 behalf of a lessee or licensee at a hotel, apartment house,  
771 roominghouse, mobile home park, recreational vehicle park,  
772 condominium, timeshare resort, or tourist or trailer camp in  
773 this state. The term "unrelated person" means a person who is  
774 not in the same affiliated group of corporations pursuant to s.  
775 1504 of the Internal Revenue Code of 1986, as amended.

776 (c) Tax shall be due on the consideration paid for  
777 occupancy in the county pursuant to a regulated short-term  
778 product as defined in s. 721.05 or occupancy in the county  
779 pursuant to a product that would be deemed a regulated short-  
780 term product if the agreement to purchase the short-term product  
781 were executed in this state. Such tax shall be collected on the  
782 last day of occupancy within the county unless the consideration  
783 is applied to the purchase of a timeshare estate.

784 Notwithstanding paragraph (b), the occupancy of an accommodation  
785 of a timeshare resort pursuant to a timeshare plan, a multisite  
786 timeshare plan, or an exchange transaction in an exchange  
787 program as defined in s. 721.05 by the owner of a timeshare  
788 interest or such owner's guest, which guest is not paying  
789 monetary consideration to the owner or to a third party for the  
790 benefit of the owner, is not a privilege subject to taxation  
791 under this section. A membership or transaction fee paid by a  
792 timeshare owner that does not provide the timeshare owner with a  
793 right to occupy any specific timeshare unit but merely provides  
794 the timeshare owner with an opportunity to exchange a timeshare  
795 interest through an exchange program is a service charge and is  
796 not subject to taxation.

596873

4/30/2008 11:40 PM

Amendment No.

797        (d) Consideration paid for the purchase of a timeshare  
798 license in a timeshare plan as defined in s. 721.05 is rent  
799 subject to taxation under this section.

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

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

596873

4/30/2008 11:40 PM

Amendment No.

825 However, the department may authorize a quarterly return and  
826 payment when the tax remitted by the dealer for the preceding  
827 quarter did not exceed \$25.

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

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

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

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

847 (k)~~(h)~~ Any person taxable under this section who, ~~either~~  
848 by himself or herself or through the person's agents or  
849 employees, fails or refuses to charge and collect the taxes  
850 herein provided from the person paying any rental or lease ~~is~~,  
851 in addition to being personally liable for the payment of the

596873

4/30/2008 11:40 PM

Amendment No.

852 tax, commits ~~guilty of~~ a misdemeanor of the first degree,  
853 punishable as provided in s. 775.082 or s. 775.083.

854 (l)-(i) A ~~Ne~~ person may not shall advertise or hold out to  
855 the public in any manner, directly or indirectly, that he or she  
856 will absorb all or any part of the tax; that he or she will  
857 relieve the person paying the rental of the payment of all or  
858 any part of the tax; or that the tax will not be added to the  
859 rental or lease consideration or, if added, that the tax or any  
860 part thereof will be refunded or refused, either directly or  
861 indirectly, by any method whatsoever. Any person who willfully  
862 violates any provision of this paragraph commits ~~is guilty of~~ a  
863 misdemeanor of the first degree, punishable as provided in s.  
864 775.082 or s. 775.083.

865 (m)-(j) The tax shall constitute a lien on the property of  
866 the lessee, customer, or tenant in the same manner as, and shall  
867 be collectible as are, liens authorized and imposed by ss.  
868 713.67, 713.68, and 713.69.

869 (n)-(k) Any tax levied pursuant to this section shall be in  
870 addition to any other tax imposed pursuant to this chapter and  
871 in addition to all other taxes and fees and the consideration  
872 for the rental or lease.

873 (o)-(l) The department shall administer the taxes levied  
874 herein as increases in the rate of the tax authorized in s.  
875 125.0104. The department shall collect and enforce the  
876 provisions of this section and s. 125.0104 in conjunction with  
877 each other in those counties authorized to levy the taxes  
878 authorized herein. The department shall distribute the proceeds  
879 received from the taxes levied pursuant to this section and s.  
596873

4/30/2008 11:40 PM



Amendment No.

880 125.0104 in proportion to the rates of the taxes authorized to  
881 the appropriate trust funds as provided by law. In the event of  
882 underpayment of the total amount due by a taxpayer pursuant to  
883 this section and s. 125.0104, the department shall distribute  
884 the amount received in proportion to the rates of the taxes  
885 authorized to the appropriate trust funds as provided by law and  
886 the penalties and interest due on both of said taxes shall be  
887 applicable.

888 (5) LOCAL ADMINISTRATION OF TAX.--

889 (c) A county adopting an ordinance providing for the  
890 collection and administration of the tax on a local basis shall  
891 also adopt an ordinance electing either to assume all  
892 responsibility for auditing the records and accounts of dealers,  
893 and assessing, collecting, and enforcing payments of delinquent  
894 taxes, or to delegate such authority to the Department of  
895 Revenue. If the county elects to assume such responsibility, it  
896 shall be bound by the rules promulgated by the Department of  
897 Revenue pursuant to paragraph (3) (i) ~~(f)~~, as well as those rules  
898 pertaining to the sales and use tax on transient rentals imposed  
899 by s. 212.03. The county may use any power granted in this  
900 chapter to the department to determine the amount of tax,  
901 penalties, and interest to be paid by each dealer and to enforce  
902 payment of such tax, penalties, and interest. The county may use  
903 a certified public accountant licensed in this state in the  
904 administration of its statutory duties and responsibilities.  
905 Such certified public accountants are bound by the same  
906 confidentiality requirements and subject to the same penalties  
907 as the county under s. 213.053. If the county delegates such

596873

4/30/2008 11:40 PM

Amendment No.

908 authority to the department, the department shall distribute any  
909 collections so received, less costs of administration, to the  
910 county. The amount deducted for costs of administration by the  
911 department shall be used only for those costs which are solely  
912 and directly attributable to auditing, assessing, collecting,  
913 processing, and enforcing payments of delinquent taxes  
914 authorized in this section. If a county elects to delegate such  
915 authority to the department, the department shall audit only  
916 those businesses in the county that it audits pursuant to this  
917 chapter.

918 Section 11. The amendments made by this act to sections  
919 212.03 and 212.0305, Florida Statutes, are intended to be  
920 clarifying and remedial in nature and are not a basis for  
921 assessments of tax for periods before July 1, 2008, or for  
922 refunds of tax for periods before July 1, 2008.

923 Section 12. Paragraph (a) of subsection (1) of section  
924 212.031, Florida Statutes, is amended to read:

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

929 1. Assessed as agricultural property under s. 193.461.  
930 2. Used exclusively as dwelling units.  
931 3. Property subject to tax on parking, docking, or storage  
932 spaces under s. 212.03 (9) ~~(6)~~.

933 4. Recreational property or the common elements of a  
934 condominium when subject to a lease between the developer or  
935 owner thereof and the condominium association in its own right

596873

4/30/2008 11:40 PM

Amendment No.

936 or as agent for the owners of individual condominium units or  
937 the owners of individual condominium units. However, only the  
938 lease payments on such property shall be exempt from the tax  
939 imposed by this chapter, and any other use made by the owner or  
940 the condominium association shall be fully taxable under this  
941 chapter.

942         5. A public or private street or right-of-way and poles,  
943 conduits, fixtures, and similar improvements located on such  
944 streets or rights-of-way, occupied or used by a utility or  
945 provider of communications services, as defined by s. 202.11,  
946 for utility or communications or television purposes. For  
947 purposes of this subparagraph, the term "utility" means any  
948 person providing utility services as defined in s. 203.012. This  
949 exception also applies to property, wherever located, on which  
950 the following are placed: towers, antennas, cables, accessory  
951 structures, or equipment, not including switching equipment,  
952 used in the provision of mobile communications services as  
953 defined in s. 202.11. For purposes of this chapter, towers used  
954 in the provision of mobile communications services, as defined  
955 in s. 202.11, are considered to be fixtures.

956         6. A public street or road which is used for  
957 transportation purposes.

958         7. Property used at an airport exclusively for the purpose  
959 of aircraft landing or aircraft taxiing or property used by an  
960 airline for the purpose of loading or unloading passengers or  
961 property onto or from aircraft or for fueling aircraft.

962         8.a. Property used at a port authority, as defined in s.  
963 315.02(2), exclusively for the purpose of oceangoing vessels or  
596873

4/30/2008 11:40 PM

Amendment No.

964 tugs docking, or such vessels mooring on property used by a port  
965 authority for the purpose of loading or unloading passengers or  
966 cargo onto or from such a vessel, or property used at a port  
967 authority for fueling such vessels, or to the extent that the  
968 amount paid for the use of any property at the port is based on  
969 the charge for the amount of tonnage actually imported or  
970 exported through the port by a tenant.

971 b. The amount charged for the use of any property at the  
972 port in excess of the amount charged for tonnage actually  
973 imported or exported shall remain subject to tax except as  
974 provided in sub-subparagraph a.

975 9. Property used as an integral part of the performance of  
976 qualified production services. As used in this subparagraph, the  
977 term "qualified production services" means any activity or  
978 service performed directly in connection with the production of  
979 a qualified motion picture, as defined in s. 212.06(1)(b), and  
980 includes:

981 a. Photography, sound and recording, casting, location  
982 managing and scouting, shooting, creation of special and optical  
983 effects, animation, adaptation (language, media, electronic, or  
984 otherwise), technological modifications, computer graphics, set  
985 and stage support (such as electricians, lighting designers and  
986 operators, greensmen, prop managers and assistants, and grips),  
987 wardrobe (design, preparation, and management), hair and makeup  
988 (design, production, and application), performing (such as  
989 acting, dancing, and playing), designing and executing stunts,  
990 coaching, consulting, writing, scoring, composing,  
991 choreographing, script supervising, directing, producing,

596873

4/30/2008 11:40 PM

Amendment No.

992 transmitting dailies, dubbing, mixing, editing, cutting,  
993 looping, printing, processing, duplicating, storing, and  
994 distributing;

995       b. The design, planning, engineering, construction,  
996 alteration, repair, and maintenance of real or personal property  
997 including stages, sets, props, models, paintings, and facilities  
998 principally required for the performance of those services  
999 listed in sub-subparagraph a.; and

1000       c. Property management services directly related to  
1001 property used in connection with the services described in sub-  
1002 subparagraphs a. and b.

1003  
1004 This exemption will inure to the taxpayer upon presentation of  
1005 the certificate of exemption issued to the taxpayer under the  
1006 provisions of s. 288.1258.

1007       10. Leased, subleased, licensed, or rented to a person  
1008 providing food and drink concessionaire services within the  
1009 premises of a convention hall, exhibition hall, auditorium,  
1010 stadium, theater, arena, civic center, performing arts center,  
1011 publicly owned recreational facility, or any business operated  
1012 under a permit issued pursuant to chapter 550. A person  
1013 providing retail concessionaire services involving the sale of  
1014 food and drink or other tangible personal property within the  
1015 premises of an airport shall be subject to tax on the rental of  
1016 real property used for that purpose, but shall not be subject to  
1017 the tax on any license to use the property. For purposes of this  
1018 subparagraph, the term "sale" shall not include the leasing of  
1019 tangible personal property.

596873

4/30/2008 11:40 PM

Amendment No.

1020           11. Property occupied pursuant to an instrument calling  
1021 for payments which the department has declared, in a Technical  
1022 Assistance Advisement issued on or before March 15, 1993, to be  
1023 nontaxable pursuant to rule 12A-1.070(19)(c), Florida  
1024 Administrative Code; provided that this subparagraph shall only  
1025 apply to property occupied by the same person before and after  
1026 the execution of the subject instrument and only to those  
1027 payments made pursuant to such instrument, exclusive of renewals  
1028 and extensions thereof occurring after March 15, 1993.

1029           12. Rented, leased, subleased, or licensed to a  
1030 concessionaire by a convention hall, exhibition hall,  
1031 auditorium, stadium, theater, arena, civic center, performing  
1032 arts center, or publicly owned recreational facility, during an  
1033 event at the facility, to be used by the concessionaire to sell  
1034 souvenirs, novelties, or other event-related products. This  
1035 subparagraph applies only to that portion of the rental, lease,  
1036 or license payment which is based on a percentage of sales and  
1037 not based on a fixed price. This subparagraph is repealed July  
1038 1, 2009.

1039           13. Property used or occupied predominantly for space  
1040 flight business purposes. As used in this subparagraph, "space  
1041 flight business" means the manufacturing, processing, or  
1042 assembly of a space facility, space propulsion system, space  
1043 vehicle, satellite, or station of any kind possessing the  
1044 capacity for space flight, as defined by s. 212.02(23), or  
1045 components thereof, and also means the following activities  
1046 supporting space flight: vehicle launch activities, flight  
1047 operations, ground control or ground support, and all

596873

4/30/2008 11:40 PM

HOUSE AMENDMENT

Bill No. HB 7147

Amendment No.

1048 administrative activities directly related thereto. Property  
1049 shall be deemed to be used or occupied predominantly for space  
1050 flight business purposes if more than 50 percent of the  
1051 property, or improvements thereon, is used for one or more space  
1052 flight business purposes. Possession by a landlord, lessor, or  
1053 licensor of a signed written statement from the tenant, lessee,  
1054 or licensee claiming the exemption shall relieve the landlord,  
1055 lessor, or licensor from the responsibility of collecting the  
1056 tax, and the department shall look solely to the tenant, lessee,  
1057 or licensee for recovery of such tax if it determines that the  
1058 exemption was not applicable.

1059 Section 13. Paragraph (f) of subsection (7) of section  
1060 212.055, Florida Statutes, is redesignated as paragraph (g), and  
1061 a new paragraph (f) is added to that subsection to read:

1062 212.055 Discretionary sales surtaxes; legislative intent;  
1063 authorization and use of proceeds.--It is the legislative intent  
1064 that any authorization for imposition of a discretionary sales  
1065 surtax shall be published in the Florida Statutes as a  
1066 subsection of this section, irrespective of the duration of the  
1067 levy. Each enactment shall specify the types of counties  
1068 authorized to levy; the rate or rates which may be imposed; the  
1069 maximum length of time the surtax may be imposed, if any; the  
1070 procedure which must be followed to secure voter approval, if  
1071 required; the purpose for which the proceeds may be expended;  
1072 and such other requirements as the Legislature may provide.  
1073 Taxable transactions and administrative procedures shall be as  
1074 provided in s. 212.054.

1075 (7) VOTER-APPROVED INDIGENT CARE SURTAX.--

596873

4/30/2008 11:40 PM

Amendment No.

1076 (f) Notwithstanding any provision of this subsection  
1077 except paragraphs (b) and (g), a hospital surtax may be levied  
1078 upon approval of a referendum by the electors in a county that  
1079 has more than one independent special hospital district and a  
1080 population of fewer than 50,000 residents, not including inmates  
1081 and patients residing in institutions operated by the Federal  
1082 Government, the Department of Corrections, the Department of  
1083 Health, or the Department of Children and Family Services.  
1084 Subject to the cap imposed in paragraph (g), the surtax may be  
1085 levied at a rate not to exceed 1 percent.

1086 1. At least 90 days before submitting the referendum to  
1087 the voters, the governing body of the county shall certify to  
1088 the Department of Revenue the populations of each independent  
1089 special hospital district. If the surtax referendum is approved,  
1090 surtax proceeds shall be allocated to each such district in  
1091 proportion to the relative populations certified by the county  
1092 governing body.

1093 2. In addition to the uses authorized by this subsection,  
1094 an independent special hospital district may pledge surtax  
1095 proceeds to service new or existing bond indebtedness and may  
1096 use surtax proceeds to pay the direct costs incurred to finance,  
1097 plan, construct, or reconstruct a public or not-for-profit  
1098 hospital in the county; the costs incurred for land acquisition,  
1099 land improvement, design, engineering, equipment, and furnishing  
1100 related to the hospital; or the direct costs associated  
1101 therewith. An independent special hospital district may use the  
1102 services of the Division of Bond Finance of the State Board of

596873

4/30/2008 11:40 PM



Amendment No.

1103 Administration pursuant to the State Bond Act to issue bonds  
1104 under this paragraph.

1105 3. Any county having a population of fewer than 50,000  
1106 residents at the time bonds authorized in this paragraph are  
1107 issued shall retain the authority granted under this paragraph  
1108 throughout the term of such bonds, including the term of any  
1109 refinancing bonds, regardless of any subsequent increase in  
1110 population to 50,000 or more residents.

1111 4. If the indebtedness issued by one independent special  
1112 hospital district expires before the indebtedness issued by  
1113 another independent special hospital district, the full amount  
1114 of the surtax proceeds shall be applied to service the remaining  
1115 indebtedness until the indebtedness is extinguished.

1116 Section 14. Paragraph (g) of subsection (5) of section  
1117 212.08, Florida Statutes, is amended, and paragraph (ggg) is  
1118 added to subsection (7) of that section, to read:

1119 212.08 Sales, rental, use, consumption, distribution, and  
1120 storage tax; specified exemptions.--The sale at retail, the  
1121 rental, the use, the consumption, the distribution, and the  
1122 storage to be used or consumed in this state of the following  
1123 are hereby specifically exempt from the tax imposed by this  
1124 chapter.

1125 (5) EXEMPTIONS; ACCOUNT OF USE.--

1126 (g) Building materials used in the rehabilitation of real  
1127 property located in an enterprise zone.--

1128 1. Building materials used in the rehabilitation of real  
1129 property located in an enterprise zone are ~~shall be~~ exempt from  
1130 the tax imposed by this chapter upon an affirmative showing to  
596873

4/30/2008 11:40 PM

Amendment No.

1131 the satisfaction of the department that the items have been used  
1132 for the rehabilitation of real property located in an enterprise  
1133 zone. Except as provided in subparagraph 2., this exemption  
1134 inures to the owner, lessee, or lessor at the time of the  
1135 ~~rehabilitated~~ real property located in an enterprise zone is  
1136 rehabilitated but only through a refund of previously paid  
1137 taxes. To receive a refund pursuant to this paragraph, the  
1138 owner, lessee, or lessor of the rehabilitated real property  
1139 ~~located in an enterprise zone~~ must file an application under  
1140 oath with the governing body or enterprise zone development  
1141 agency having jurisdiction over the enterprise zone where the  
1142 business is located, as applicable. A single application for  
1143 refund may be submitted for multiple, contiguous parcels that  
1144 were parts of a single parcel that was divided as part of the  
1145 rehabilitation of the property. All other requirements of this  
1146 paragraph apply to each parcel on an individual basis. The  
1147 application must include, which includes:

- 1148 a. The name and address of the person claiming the refund.  
1149 b. An address and assessment roll parcel number of the  
1150 rehabilitated real property ~~in an enterprise zone~~ for which a  
1151 refund of previously paid taxes is being sought.  
1152 c. A description of the improvements made to accomplish  
1153 the rehabilitation of the real property.  
1154 d. A copy of a valid ~~the building~~ permit issued by the  
1155 county or municipal building department for the rehabilitation  
1156 of the real property.  
1157 e. A sworn statement, under ~~the~~ penalty of perjury, from  
1158 the general contractor licensed in this state with whom the

596873

4/30/2008 11:40 PM

HOUSE AMENDMENT

Bill No. HB 7147

Amendment No.

1159 applicant contracted to make the improvements necessary to  
1160 rehabilitate ~~accomplish the rehabilitation of~~ the real property,  
1161 which statement lists the building materials used in the  
1162 rehabilitation of the real property, the actual cost of the  
1163 building materials, and the amount of sales tax paid in this  
1164 state on the building materials. ~~If In the event that~~ a general  
1165 contractor has not been used, the applicant shall provide the  
1166 ~~this~~ information in a sworn statement, ~~under the~~ penalty of  
1167 perjury. Copies of the invoices which evidence the purchase of  
1168 the building materials used in the ~~such~~ rehabilitation and the  
1169 payment of sales tax on the building materials shall be attached  
1170 to the sworn statement ~~provided by the general contractor or by~~  
1171 ~~the applicant~~. Unless the actual cost of building materials used  
1172 in the rehabilitation of real property and the payment of sales  
1173 taxes due are ~~thereon is~~ documented by a general contractor or  
1174 by the applicant in this manner, the cost of such building  
1175 materials shall be an amount equal to 40 percent of the increase  
1176 in assessed value for ad valorem tax purposes.

1177 f. The identifying number assigned pursuant to s. 290.0065  
1178 to the enterprise zone in which the rehabilitated real property  
1179 is located.

1180 g. A certification by the local building code inspector  
1181 that the improvements necessary for rehabilitating to accomplish  
1182 ~~the rehabilitation of~~ the real property are substantially  
1183 completed.

1184 h. Whether the business is a small business as defined by  
1185 s. 288.703(1).

596873

4/30/2008 11:40 PM

Amendment No.

1186 i. If applicable, the name and address of each permanent  
1187 employee of the business, including, for each employee who is a  
1188 resident of an enterprise zone, the identifying number assigned  
1189 pursuant to s. 290.0065 to the enterprise zone in which the  
1190 employee resides.

1191 2. This exemption inures to a municipality ~~city~~, county,  
1192 other governmental unit or agency, or nonprofit community-based  
1193 organization ~~through a refund of previously paid taxes~~ if the  
1194 building materials used in the rehabilitation of real property  
1195 located in an enterprise zone are paid ~~for~~ from the funds of a  
1196 community development block grant, State Housing Initiatives  
1197 Partnership Program, or similar grant or loan program. To  
1198 receive a refund of previously paid taxes ~~pursuant to this~~  
1199 ~~paragraph~~, a municipality ~~city~~, county, other governmental unit  
1200 or agency, or nonprofit community-based organization must file  
1201 an application which includes the same information required ~~to~~  
1202 ~~be provided~~ in subparagraph 1. ~~by an owner, lessee, or lessor of~~  
1203 ~~rehabilitated real property~~. In addition, the application must  
1204 include a sworn statement signed by the chief executive officer  
1205 of the municipality ~~city~~, county, other governmental unit or  
1206 agency, or nonprofit community-based organization seeking a  
1207 refund which states that the building materials for which a  
1208 refund is sought were paid ~~for~~ from the funds of a community  
1209 development block grant, State Housing Initiatives Partnership  
1210 Program, or similar grant or loan program.

1211 3. Within 10 working days after receipt of an application,  
1212 the governing body or enterprise zone development agency shall  
1213 review the application to determine if it contains all the

596873

4/30/2008 11:40 PM

Amendment No.

1214 information required under ~~pursuant to~~ subparagraph 1. or  
1215 subparagraph 2. and meets the criteria set out in this  
1216 paragraph. The governing body or agency shall certify all  
1217 applications that contain the required information ~~required~~  
1218 ~~pursuant to subparagraph 1. or subparagraph 2.~~ and meet the  
1219 criteria set out in this paragraph as eligible to receive a  
1220 refund. If applicable, the governing body or agency shall also  
1221 certify that ~~if~~ 20 percent of the employees of the business are  
1222 residents of an enterprise zone, excluding temporary and part-  
1223 time employees. The certification must ~~shall~~ be in writing, and  
1224 a copy ~~of the certification shall be~~ transmitted to the  
1225 executive director of the department ~~of Revenue~~. The applicant  
1226 is ~~shall be~~ responsible for forwarding a certified application  
1227 to the department within the time specified in subparagraph 4.

1228 4. An application for a refund pursuant to this paragraph  
1229 must be submitted to the department within 6 months after ~~the~~  
1230 ~~rehabilitation of the property is deemed to be substantially~~  
1231 ~~completed by the local building code inspector or by September 1~~  
1232 ~~after~~ the rehabilitated property is first subject to assessment.

1233 5. Only ~~Not more than~~ one exemption through a refund of  
1234 previously paid taxes for the rehabilitation of real property is  
1235 allowed ~~shall be permitted~~ for any single parcel of property  
1236 unless there is a change in ownership, a new lessor, or a new  
1237 lessee of the real property. A ~~No~~ refund may not ~~shall~~ be  
1238 granted pursuant to this paragraph unless the amount to be  
1239 refunded exceeds \$500. The ~~No~~ refund may not ~~granted pursuant to~~  
1240 ~~this paragraph shall~~ exceed the lesser of 97 percent of the  
1241 Florida sales or use tax paid on the cost of the building

596873

4/30/2008 11:40 PM

Amendment No.

1242 materials used in the rehabilitation of the real property as  
1243 determined pursuant to sub-subparagraph 1.e. or \$5,000, or, if  
1244 at least ~~no less than~~ 20 percent of the employees of the  
1245 business are residents of an enterprise zone, excluding  
1246 temporary and part-time employees, the amount of refund may  
1247 ~~granted pursuant to this paragraph shall~~ not exceed the lesser  
1248 of 97 percent of the sales tax paid on the cost of such building  
1249 materials or \$10,000. A refund approved pursuant to this  
1250 paragraph must ~~shall~~ be made within 30 days after ~~of~~ formal  
1251 approval by the department of the application for the refund.  
1252 This subparagraph shall apply retroactively to July 1, 2005.

1253 6. The department shall adopt rules governing the manner  
1254 and form of refund applications and may establish guidelines as  
1255 to the requisites for an affirmative showing of qualification  
1256 for exemption under this paragraph.

1257 7. The department shall deduct an amount equal to 10  
1258 percent of each refund granted under ~~the provisions of~~ this  
1259 paragraph from the amount transferred into the Local Government  
1260 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20  
1261 for the county area in which the rehabilitated real property is  
1262 located and shall transfer that amount to the General Revenue  
1263 Fund.

1264 8. For the purposes of the exemption provided in this  
1265 paragraph:

1266 a. "Building materials" means tangible personal property  
1267 which becomes a component part of improvements to real property.

1268 b. "Real property" has the same meaning as provided in s.  
1269 192.001(12).

596873

4/30/2008 11:40 PM

Amendment No.

1270 c. "Rehabilitation of real property" means the  
1271 reconstruction, renovation, restoration, rehabilitation,  
1272 construction, or expansion of improvements to real property.

1273 d. "Substantially completed" has the same meaning as  
1274 provided in s. 192.042(1).

1275 9. This paragraph expires on the date specified in s.  
1276 290.016 for the expiration of the Florida Enterprise Zone Act.

1277 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to any  
1278 entity by this chapter do not inure to any transaction that is  
1279 otherwise taxable under this chapter when payment is made by a  
1280 representative or employee of the entity by any means,  
1281 including, but not limited to, cash, check, or credit card, even  
1282 when that representative or employee is subsequently reimbursed  
1283 by the entity. In addition, exemptions provided to any entity by  
1284 this subsection do not inure to any transaction that is  
1285 otherwise taxable under this chapter unless the entity has  
1286 obtained a sales tax exemption certificate from the department  
1287 or the entity obtains or provides other documentation as  
1288 required by the department. Eligible purchases or leases made  
1289 with such a certificate must be in strict compliance with this  
1290 subsection and departmental rules, and any person who makes an  
1291 exempt purchase with a certificate that is not in strict  
1292 compliance with this subsection and the rules is liable for and  
1293 shall pay the tax. The department may adopt rules to administer  
1294 this subsection.

1295 (ggg) Aircraft temporarily in the state.--

1296 1. An aircraft owned by a nonresident is exempt from the  
1297 use tax imposed under this chapter if the aircraft enters and

596873

4/30/2008 11:40 PM

Amendment No.

1298 remains in this state for less than a total of 21 days during  
1299 the 6-month period after the date of purchase. The temporary use  
1300 of the aircraft and subsequent removal from this state may be  
1301 proven by invoices for fuel, tie-down, or hangar charges issued  
1302 by out-of-state vendors or suppliers or similar documentation  
1303 that clearly and specifically identifies the aircraft. The  
1304 exemption created by this subparagraph shall be allowed in  
1305 addition to the provisions contained in subparagraph 2. and s.  
1306 212.05(1)(a).

1307 2. An aircraft owned by a nonresident is exempt from the  
1308 use tax imposed under this chapter if the aircraft enters or  
1309 remains in this state exclusively for purposes of flight  
1310 training, repairs, alterations, refitting, or modification. Such  
1311 flight training, repairs, alterations, refitting, or  
1312 modification shall be supported by written documentation issued  
1313 by in-state vendors or suppliers which clearly and specifically  
1314 identifies the aircraft. The exemption created by this  
1315 subparagraph shall be allowed in addition to the provisions  
1316 contained in subparagraph 1. and s. 212.05(1)(a).

1317 Section 15. Subsection (6) of section 213.015, Florida  
1318 Statutes, is amended to read:

1319 213.015 Taxpayer rights.--There is created a Florida  
1320 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
1321 and property of Florida taxpayers are adequately safeguarded and  
1322 protected during tax assessment, collection, and enforcement  
1323 processes administered under the revenue laws of this state. The  
1324 Taxpayer's Bill of Rights compiles, in one document, brief but  
1325 comprehensive statements which explain, in simple, nontechnical

596873

4/30/2008 11:40 PM



Amendment No.

1326 terms, the rights and obligations of the Department of Revenue  
1327 and taxpayers. Section 192.0105 provides additional rights  
1328 afforded to payors of property taxes and assessments. The rights  
1329 afforded taxpayers to ensure that their privacy and property are  
1330 safeguarded and protected during tax assessment and collection  
1331 are available only insofar as they are implemented in other  
1332 parts of the Florida Statutes or rules of the Department of  
1333 Revenue. The rights so guaranteed Florida taxpayers in the  
1334 Florida Statutes and the departmental rules are:

1335 (6) The right to be informed of impending collection  
1336 actions which require sale or seizure of property or freezing of  
1337 assets, except jeopardy assessments, and the right to at least  
1338 30 days' notice in which to pay the liability or seek further  
1339 review (see ss. 198.20, 199.262, 201.16, 206.075, 206.24,  
1340 211.125(5), 212.03(8)~~(5)~~, 212.0305(3)(m)~~(j)~~, 212.04(7),  
1341 212.14(1), 213.73(3), 213.731, and 220.739).

1342 Section 16. Subsection (5) of section 213.053, Florida  
1343 Statutes, is amended to read:

1344 213.053 Confidentiality and information sharing.--

1345 (5) Nothing contained in this section shall prevent the  
1346 department from:

1347 (a) Publishing statistics so ~~classified~~ as to prevent the  
1348 identification of particular accounts, reports, declarations, or  
1349 returns; or

1350 (b) Using telephone, electronic mail, facsimile, or other  
1351 electronic means to:

Amendment No.

1352 1. Distribute tax information regarding changes in law,  
1353 tax rates, interest rates, or other information that is not  
1354 specific to a particular taxpayer;

1355 2. Provide reminders of due dates;

1356 3. Respond to a taxpayer that has provided and authorized  
1357 the department to use an electronic mail address that does not  
1358 support encryption; or

1359 4. Request a taxpayer to contact the department ~~Disclosing~~  
1360 ~~to the Chief Financial Officer the names and addresses of those~~  
1361 ~~taxpayers who have claimed an exemption pursuant to former s.~~  
1362 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

1363 Section 17. Subsection (8) of section 213.67, Florida  
1364 Statutes, is amended to read:

1365 213.67 Garnishment.--

1366 (8) An action may not be brought to contest a notice of  
1367 intent to levy under chapter 120 or in circuit court if the  
1368 petition is postmarked or delivered to a third party commercial  
1369 carrier for delivery or the action is filed more, later than 21  
1370 days after the date of receipt of the notice of intent to levy.

1371 Section 18. Effective upon this act becoming a law,  
1372 operating retroactively to January 1, 2008, and applying to  
1373 returns due on or after January 1, 2008, subsection (2) of  
1374 section 220.21, Florida Statutes, is amended to read:

1375 220.21 Returns and records; regulations.--

1376 (2) A taxpayer who is required to file its federal income  
1377 tax return by electronic means on a separate or consolidated  
1378 basis shall also file returns required by this chapter by  
1379 electronic means. Pursuant to ~~For the reasons described in s.~~

596873

4/30/2008 11:40 PM

Amendment No.

1380 213.755(9), the department may waive the requirement to file a  
1381 return by electronic means for taxpayers that are unable to  
1382 comply despite good faith efforts or due to circumstances beyond  
1383 the taxpayer's reasonable control. The provisions of this  
1384 subsection are in addition to the requirements of s. 213.755 to  
1385 electronically file returns and remit payments ~~required~~ under  
1386 this chapter. The department may prescribe by rule the format  
1387 and instructions ~~necessary~~ for electronic filing to ensure a  
1388 full collection of taxes due. In addition to the authority  
1389 granted under s. 213.755, the acceptable method of transfer, the  
1390 method, form, and content of the electronic data interchange,  
1391 and the means, if any, by which the taxpayer is ~~will be~~ provided  
1392 with an acknowledgment may be prescribed by the department. If  
1393 the taxpayer fails ~~In the case of any failure~~ to comply with the  
1394 electronic filing requirements of this subsection, a penalty  
1395 shall be added to the amount of tax due with the ~~such~~ return  
1396 equal to 5 percent of the amount of such tax ~~for the first 30~~  
1397 ~~days the return is not filed electronically, with an additional~~  
1398 ~~5 percent of such tax for each additional month or fraction~~  
1399 ~~thereof~~, not to exceed \$250 in the aggregate. The department may  
1400 settle or compromise the penalty pursuant to s. 213.21. This  
1401 penalty is in addition to any other penalty that may be  
1402 applicable and shall be assessed, collected, and paid in the  
1403 same manner as taxes.

1404 Section 19. Paragraph (c) of subsection (1) of section  
1405 336.021, Florida Statutes, is amended to read:

1406 336.021 County transportation system; levy of ninth-cent  
1407 fuel tax on motor fuel and diesel fuel.--

596873

4/30/2008 11:40 PM

Amendment No.

1408  
1409  
1410  
1411  
1412  
1413  
1414  
1415  
1416  
1417  
1418  
1419  
1420  
1421  
1422  
1423  
1424  
1425  
1426  
1427  
1428  
1429  
1430  
1431  
1432  
1433  
1434  
1435

(1)

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

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

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

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

596873  
4/30/2008 11:40 PM

HOUSE AMENDMENT

Bill No. HB 7147

Amendment No.

1436 the new retail station during the year ending January 31, less  
1437 the service charges enumerated in s. 215.20 and the dealer  
1438 allowance provided for by s. 206.91. Gallons of diesel fuel sold  
1439 at the qualified new retail station shall be certified to the  
1440 department by the county requesting the additional distribution  
1441 by June 15, 1997, and by March 1 in each subsequent year. The  
1442 certification shall include the beginning inventory, fuel  
1443 purchases and sales, and the ending inventory for the new retail  
1444 station for each month of operation during the year, the  
1445 original purchase invoices for the period, and any other  
1446 information the department deems reasonable and necessary to  
1447 establish the certified gallons. The department may review and  
1448 audit the retail dealer's records provided to a county to  
1449 establish the gallons sold by the new retail station.  
1450 Notwithstanding the provisions of this subparagraph, when more  
1451 than one county qualifies for a distribution pursuant to this  
1452 subparagraph and the requested distributions exceed the total  
1453 taxes available for distribution, each county shall receive a  
1454 prorated share of the moneys available for distribution.

1455 4. After the distribution of taxes pursuant to  
1456 subparagraph 2. ~~3.~~, all additional taxes available for  
1457 distribution, with the exception of those provided in  
1458 subparagraph 3., shall be distributed based on vehicular diesel  
1459 fuel storage capacities in each county pursuant to this  
1460 subparagraph. The total vehicular diesel fuel storage capacity  
1461 shall be established for each fiscal year based on the  
1462 registration of facilities with the Department of Environmental  
1463 Protection as required by s. 376.303 for the following facility

596873

4/30/2008 11:40 PM

Amendment No.

1464 types: retail stations, fuel user/nonretail, state government,  
1465 local government, and county government. Each county shall  
1466 receive a share of the total taxes available for distribution  
1467 pursuant to this subparagraph equal to a fraction, the numerator  
1468 of which is the storage capacity located within the county for  
1469 vehicular diesel fuel in the facility types listed in this  
1470 subparagraph and the denominator of which is the total statewide  
1471 storage capacity for vehicular diesel fuel in those facility  
1472 types. The vehicular diesel fuel storage capacity for each  
1473 county and facility type shall be that established by the  
1474 Department of Environmental Protection by June 1, 1997, for the  
1475 1996-1997 fiscal year, and by January 31 for each succeeding  
1476 fiscal year. The storage capacities so established shall be  
1477 final. The storage capacity for any new retail station for which  
1478 a county receives a distribution pursuant to subparagraph 3.  
1479 shall not be included in the calculations pursuant to this  
1480 subparagraph.

1481 Section 20. Paragraph (b) of subsection (2) of section  
1482 443.1215, Florida Statutes, is amended to read:

1483 443.1215 Employers.--

1484 (2)

1485 (b) In determining whether an employing unit for which  
1486 service, other than agricultural labor, is also performed is an  
1487 employer under paragraph (1)(a), paragraph (1)(b), paragraph  
1488 (1)(c), or subparagraph (1)(d)2., the wages earned or the  
1489 employment of an employee performing service in agricultural  
1490 labor may not be taken into account. If an employing unit is  
1491 determined to be an employer of agricultural labor, the

596873

4/30/2008 11:40 PM

Amendment No.

1492 employing unit is considered an employer for purposes of  
1493 paragraph (1)(a) ~~subsection (1)~~.

1494 Section 21. Section 695.22, Florida Statutes, is amended  
1495 to read:

1496 695.22 Daily schedule of deeds and conveyances filed for  
1497 record to be furnished property appraiser.--After October 1,  
1498 1945, the several clerks of the circuit courts shall keep and  
1499 furnish to the respective county property appraisers in the  
1500 counties where such instruments are recorded a daily schedule of  
1501 the aforesaid deeds and conveyances so filed for recordation, in  
1502 which schedule shall be set forth the name of the grantor or  
1503 grantors, the names and addresses of each grantee, the actual  
1504 purchase price or other valuable consideration paid for the  
1505 property conveyed, and a description of the land as specified in  
1506 each instrument so filed.

1507 Section 22. Paragraph (g) is added to subsection (1) of  
1508 section 695.26, Florida Statutes, to read:

1509 695.26 Requirements for recording instruments affecting  
1510 real property.--

1511 (1) No instrument by which the title to real property or  
1512 any interest therein is conveyed, assigned, encumbered, or  
1513 otherwise disposed of shall be recorded by the clerk of the  
1514 circuit court unless:

1515 (g) The actual purchase price or other valuable  
1516 consideration paid for the real property or interest conveyed,  
1517 assigned, encumbered, or otherwise disposed of is legibly  
1518 printed, typewritten, or stamped upon the instrument.

596873

4/30/2008 11:40 PM

Amendment No.

1519 Section 23. Effective upon this act becoming a law and  
1520 applicable to assessments beginning January 1, 2009, subsection  
1521 (2) of section 193.011, Florida Statutes, is amended to read:

1522 193.011 Factors to consider in deriving just  
1523 valuation.--In arriving at just valuation as required under s.  
1524 4, Art. VII of the State Constitution, the property appraiser  
1525 shall take into consideration the following factors:

1526 (2) The highest and best use to which the property can be  
1527 expected to be put in the immediate future and the present use  
1528 of the property, taking into consideration the legally  
1529 permissible use of the property involving any applicable  
1530 judicial limitation, local or state land use regulation, or  
1531 historic preservation ordinance, and any zoning changes,  
1532 concurrency requirements, and permits necessary to achieve the  
1533 highest and best use, and considering any moratorium imposed by  
1534 executive order, law, ordinance, regulation, resolution, or  
1535 proclamation adopted by any governmental body or agency or the  
1536 Governor when the moratorium or judicial limitation prohibits or  
1537 restricts the development or improvement of property as  
1538 otherwise authorized by applicable law. The applicable  
1539 governmental body or agency or the Governor shall notify the  
1540 property appraiser in writing of any executive order, ordinance,  
1541 regulation, resolution, or proclamation it adopts imposing any  
1542 such limitation, regulation, or moratorium;

1543 Section 24. Section 193.018, Florida Statutes, is created  
1544 to read:

1545 193.018 Assessment of deed-restricted property.--

596873

4/30/2008 11:40 PM



Amendment No.

1546       (1) The owner of residential rental property, multiunit  
1547 commercial rental property, property used as a marina,  
1548 waterfront property used exclusively for commercial fishing  
1549 purposes, or property rented for use by mobile homes may enter  
1550 into a deed-restriction agreement with the county to maintain  
1551 the property at its current use for a period of at least 5  
1552 years.

1553       (2) The property appraiser shall consider the deed-  
1554 restriction agreement in determining the just value of the  
1555 property.

1556       (3) If, prior to the expiration of the deed-restriction  
1557 agreement, the property is not used for the purposes set forth  
1558 in the deed-restriction agreement, the deed-restriction  
1559 agreement shall be terminated and the property owner shall pay  
1560 to the county an amount equal to the additional taxes that would  
1561 have been paid in prior years had the deed-restriction agreement  
1562 not been in effect, plus 12 percent interest.

1563       Section 25. Section 213.25, Florida Statutes, is amended  
1564 to read:

1565       213.25 Refunds; credits; right of setoff.-- If In any  
1566 instance that a taxpayer has a refund or credit due for an  
1567 overpayment of taxes assessed under chapter 443 or any of the  
1568 chapters specified in s. 72.011(1), the department may reduce  
1569 such refund or credit to the extent of any billings not subject  
1570 to protest under chapter 443 or s. 213.21 for the same or any  
1571 other tax owed by the same taxpayer.

1572       Section 26. Section 213.054, Florida Statutes, is  
1573 repealed.

596873

4/30/2008 11:40 PM

Amendment No.

1574 Section 27. Except as otherwise expressly provided in this  
1575 act, and except for this section, which shall take effect upon  
1576 becoming a law, this act shall take effect July 1, 2008.

1581 -----  
1582 **T I T L E A M E N D M E N T**

1583 Remove the entire title and insert:

1584 A bill to be entitled

1585 An act relating to tax administration; amending s. 72.011, F.S.;  
1586 revising procedures for actions to contest a tax matter;  
1587 amending s. 125.0104, F.S.; revising the list of living quarters  
1588 or accommodations the rental or lease of which is subject to the  
1589 tourist development tax; providing definitions; providing for  
1590 taxation of regulated short-term products; providing that the  
1591 occupancy of a timeshare resort and membership or transaction  
1592 fee paid by a timeshare owner are not a privilege subject to  
1593 taxation; providing that consideration paid for the purchase of  
1594 a timeshare license in a timeshare plan is rent subject to  
1595 taxation; authorizing the Department of Revenue to establish  
1596 audit procedures and to assess for delinquent taxes; requiring  
1597 the person operating transient accommodations to separately  
1598 state the tax charged on a receipt or other documentation;  
1599 providing that persons facilitating the booking of reservations  
1600 are not required to separately state tax amounts charged;  
1601 requiring that such amounts be remitted as tax and classified as  
596873

4/30/2008 11:40 PM

HOUSE AMENDMENT

Bill No. HB 7147

Amendment No.

1602 county funds; providing additional specified uses for certain  
1603 tourist tax revenues by certain counties; specifying that  
1604 certain provisions of the act are clarifying and remedial in  
1605 nature and are not a basis for assessments of tax or for refunds  
1606 of tax for periods before the effective date of the act;  
1607 amending s. 125.0108, F.S.; revising the list of living quarters  
1608 or accommodations the rental or lease of which is subject to  
1609 taxation; providing definitions; providing for taxation of  
1610 regulated short-term products; providing that the occupancy of a  
1611 timeshare resort and membership or transaction fee paid by a  
1612 timeshare owner are not a privilege subject to taxation;  
1613 providing that consideration paid for the purchase of a  
1614 timeshare license in a timeshare plan is rent subject to  
1615 taxation; authorizing the department to establish audit  
1616 procedures and assess for delinquent taxes; requiring the person  
1617 operating transient accommodations to separately state the tax  
1618 charged on a receipt or other documentation; providing that  
1619 persons facilitating the booking of reservations are not  
1620 required to separately state tax amounts charged; requiring that  
1621 such amounts be remitted as tax and classified as county funds;  
1622 specifying that certain provisions of the act are clarifying and  
1623 remedial in nature and are not a basis for assessments of tax or  
1624 for refunds of tax for periods before the effective date of the  
1625 act; amending s. 196.192, F.S.; providing that educational  
1626 institutions owned by exempt entities are also exempt from ad  
1627 valorem taxation; amending s. 201.02, F.S.; requiring on certain  
1628 documents a notation indicating a nonprofit organization's  
1629 exemption from the documentary stamp tax; amending s. 202.29,  
596873

4/30/2008 11:40 PM

HOUSE AMENDMENT

Bill No. HB 7147

Amendment No.

1630 F.S.; providing a methodology for taxpayers to report and apply  
1631 credits for certain bad debts; amending ss. 212.03 and 212.0305,  
1632 F.S.; revising the list of living quarters or sleeping or  
1633 housekeeping accommodations that are subject to the transient  
1634 rentals tax and the convention development tax; providing  
1635 definitions; providing for taxation of regulated short-term  
1636 products; providing that the occupancy of an accommodation of a  
1637 timeshare resort and membership or transaction fee paid by a  
1638 timeshare owner is not a privilege subject to taxation;  
1639 providing that consideration paid for the purchase of a  
1640 timeshare license in a timeshare plan is rent subject to  
1641 taxation; requiring the person operating transient  
1642 accommodations to separately state the tax charged on a receipt  
1643 or other documentation; providing that persons facilitating the  
1644 booking of reservations are not required to separately state tax  
1645 amounts charged; requiring that such amounts be remitted as tax  
1646 and classified as county funds; authorizing the department to  
1647 establish audit procedures and assess for delinquent taxes;  
1648 specifying that certain provisions of the act are clarifying and  
1649 remedial in nature and are not a basis for assessments of tax or  
1650 for refunds of tax for periods before the effective date of the  
1651 act; amending s. 212.031, F.S.; conforming a cross-reference;  
1652 amending s. 212.055, F.S.; expanding authorization for voter-  
1653 approved indigent care surtaxes; authorizing certain counties to  
1654 levy a hospital surtax subject to referendum approval; providing  
1655 for allocation and uses of surtax proceeds; preserving certain  
1656 bonding authority; amending s. 212.08, F.S.; revising provisions  
1657 relating to the tax exemption for building materials used to

596873

4/30/2008 11:40 PM

HOUSE AMENDMENT

Bill No. HB 7147

Amendment No.

1658 rehabilitate real property in enterprise zones; providing an  
1659 exemption from the use tax for an aircraft that temporarily  
1660 enters the state or is temporarily in the state for certain  
1661 purposes; providing criteria for proof; specifying the exemption  
1662 to be in addition to certain other provisions; amending s.  
1663 213.015, F.S.; conforming cross-references; amending s. 213.053,  
1664 F.S.; authorizing the department to send certain general  
1665 information to taxpayers by electronic means; deleting a  
1666 provision that allows the disclosure of certain information to  
1667 the Chief Financial Officer; amending s. 213.67, F.S.; revising  
1668 criteria for commencing actions to contest a tax levy; amending  
1669 s. 220.21, F.S.; revising provisions relating to the electronic  
1670 filing of corporate taxes; providing for retroactive operation;  
1671 providing for applicability; amending s. 336.021, F.S.; revising  
1672 the order of distribution of local option fuel tax revenues;  
1673 amending s. 443.1215, F.S.; revising a cross-reference; amending  
1674 s. 695.22, F.S.; revising certain deeds and conveyances schedule  
1675 information required to be furnished to property appraisers;  
1676 amending s. 695.26, F.S.; requiring actual purchase price  
1677 information to be shown on certain instruments dealing with  
1678 title to real property; amending s. 193.011, F.S.; providing for  
1679 consideration of zoning changes and permits in determining the  
1680 highest and best use; revising the just valuation factor  
1681 relating to the condition of property; including cost of removal  
1682 of tangible personal property as a consideration in the net sale  
1683 proceeds factor; creating s. 193.018, F.S.; authorizing owners  
1684 of certain properties to enter into deed-restriction agreements  
1685 with counties for certain purposes; requiring property

596873

4/30/2008 11:40 PM

HOUSE AMENDMENT

Bill No. HB 7147

Amendment No.

1686 appraisers to consider deed-restriction agreements in  
1687 determining just value; providing for payment of back taxes plus  
1688 interest if the deed-restriction agreement is terminated early;  
1689 amending s. 213.25, F.S.; clarifying that the department's  
1690 authority to reduce tax refunds or credits by the amount of  
1691 other taxes owed applies to unemployment compensation taxes;  
1692 repealing s. 213.054, F.S., relating to a report naming persons  
1693 who claim a deduction for the net earnings of an international  
1694 banking facility; providing effective dates.

1695

1696

596873

4/30/2008 11:40 PM