

By Senator Altman

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1                                   A bill to be entitled  
2           An act relating to the Department of Revenue; amending  
3           s. 55.204, F.S.; providing for the duration of certain  
4           judgment liens; amending s. 72.011, F.S.; clarifying  
5           the date by which an action to contest any tax,  
6           interest, or penalties must be filed; conforming  
7           cross-references; authorizing the Department of  
8           Revenue, the Department of Highway Safety and Motor  
9           Vehicles, and the Department of Business and  
10          Professional Regulation to adopt rules for the waiver  
11          of the requirement for the payment of uncontested  
12          amounts and the deposit of security in actions to  
13          contest the legality of any tax, interest, or penalty;  
14          amending s. 95.091, F.S.; providing that the duration  
15          of a tax lien relating to certain unemployment  
16          compensation taxes expires 10 years following a  
17          certain date; amending s. 201.02, F.S.; providing  
18          conditions under which debt forgiven by a mortgage  
19          holder in connection with a short sale of real  
20          property is not a consideration subject to the tax on  
21          documents; amending s. 202.125, F.S.; clarifying that  
22          an exemption from the communications services tax does  
23          not apply to a residence that is all or part of a  
24          transient public lodging establishment; amending s.  
25          212.07, F.S.; conforming a cross-reference; imposing  
26          criminal penalties on a dealer who willfully fails to  
27          collect certain taxes or fees after notice of a duty  
28          to collect the taxes or fees by the Department of  
29          Revenue; amending s. 212.08, F.S.; providing criteria

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30 to determine the tax on a package that contains  
31 taxable nonfood products and exempt food products;  
32 clarifying that the sales tax exemption for building  
33 materials used in the rehabilitation of real property  
34 located in an enterprise zone applies only during the  
35 rehabilitation of the real property; authorizing a  
36 single application for a tax refund for certain  
37 contiguous parcels of real property; revising  
38 information that must be included in the application  
39 for the tax refund; providing that the tax exemption  
40 for building materials used in an enterprise zone may  
41 inure to a unit of government; amending s. 212.12,  
42 F.S.; deleting provisions relating to criminal  
43 penalties for failing to register as a dealer or to  
44 collect tax after notice from the Department of  
45 Revenue; amending s. 212.18, F.S.; providing criminal  
46 penalties for willfully failing to register as a  
47 dealer after notice from the Department of Revenue;  
48 requiring the department to send written notice of the  
49 duty to register by personal service, registered mail,  
50 or both; amending s. 213.053, F.S.; providing that the  
51 Department of Revenue may share certain information  
52 with the Florida Energy and Climate Commission;  
53 providing that the Department of Revenue may share  
54 taxpayer names and identification numbers for purposes  
55 of information-sharing agreements with financial  
56 institutions; providing that provisions restricting  
57 the disclosure of confidential information do not  
58 apply to certain methods of electronic communication

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59 for certain purposes; providing that the Department of  
60 Revenue may release information relating to  
61 outstanding tax warrants to the Department of Business  
62 and Professional Regulation; authorizing the  
63 Department of Revenue to publish a list of taxpayers  
64 against whom it has filed a warrant or judgment lien  
65 certificate; requiring the department to update the  
66 list at least monthly; authorizing the Department of  
67 Revenue to adopt rules; creating s. 213.0532, F.S.;  
68 defining terms; requiring the Department of Revenue to  
69 enter into information-sharing agreements with  
70 financial institutions to collect information relating  
71 to taxpayers; requiring financial institutions to  
72 provide to the department certain information each  
73 calendar quarter; requiring the department to pay a  
74 reasonable fee to a financial institution for certain  
75 costs; providing that financial institutions do not  
76 need to provide notice of information-sharing  
77 agreements to accountholders; providing that financial  
78 institutions are not liable for certain acts taken in  
79 connection with information-sharing agreements;  
80 authorizing the Department of Revenue to take civil  
81 actions against noncompliant financial institutions;  
82 authorizing the Department of Revenue to adopt rules;  
83 amending s. 213.25, F.S.; authorizing the Department  
84 of Revenue to reduce a tax refund or a tax credit to  
85 the extent of liability for unemployment compensation  
86 taxes; amending s. 213.50, F.S.; authorizing the  
87 Department of Business and Professional Regulation to

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88           revoke the hotel or restaurant license of a  
89           licenseholder having an outstanding tax warrant for a  
90           certain period; authorizing the Department of Business  
91           and Professional Regulation to deny an application to  
92           renew the hotel or restaurant license of a  
93           licenseholder having an outstanding tax warrant for a  
94           certain period; amending s. 213.67, F.S.; clarifying  
95           the date by which an action to contest a notice of  
96           intent to levy must be filed; creating s. 213.758,  
97           F.S.; defining terms; providing for the transfer of  
98           tax liabilities to the transferee of a business or a  
99           stock of goods under certain circumstances; providing  
100          exceptions; requiring a taxpayer who quits a business  
101          to file a final tax return; authorizing the Department  
102          of Legal Affairs to seek injunctions to prevent  
103          business activities until taxes are paid; requiring  
104          the transferor of a business or stock of goods to file  
105          a final tax return and make a full tax payment after a  
106          transfer; authorizing a transferee of a business or  
107          stock of goods to withhold a portion of the  
108          consideration for the transfer for the payment of  
109          certain taxes; authorizing the Department of Legal  
110          Affairs to seek an injunction to prevent business  
111          activities by a transferee until the taxes are paid;  
112          providing that the transferees are jointly and  
113          severally liable with the transferor for the payment  
114          of taxes, interest, or penalties under certain  
115          circumstances; limiting the transferee's liability to  
116          the value or purchase price of the transferred

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117 property; authorizing the Department of Revenue to  
118 adopt rules; amending s. 220.192, F.S.; providing for  
119 the administration of certain portions of the  
120 renewable energy technologies tax credit program by  
121 the Florida Energy and Climate Commission; providing  
122 for retroactive application; amending s. 336.021,  
123 F.S.; revising the distribution of the ninth-cent fuel  
124 tax on motor fuel and diesel fuel; amending s.  
125 443.036, F.S.; providing for the treatment of a  
126 single-member limited liability company as the  
127 employer; amending s. 443.1215, F.S.; correcting a  
128 cross-reference; amending s. 443.1316, F.S.;  
129 conforming cross-references; amending s. 443.141,  
130 F.S.; providing penalties for erroneous, incomplete,  
131 or insufficient reports; authorizing a waiver of the  
132 penalty under certain circumstances; defining a term;  
133 authorizing the Agency for Workforce Innovation and  
134 the state agency providing unemployment compensation  
135 tax collection services to adopt rules; providing an  
136 expiration date for liens for contributions and  
137 reimbursements; amending s. 443.163, F.S.; increasing  
138 penalties for failing to file Employers Quarterly  
139 Reports by means other than approved electronic means;  
140 creating s. 213.691, F.S.; authorizing the Department  
141 of Revenue to file an integrated warrant or judgment  
142 lien for a taxpayer's total liability for taxes, fees,  
143 or surcharges; requiring the integrated warrant or  
144 judgment lien certificate to itemize amounts due for  
145 each tax, fee, or surcharge; creating s. 213.692,

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146 F.S.; authorizing the Department of Revenue to revoke  
147 all certificates of registration, permits, or licenses  
148 issued to a taxpayer against whose property the  
149 department has filed a warrant or tax lien; requiring  
150 the scheduling of an informal conference before  
151 revocation of the certificates of registration,  
152 permits, or licenses; prohibiting the Department of  
153 Revenue from issuing a certificate of registration,  
154 permit, or license to a taxpayer whose certificate of  
155 registration, permit, or license has been revoked;  
156 providing exceptions; requiring security as a  
157 condition of issuing a new certificate of registration  
158 to a person whose certificate of registration, permit,  
159 or license has been revoked after the filing of a  
160 warrant or tax lien certificate; authorizing the  
161 department to adopt rules; repealing s. 195.095, F.S.,  
162 relating to the authority of the Department of Revenue  
163 to develop lists of bidders that are approved to  
164 contract with property appraisers, tax collectors, or  
165 county commissions for assessment or collection  
166 services; repealing s. 213.054, F.S., relating to  
167 monitoring and reporting on the use of a tax deduction  
168 claimed by international banking institutions;  
169 providing effective dates.

170

171 Be It Enacted by the Legislature of the State of Florida:

172

173 Section 1. Section 55.204, Florida Statutes, is amended to  
174 read:

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175           55.204 Duration and continuation of judgment lien;  
176 destruction of records.—

177           (1) Except as provided in this section, a judgment lien  
178 acquired under s. 55.202 lapses and becomes invalid 5 years  
179 after the date of filing the judgment lien certificate.

180           (2) Liens securing the payment of child support or tax  
181 obligations as set forth in s. 95.091(1)(b) ~~shall not~~ lapse  
182 ~~until~~ 20 years after the date of the original filing of the  
183 warrant or other document required by law to establish a lien.  
184 Liens securing the payment of unemployment tax obligations lapse  
185 10 years after the date of the original filing of the notice of  
186 lien. A ~~no~~ second lien based on the original filing may not be  
187 obtained.

188           (3) At any time within 6 months before or 6 months after  
189 the scheduled lapse of a judgment lien under subsection (1), the  
190 judgment creditor may acquire a second judgment lien by filing a  
191 new judgment lien certificate. The effective date of the second  
192 judgment lien is the date and time on which the judgment lien  
193 certificate is filed. The second judgment lien is a new judgment  
194 lien and not a continuation of the original judgment lien. The  
195 second judgment lien permanently lapses and becomes invalid 5  
196 years after its filing date, and no additional liens based on  
197 the original judgment or any judgment based on the original  
198 judgment may be acquired.

199           (4) A judgment lien continues only as to itemized property  
200 for an additional 90 days after lapse of the lien. Such judgment  
201 lien will continue only if:

202           (a) The property had been itemized and its location  
203 described with sufficient particularity in the instructions for

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204 levy to permit the sheriff to act;

205 (b) The instructions for the levy had been delivered to the  
206 sheriff prior to the date of lapse of the lien; and

207 (c) The property was located in the county in which the  
208 sheriff has jurisdiction at the time of delivery of the  
209 instruction for levy. Subsequent removal of the property does  
210 not defeat the lien. A court may order continuation of the lien  
211 beyond the 90-day period on a showing that extraordinary  
212 circumstances have prevented levy.

213 (5) The date of lapse of a judgment lien whose  
214 enforceability has been temporarily stayed or enjoined as a  
215 result of any legal or equitable proceeding is tolled until 30  
216 days after the stay or injunction is terminated.

217 (6) If a ~~no~~ second judgment lien is not filed, the  
218 Department of State shall maintain each judgment lien file and  
219 all information contained therein for a minimum of 1 year after  
220 the judgment lien lapses in accordance with this section. If a  
221 second judgment lien is filed, the department shall maintain  
222 both files and all information contained in such files for a  
223 minimum of 1 year after the second judgment lien lapses.

224 (7) ~~Nothing in~~ This section does not ~~shall be construed to~~  
225 extend the life of a judgment lien beyond the time that the  
226 underlying judgment, order, decree, or warrant otherwise expires  
227 or becomes invalid pursuant to law.

228 Section 2. Effective July 1, 2009, section 72.011, Florida  
229 Statutes, is amended to read:

230 72.011 Jurisdiction of circuit courts in specific tax  
231 matters; administrative hearings and appeals; time for  
232 commencing action; parties; deposits.-



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233 (1) (a) A taxpayer may contest the legality of any  
234 assessment or denial of refund of tax, fee, surcharge, permit,  
235 interest, or penalty provided for under s. 125.0104, s.  
236 125.0108, chapter 198, chapter 199, chapter 201, chapter 202,  
237 chapter 203, chapter 206, chapter 207, chapter 210, chapter 211,  
238 chapter 212, chapter 213, chapter 220, chapter 221, s.  
239 379.362(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, s.  
240 538.09, s. 538.25, chapter 550, chapter 561, chapter 562,  
241 chapter 563, chapter 564, chapter 565, chapter 624, or s.  
242 681.117 by filing an action in circuit court; or, alternatively,  
243 the taxpayer may file a petition under the applicable provisions  
244 of chapter 120. However, once an action has been initiated under  
245 s. 120.56, s. 120.565, s. 120.569, s. 120.57, or s.  
246 120.80(14) (b), no action relating to the same subject matter may  
247 be filed by the taxpayer in circuit court, and judicial review  
248 shall be exclusively limited to appellate review pursuant to s.  
249 120.68; and once an action has been initiated in circuit court,  
250 no action may be brought under chapter 120.

251 (b) A taxpayer may not file an action under paragraph (a)  
252 to contest an assessment or a denial of refund of any tax, fee,  
253 surcharge, permit, interest, or penalty relating to the statutes  
254 listed in paragraph (a) until the taxpayer complies with the  
255 applicable registration requirements contained in those statutes  
256 which apply to the tax for which the action is filed.

257 (2) (a) An action may not be brought to contest an  
258 assessment of any tax, interest, or penalty assessed under a  
259 section or chapter specified in subsection (1) if the petition  
260 is postmarked or the action is filed more than 60 days after the  
261 date the assessment becomes final. An action may not be brought

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262 to contest a denial of refund of any tax, interest, or penalty  
263 paid under a section or chapter specified in subsection (1) if  
264 the petition is postmarked or the action is filed more than 60  
265 days after the date the denial becomes final.

266 (b) The date on which an assessment or a denial of refund  
267 becomes final and procedures by which a taxpayer must be  
268 notified of the assessment or of the denial of refund must be  
269 established:

270 1. By rule adopted by the Department of Revenue;

271 2. With respect to assessments or refund denials under  
272 chapter 207, by rule adopted by the Department of Highway Safety  
273 and Motor Vehicles;

274 3. With respect to assessments or refund denials under  
275 chapters 210, 550, 561, 562, 563, 564, and 565, by rule adopted  
276 by the Department of Business and Professional Regulation; or

277 4. With respect to taxes that a county collects or enforces  
278 under s. 125.0104(10) or s. 212.0305(5), by an ordinance that  
279 may additionally provide for informal dispute resolution  
280 procedures in accordance with s. 213.21.

281 (c) The applicable department or county need not file or  
282 docket an assessment or a refund denial with the agency clerk or  
283 county official designated by ordinance in order for the  
284 assessment or refund denial to become final for purposes of an  
285 action initiated under this chapter or chapter 120.

286 (3) In any action filed in circuit court contesting the  
287 legality of any tax, interest, or penalty assessed under a  
288 section or chapter specified in subsection (1), the plaintiff  
289 must:

290 (a) Pay to the applicable department or county the amount

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291 of the tax, penalty, and accrued interest assessed by the  
292 department or county which is not being contested by the  
293 taxpayer; and ~~either~~

294 (b)1. Tender into the registry of the court with the  
295 complaint the amount of the contested assessment complained of,  
296 including penalties and accrued interest, unless this  
297 requirement is waived in writing by the executive director of  
298 the applicable department or by the county official designated  
299 by ordinance; or

300 2. File with the complaint a cash bond or a surety bond for  
301 the amount of the contested assessment endorsed by a surety  
302 company authorized to do business in this state, or by any other  
303 security arrangement as may be approved by the court, and  
304 conditioned upon payment in full of the judgment, including the  
305 taxes, costs, penalties, and interest, unless this requirement  
306 is waived in writing by the executive director of the applicable  
307 department or by the county official designated by ordinance.  
308

309 The Department of Revenue, the Department of Highway Safety and  
310 Motor Vehicles, or the Department of Business and Professional  
311 Regulation may adopt rules that govern the manner and form in  
312 which a plaintiff may request a waiver from the respective  
313 agency. Failure to pay the uncontested amount as required in  
314 paragraph (a) shall result in the dismissal of the action and  
315 imposition of an additional penalty in the amount of 25 percent  
316 of the tax assessed. ~~Provided,~~ However, ~~that~~ if, at any point in  
317 the action, it is determined or discovered that a plaintiff, due  
318 to a good faith de minimis error, failed to comply with any of  
319 the requirements of paragraph (a) or paragraph (b), the

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320 plaintiff shall be given a reasonable time within which to  
321 comply before the action is dismissed. For purposes of this  
322 subsection, there shall be a rebuttable presumption that if the  
323 error involves an amount equal to or less than 5 percent of the  
324 total assessment the error is de minimis and that if the error  
325 is more than 5 percent of the total assessment the error is not  
326 de minimis.

327 (4) (a) Except as provided in paragraph (b), an action  
328 initiated in circuit court pursuant to subsection (1) shall be  
329 filed in the Second Judicial Circuit Court in and for Leon  
330 County or in the circuit court in the county where the taxpayer  
331 resides, maintains its principal commercial domicile in this  
332 state, or, in the ordinary course of business, regularly  
333 maintains its books and records in this state.

334 (b) Venue in an action initiated in circuit court pursuant  
335 to subsection (1) by a taxpayer that is not a resident of this  
336 state or that does not maintain a commercial domicile in this  
337 state shall be in Leon County. Venue in an action contesting the  
338 legality of an assessment or refund denial arising under chapter  
339 198 shall be in the circuit court having jurisdiction over the  
340 administration of the estate.

341 (5) The requirements of subsections (1), (2), and (3) are  
342 jurisdictional.

343 (6) Any action brought under this chapter is not subject to  
344 the provisions of chapter 45 as amended by chapter 87-249, Laws  
345 of Florida, relating to offers of settlement.

346 Section 3. Subsection (1) of section 95.091, Florida  
347 Statutes, is amended to read:

348 95.091 Limitation on actions to collect taxes.—

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349 (1) (a) Except in the case of taxes for which certificates  
 350 have been sold, taxes enumerated in ss. 72.011 and 443.141 ~~s.~~  
 351 ~~72.011~~, or tax liens issued under s. 196.161, any tax lien  
 352 granted by law to the state or any of its political  
 353 subdivisions, any municipality, any public corporation or body  
 354 politic, or any other entity having authority to levy and  
 355 collect taxes shall expire 5 years after the date the tax is  
 356 assessed or becomes delinquent, whichever is later. No action  
 357 may be begun to collect any tax after the expiration of the lien  
 358 securing the payment of the tax.

359 (b) Any tax lien granted by law to the state or any of its  
 360 political subdivisions for any tax enumerated in s. 72.011 or  
 361 any tax lien imposed under s. 196.161 shall expire 20 years  
 362 after the last date the tax may be assessed, after the tax  
 363 becomes delinquent, or after the filing of a tax warrant,  
 364 whichever is later. An action to collect any tax enumerated in  
 365 s. 72.011 may not be commenced after the expiration of the lien  
 366 securing the payment of the tax.

367 Section 4. Section 201.02, Florida Statutes, is amended to  
 368 read:

369 201.02 Tax on deeds, instruments, and other documents  
 370 ~~instruments~~ relating to real property or interests in real  
 371 property.—

372 (1) On deeds, instruments, or other documents ~~writings~~  
 373 whereby any lands, tenements, or other real property, or any  
 374 interest therein, shall be granted, assigned, transferred, or  
 375 otherwise conveyed to, or vested in, the purchaser or any other  
 376 person by his or her direction, on each \$100 of the  
 377 consideration therefor the tax shall be 70 cents. When the full

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378 amount of the consideration for the execution, assignment,  
379 transfer, or conveyance is not shown in the face of such deed,  
380 instrument, document, or writing, the tax shall be at the rate  
381 of 70 cents for each \$100 or fractional part thereof of the  
382 consideration therefor. For purposes of this section,  
383 consideration includes, but is not limited to, the money paid or  
384 agreed to be paid; the discharge of an obligation; and the  
385 amount of any mortgage, purchase money mortgage lien, or other  
386 encumbrance, whether or not the underlying indebtedness is  
387 assumed. If the consideration paid or given in exchange for real  
388 property or any interest therein includes property other than  
389 money, it is presumed that the consideration is equal to the  
390 fair market value of the real property or interest therein.

391 (2) The tax imposed by subsection (1) shall also be payable  
392 upon documents by which the right is granted to a tenant-  
393 stockholder to occupy an apartment in a building owned by a  
394 cooperative apartment corporation or in a dwelling on real  
395 property owned by any other form of cooperative association as  
396 defined in s. 719.103.

397 (3) The tax imposed by subsection (2) shall be paid by the  
398 purchaser, and the document recorded in the office of the clerk  
399 of the circuit court as evidence of ownership.

400 (4) The tax imposed by subsection (1) shall also be payable  
401 upon documents which convey or transfer, pursuant to s. 689.071,  
402 any beneficial interest in lands, tenements, or other real  
403 property, or any interest therein, even though such interest may  
404 be designated as personal property, notwithstanding the  
405 provisions of s. 689.071(6). The tax shall be paid upon  
406 execution of any such document.

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407 (5) All conveyances of real property to a partner from a  
408 partnership which property was conveyed to the partnership after  
409 July 1, 1986, are taxable if:

410 (a) The partner receiving the real property from the  
411 partnership is a partner other than the partner who conveyed the  
412 real property to the partnership; or

413 (b) The partner receiving the real property from the  
414 partnership is the partner who conveyed the real property to the  
415 partnership and there is a mortgage debt or other debt secured  
416 by such real property for which the partner was not personally  
417 liable prior to conveying the real property to the partnership.

418  
419 For purposes of this subsection, the value of the consideration  
420 paid for the conveyance of the real property to the partner from  
421 the partnership includes, but is not limited to, the amount of  
422 any outstanding mortgage debt or other debt which the partner  
423 pays or agrees to pay in exchange for the real property,  
424 regardless of whether the partner was personally liable for the  
425 debts of the partnership prior to the conveyance to the partner  
426 from the partnership.

427 (6) Taxes imposed by this section shall not apply to any  
428 assignment, transfer, or other disposition, or any document,  
429 which arises out of a transfer of real property from a nonprofit  
430 organization to the Board of Trustees of the Internal  
431 Improvement Trust Fund, to any state agency, to any water  
432 management district, or to any local government. For purposes of  
433 this subsection, "nonprofit organization" means an organization  
434 whose purpose is the preservation of natural resources and which  
435 is exempt from federal income tax under s. 501(c)(3) of the

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436 Internal Revenue Code. The Department of Revenue shall provide a  
437 form, or a place on an existing form, for the nonprofit  
438 organization to indicate its exempt status.

439 (7) Taxes imposed by this section do not apply to a deed,  
440 transfer, or conveyance between spouses or former spouses  
441 pursuant to an action for dissolution of their marriage wherein  
442 the real property is or was their marital home or an interest  
443 therein. Taxes paid pursuant to this section shall be refunded  
444 in those cases in which a deed, transfer, or conveyance occurred  
445 1 year before a dissolution of marriage. This subsection applies  
446 in spite of any consideration as defined in subsection (1). This  
447 subsection does not apply to a deed, transfer, or conveyance  
448 executed before July 1, 1997.

449 (8) Taxes imposed by this section do not apply to a  
450 contract to sell the residence of an employee relocating at his  
451 or her employer's direction or to documents related to the  
452 contract, which contract is between the employee and the  
453 employer or between the employee and a person in the business of  
454 providing employee relocation services. In the case of such  
455 transactions, taxes apply only to the transfer of the real  
456 property comprising the residence by deed that vests legal title  
457 in a named grantee.

458 (9) A certificate of title issued by the clerk of court  
459 under s. 45.031(5) in a judicial sale of real property under an  
460 order or final judgment issued pursuant to a foreclosure  
461 proceeding is subject to the tax imposed by subsection (1).  
462 However, the amount of the tax shall be computed based solely on  
463 the amount of the highest and best bid received for the property  
464 at the foreclosure sale. This subsection is intended to clarify



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465 existing law and shall be applied retroactively.

466 (10) (a) In recognition of the special escrow requirements  
467 that apply to sales of timeshare interests in timeshare plans  
468 pursuant to s. 721.08, tax on deeds or other instruments  
469 conveying any interest in Florida real property which are  
470 executed in conjunction with the sale by a developer of a  
471 timeshare interest in a timeshare plan is due and payable on the  
472 earlier of the date on which:

473 1. The deed or other instrument conveying the interest in  
474 Florida real property is recorded; or

475 2. All of the conditions precedent to the release of the  
476 purchaser's escrowed funds or other property pursuant to s.  
477 721.08(2) (c) have been met, regardless of whether the developer  
478 has posted an alternative assurance. Tax due pursuant to this  
479 subparagraph is due and payable on or before the 20th day of the  
480 month following the month in which these conditions were met.

481 (b)1. If tax has been paid to the department pursuant to  
482 subparagraph (a)2., and the deed or other instrument conveying  
483 the interest in Florida real property with respect to which the  
484 tax was paid is subsequently recorded, a notation reflecting the  
485 prior payment of the tax must be made upon the deed or other  
486 instrument conveying the interest in Florida real property.

487 2. Notwithstanding paragraph (a), if funds are designated  
488 on a closing statement as tax collected from the purchaser, but  
489 a default or cancellation occurs pursuant to s. 721.08(2) (a) or  
490 (b) and no deed or other instrument conveying interest in  
491 Florida real property has been recorded or delivered to the  
492 purchaser, the tax must be paid to the department on or before  
493 the 20th day of the month following the month in which the funds

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494 are available for release from escrow unless the funds have been  
495 refunded to the purchaser.

496 (c) The department may adopt rules to administer the method  
497 for reporting tax due under this subsection.

498 (11) For purposes of this section, consideration for a  
499 short sale transfer does not include unpaid indebtedness that is  
500 forgiven or released by a mortgagee holding a mortgage on the  
501 grantor's interest in the property. A short sale is a purchase  
502 and sale of real property in which:

503 (a) The grantor's interest in the real property is  
504 encumbered by a mortgage or mortgages securing indebtedness in  
505 an aggregate amount greater than the purchase price paid by the  
506 grantee;

507 (b) A mortgagee releases the real property from its  
508 mortgage in exchange for a partial payment of less than all of  
509 the outstanding mortgage indebtedness owing to the releasing  
510 mortgagee;

511 (c) Neither the releasing mortgagee nor any person related  
512 to the releasing mortgagee receives any interest in the property  
513 transferred;

514 (d) The releasing mortgagee is not controlled by or related  
515 to the grantor or the grantee; and

516 (e) The grantor and the grantee are not controlled by or  
517 related to each other.

518 Section 5. Subsection (1) of section 202.125, Florida  
519 Statutes, is amended to read:

520 202.125 Sales of communications services; specified  
521 exemptions.—

522 (1) The separately stated sales price of communications

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523 services sold to residential households is exempt from the tax  
524 imposed by s. 202.12. This exemption shall not apply to any  
525 residence that constitutes all or part of a transient public  
526 lodging establishment as defined in chapter 509, any mobile  
527 communications service, any cable service, or any direct-to-home  
528 satellite service.

529 Section 6. Subsections (1) and (3) of section 212.07,  
530 Florida Statutes, are amended to read:

531 212.07 Sales, storage, use tax; tax added to purchase  
532 price; dealer not to absorb; liability of purchasers who cannot  
533 prove payment of the tax; penalties; general exemptions.—

534 (1)(a) The privilege tax herein levied measured by retail  
535 sales shall be collected by the dealers from the purchaser or  
536 consumer.

537 (b) A resale must be in strict compliance with s. 212.18  
538 and the rules and regulations, and any dealer who makes a sale  
539 for resale which is not in strict compliance with s. 212.18 and  
540 the rules and regulations shall himself or herself be liable for  
541 and pay the tax. Any dealer who makes a sale for resale shall  
542 document the exempt nature of the transaction, as established by  
543 rules promulgated by the department, by retaining a copy of the  
544 purchaser's resale certificate. In lieu of maintaining a copy of  
545 the certificate, a dealer may document, prior to the time of  
546 sale, an authorization number provided telephonically or  
547 electronically by the department, or by such other means  
548 established by rule of the department. The dealer may rely on a  
549 resale certificate issued pursuant to s. 212.18(3)(d) ~~s.~~  
550 ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,  
551 without seeking annual verification of the resale certificate if

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552 the dealer makes recurring sales to a purchaser in the normal  
553 course of business on a continual basis. For purposes of this  
554 paragraph, "recurring sales to a purchaser in the normal course  
555 of business" refers to a sale in which the dealer extends credit  
556 to the purchaser and records the debt as an account receivable,  
557 or in which the dealer sells to a purchaser who has an  
558 established cash or C.O.D. account, similar to an open credit  
559 account. For purposes of this paragraph, purchases are made from  
560 a selling dealer on a continual basis if the selling dealer  
561 makes, in the normal course of business, sales to the purchaser  
562 no less frequently than once in every 12-month period. A dealer  
563 may, through the informal protest provided for in s. 213.21 and  
564 the rules of the Department of Revenue, provide the department  
565 with evidence of the exempt status of a sale. Consumer  
566 certificates of exemption executed by those exempt entities that  
567 were registered with the department at the time of sale, resale  
568 certificates provided by purchasers who were active dealers at  
569 the time of sale, and verification by the department of a  
570 purchaser's active dealer status at the time of sale in lieu of  
571 a resale certificate shall be accepted by the department when  
572 submitted during the protest period, but may not be accepted in  
573 any proceeding under chapter 120 or any circuit court action  
574 instituted under chapter 72.

575 (c) Unless the purchaser of tangible personal property that  
576 is incorporated into tangible personal property manufactured,  
577 produced, compounded, processed, or fabricated for one's own use  
578 and subject to the tax imposed under s. 212.06(1)(b) or is  
579 purchased for export under s. 212.06(5)(a)1. extends a  
580 certificate in compliance with the rules of the department, the

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581 dealer shall himself or herself be liable for and pay the tax.

582 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to  
583 collect the tax or fees imposed under this chapter herein  
584 ~~provided, either~~ by himself or herself or through the dealer's  
585 agents or employees, ~~is,~~ in addition to the penalty of being  
586 liable for and paying the tax ~~himself or herself,~~ commits guilty  
587 ~~of~~ a misdemeanor of the first degree, punishable as provided in  
588 s. 775.082 or s. 775.083.

589 (b) A dealer who willfully fails to collect a tax or fees  
590 after the dealer receives notice from the department of the duty  
591 to collect the tax or fees is liable for a specific penalty of  
592 100 percent of the uncollected tax or fees. This penalty is in  
593 addition to any other penalty that may be imposed by law. A  
594 dealer who willfully fails to collect taxes or fees totaling:

595 1. Less than \$300:

596 a. For a first offense commits a misdemeanor of the second  
597 degree, punishable as provided in s. 775.082 or s. 775.083.

598 b. For the second offense commits a misdemeanor of the  
599 first degree, punishable as provided in s. 775.082 or s.  
600 775.083.

601 c. For the third and subsequent offenses commits a felony  
602 of the third degree, punishable as provided in s. 775.082, s.  
603 775.083, or s. 775.084.

604 2. Three hundred dollars or more, but less than \$20,000,  
605 commits a felony of the third degree, punishable as provided in  
606 s. 775.082, s. 775.083, or s. 775.084.

607 3. Twenty thousand dollars or more, but less than \$100,000,  
608 commits a felony of the second degree, punishable as provided in  
609 s. 775.082, s. 775.083, or s. 775.084.

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610 4. One hundred thousand dollars or more, commits a felony  
611 of the first degree, punishable as provided in s. 775.082, s.  
612 775.083, or s. 775.084.

613 (c) As used in this subsection, the term "willful" means a  
614 voluntary and intentional violation of a known legal duty.

615 (d) The department shall give written notice of the duty to  
616 collect taxes or fees to the dealer by personal service; by  
617 sending notice to the dealer's last known address by registered  
618 mail; or by both personal service and mail.

619 Section 7. Subsection (1) and paragraph (g) of subsection  
620 (5) of section 212.08, Florida Statutes, are amended to read:

621 212.08 Sales, rental, use, consumption, distribution, and  
622 storage tax; specified exemptions.—The sale at retail, the  
623 rental, the use, the consumption, the distribution, and the  
624 storage to be used or consumed in this state of the following  
625 are hereby specifically exempt from the tax imposed by this  
626 chapter.

627 (1) EXEMPTIONS; GENERAL GROCERIES.—

628 (a) Food products for human consumption are exempt from the  
629 tax imposed by this chapter.

630 (b) For the purpose of this chapter, as used in this  
631 subsection, the term "food products" means edible commodities,  
632 whether processed, cooked, raw, canned, or in any other form,  
633 which are generally regarded as food. This includes, but is not  
634 limited to, all of the following:

635 1. Cereals and cereal products, baked goods, oleomargarine,  
636 meat and meat products, fish and seafood products, frozen foods  
637 and dinners, poultry, eggs and egg products, vegetables and  
638 vegetable products, fruit and fruit products, spices, salt,

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639 sugar and sugar products, milk and dairy products, and products  
640 intended to be mixed with milk.

641 2. Natural fruit or vegetable juices or their concentrates  
642 or reconstituted natural concentrated fruit or vegetable juices,  
643 whether frozen or unfrozen, dehydrated, powdered, granulated,  
644 sweetened or unsweetened, seasoned with salt or spice, or  
645 unseasoned; coffee, coffee substitutes, or cocoa; and tea,  
646 unless it is sold in a liquid form.

647 3. Bakery products sold by bakeries, pastry shops, or like  
648 establishments that do not have eating facilities.

649 (c) The exemption provided by this subsection does not  
650 apply:

651 1. When the food products are sold as meals for consumption  
652 on or off the premises of the dealer.

653 2. When the food products are furnished, prepared, or  
654 served for consumption at tables, chairs, or counters or from  
655 trays, glasses, dishes, or other tableware, whether provided by  
656 the dealer or by a person with whom the dealer contracts to  
657 furnish, prepare, or serve food products to others.

658 3. When the food products are ordinarily sold for immediate  
659 consumption on the seller's premises or near a location at which  
660 parking facilities are provided primarily for the use of patrons  
661 in consuming the products purchased at the location, even though  
662 such products are sold on a "take out" or "to go" order and are  
663 actually packaged or wrapped and taken from the premises of the  
664 dealer.

665 4. To sandwiches sold ready for immediate consumption on or  
666 off the seller's premises.

667 5. When the food products are sold ready for immediate

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668 consumption within a place, the entrance to which is subject to  
669 an admission charge.

670 6. When the food products are sold as hot prepared food  
671 products.

672 7. To soft drinks, which include, but are not limited to,  
673 any nonalcoholic beverage, any preparation or beverage commonly  
674 referred to as a "soft drink," or any noncarbonated drink made  
675 from milk derivatives or tea, when sold in cans or similar  
676 containers.

677 8. To ice cream, frozen yogurt, and similar frozen dairy or  
678 nondairy products in cones, small cups, or pints, popsicles,  
679 frozen fruit bars, or other novelty items, whether or not sold  
680 separately.

681 9. To food prepared, whether on or off the premises, and  
682 sold for immediate consumption. This does not apply to food  
683 prepared off the premises and sold in the original sealed  
684 container, or the slicing of products into smaller portions.

685 10. When the food products are sold through a vending  
686 machine, pushcart, motor vehicle, or any other form of vehicle.

687 11. To candy and any similar product regarded as candy or  
688 confection, based on its normal use, as indicated on the label  
689 or advertising thereof.

690 12. To bakery products sold by bakeries, pastry shops, or  
691 like establishments that have eating facilities, except when  
692 sold for consumption off the seller's premises.

693 13. When food products are served, prepared, or sold in or  
694 by restaurants, lunch counters, cafeterias, hotels, taverns, or  
695 other like places of business.

696 (d) As used in this subsection, the term:



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697 1. "For consumption off the seller's premises" means that  
698 the food or drink is intended by the customer to be consumed at  
699 a place away from the dealer's premises.

700 2. "For consumption on the seller's premises" means that  
701 the food or drink sold may be immediately consumed on the  
702 premises where the dealer conducts his or her business. In  
703 determining whether an item of food is sold for immediate  
704 consumption, there shall be considered the customary consumption  
705 practices prevailing at the selling facility.

706 3. "Premises" shall be construed broadly, and means, but is  
707 not limited to, the lobby, aisle, or auditorium of a theater;  
708 the seating, aisle, or parking area of an arena, rink, or  
709 stadium; or the parking area of a drive-in or outdoor theater.  
710 The premises of a caterer with respect to catered meals or  
711 beverages shall be the place where such meals or beverages are  
712 served.

713 4. "Hot prepared food products" means those products,  
714 items, or components which have been prepared for sale in a  
715 heated condition and which are sold at any temperature that is  
716 higher than the air temperature of the room or place where they  
717 are sold. "Hot prepared food products," for the purposes of this  
718 subsection, includes a combination of hot and cold food items or  
719 components where a single price has been established for the  
720 combination and the food products are sold in such combination,  
721 such as a hot meal, a hot specialty dish or serving, or a hot  
722 sandwich or hot pizza, including cold components or side items.

723 (e)1. Food or drinks not exempt under paragraphs (a), (b),  
724 (c), and (d) shall be exempt, notwithstanding those paragraphs,  
725 when purchased with food coupons or Special Supplemental Food

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726 Program for Women, Infants, and Children vouchers issued under  
727 authority of federal law.

728 2. This paragraph is effective only while federal law  
729 prohibits a state's participation in the federal food coupon  
730 program or Special Supplemental Food Program for Women, Infants,  
731 and Children if there is an official determination that state or  
732 local sales taxes are collected within that state on purchases  
733 of food or drinks with such coupons.

734 3. This paragraph shall not apply to any food or drinks on  
735 which federal law shall permit sales taxes without penalty, such  
736 as termination of the state's participation.

737 (f) The application of the tax on a package that contains  
738 exempt food products and taxable nonfood products depends upon  
739 the essential character of the complete package.

740 1. If the taxable items represent more than 25 percent of  
741 the cost of the complete package and a single charge is made,  
742 the entire sales price of the package is taxable. If the taxable  
743 items are separately stated, the separate charge for the taxable  
744 items is subject to tax.

745 2. If the taxable items represent 25 percent or less of the  
746 cost of the complete package and a single charge is made, the  
747 entire sales price of the package is exempt from tax. The person  
748 preparing the package is liable for the tax on the cost of the  
749 taxable items going into the complete package. If the taxable  
750 items are separately stated, the separate charge is subject to  
751 tax.

752 (5) EXEMPTIONS; ACCOUNT OF USE.—

753 (g) *Building materials used in the rehabilitation of real*  
754 *property located in an enterprise zone.—*

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755 1. Building materials used in the rehabilitation of real  
756 property located in an enterprise zone shall be exempt from the  
757 tax imposed by this chapter upon an affirmative showing to the  
758 satisfaction of the department that the items have been used for  
759 the rehabilitation of real property located in an enterprise  
760 zone. Except as provided in subparagraph 2., this exemption  
761 inures to the owner, lessee, or lessor at the time of the  
762 ~~rehabilitated~~ real property is rehabilitated, but located in an  
763 ~~enterprise zone~~ only through a refund of previously paid taxes.  
764 To receive a refund pursuant to this paragraph, the owner,  
765 lessee, or lessor of the rehabilitated real property ~~located in~~  
766 ~~an enterprise zone~~ must file an application under oath with the  
767 governing body or enterprise zone development agency having  
768 jurisdiction over the enterprise zone where the business is  
769 located, as applicable. A single application for a refund may be  
770 submitted for multiple, contiguous parcels that were part of a  
771 single parcel that was divided as part of the rehabilitation of  
772 the property. All other requirements of this paragraph apply to  
773 each parcel on an individual basis. The application must  
774 include, which includes:

- 775 a. The name and address of the person claiming the refund.
- 776 b. An address and assessment roll parcel number of the  
777 rehabilitated real property ~~in an enterprise zone~~ for which a  
778 refund of previously paid taxes is being sought.
- 779 c. A description of the improvements made to accomplish the  
780 rehabilitation of the real property.
- 781 d. A copy of a valid ~~the~~ building permit issued by the  
782 county or municipal building department for the rehabilitation  
783 of the real property.

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784 e. A sworn statement, under ~~the~~ penalty of perjury, from  
785 the general contractor licensed in this state with whom the  
786 applicant contracted to make the improvements necessary to  
787 rehabilitate ~~accomplish the rehabilitation~~ of the real property,  
788 which ~~statement~~ lists the building materials used to  
789 rehabilitate ~~in the rehabilitation~~ of the real property, the  
790 actual cost of the building materials, and the amount of sales  
791 tax paid in this state on the building materials. If ~~In the~~  
792 ~~event that~~ a general contractor has not been used, the applicant  
793 shall provide this information in a sworn statement, under ~~the~~  
794 penalty of perjury. Copies of the invoices which evidence the  
795 purchase of the building materials used in the ~~such~~  
796 rehabilitation and the payment of sales tax on the building  
797 materials shall be attached to the sworn statement ~~provided by~~  
798 ~~the general contractor or by the applicant~~. Unless the actual  
799 cost of building materials used in the rehabilitation of real  
800 property and the payment of sales taxes ~~due thereon~~ is  
801 documented by a general contractor or by the applicant in this  
802 manner, the cost of the ~~such~~ building materials shall be an  
803 amount equal to 40 percent of the increase in assessed value for  
804 ad valorem tax purposes.

805 f. The identifying number assigned pursuant to s. 290.0065  
806 to the enterprise zone in which the rehabilitated real property  
807 is located.

808 g. A certification by the local building code inspector  
809 that the improvements necessary to rehabilitate ~~accomplish the~~  
810 ~~rehabilitation~~ of the real property are substantially completed.

811 h. A statement of whether the business is a small business  
812 as defined by s. 288.703(1).

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813 i. If applicable, the name and address of each permanent  
814 employee of the business, including, for each employee who is a  
815 resident of an enterprise zone, the identifying number assigned  
816 pursuant to s. 290.0065 to the enterprise zone in which the  
817 employee resides.

818 2. This exemption inures to a municipality ~~city~~, county,  
819 other governmental unit or agency, or nonprofit community-based  
820 organization through a refund of previously paid taxes if the  
821 building materials used in the rehabilitation of real property  
822 located in an enterprise zone are paid for from the funds of a  
823 community development block grant, State Housing Initiatives  
824 Partnership Program, or similar grant or loan program. To  
825 receive a refund ~~pursuant to this paragraph~~, a municipality  
826 ~~city~~, county, other governmental unit or agency, or nonprofit  
827 community-based organization must file an application that ~~which~~  
828 includes the same information required ~~to be provided~~ in  
829 subparagraph 1. ~~by an owner, lessee, or lessor of rehabilitated~~  
830 ~~real property~~. In addition, the application must include a sworn  
831 statement signed by the chief executive officer of the  
832 municipality ~~city~~, county, other governmental unit or agency, or  
833 nonprofit community-based organization seeking a refund which  
834 states that the building materials for which a refund is sought  
835 were funded by ~~paid for from the funds of~~ a community  
836 development block grant, State Housing Initiatives Partnership  
837 Program, or similar grant or loan program.

838 3. Within 10 working days after receipt of an application,  
839 the governing body or enterprise zone development agency shall  
840 review the application to determine if it contains all the  
841 information required under ~~pursuant to~~ subparagraph 1. or

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842 subparagraph 2. and meets the criteria set out in this  
843 paragraph. The governing body or agency shall certify all  
844 applications that contain the required information ~~required~~  
845 ~~pursuant to subparagraph 1. or subparagraph 2.~~ and are ~~meet~~ the  
846 ~~criteria set out in this paragraph~~ as eligible to receive a  
847 refund. If applicable, the governing body or agency shall also  
848 certify if 20 percent of the employees of the business are  
849 residents of an enterprise zone, excluding temporary and part-  
850 time employees. The certification must ~~shall~~ be in writing, and  
851 a copy of the certification shall be transmitted to the  
852 executive director of the Department of Revenue. The applicant  
853 is ~~shall be~~ responsible for forwarding a certified application  
854 to the department within the time specified in subparagraph 4.

855 4. An application for a refund ~~pursuant to this paragraph~~  
856 must be submitted to the department within 6 months after the  
857 rehabilitation of the property is deemed to be substantially  
858 completed by the local building code inspector or by November 1  
859 ~~September 1~~ after the rehabilitated property is first subject to  
860 assessment.

861 5. Only ~~Not more than~~ one exemption through a refund of  
862 previously paid taxes for the rehabilitation of real property is  
863 ~~shall be~~ permitted for any single parcel of property unless  
864 there is a change in ownership, a new lessor, or a new lessee of  
865 the real property. A ~~No~~ refund may not ~~shall~~ be granted ~~pursuant~~  
866 ~~to this paragraph~~ unless the amount to be refunded exceeds \$500.  
867 A ~~No~~ refund may not ~~granted pursuant to this paragraph~~ shall  
868 exceed the lesser of 97 percent of the Florida sales or use tax  
869 paid on the cost of the building materials used in the  
870 rehabilitation of the real property as determined pursuant to

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871 sub-subparagraph 1.e. or \$5,000, or, if no less than 20 percent  
872 of the employees of the business are residents of an enterprise  
873 zone, excluding temporary and part-time employees, the amount of  
874 refund may ~~granted pursuant to this paragraph shall~~ not exceed  
875 the lesser of 97 percent of the sales tax paid on the cost of  
876 the ~~such~~ building materials or \$10,000. A refund ~~approved~~  
877 ~~pursuant to this paragraph~~ shall be made within 30 days after ~~of~~  
878 formal approval by the department of the application for the  
879 refund. ~~This subparagraph shall apply retroactively to July 1,~~  
880 ~~2005.~~

881 6. The department shall adopt rules governing the manner  
882 and form of refund applications and may establish guidelines as  
883 to the requisites for an affirmative showing of qualification  
884 for exemption under this paragraph.

885 7. The department shall deduct an amount equal to 10  
886 percent of each refund granted under the provisions of this  
887 paragraph from the amount transferred into the Local Government  
888 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20  
889 for the county area in which the rehabilitated real property is  
890 located and shall transfer that amount to the General Revenue  
891 Fund.

892 8. For the purposes of the exemption provided in this  
893 paragraph, the term:

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

896 b. "Real property" has the same meaning as provided in s.  
897 192.001(12).

898 c. "Rehabilitation of real property" means the  
899 reconstruction, renovation, restoration, rehabilitation,

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900 construction, or expansion of improvements to real property.

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

903 9. This paragraph expires on the date specified in s.  
904 290.016 for the expiration of the Florida Enterprise Zone Act.

905 Section 8. Paragraph (d) of subsection (2) of section  
906 212.12, Florida Statutes, is amended to read:

907 212.12 Dealer's credit for collecting tax; penalties for  
908 noncompliance; powers of Department of Revenue in dealing with  
909 delinquents; brackets applicable to taxable transactions;  
910 records required.-

911 (2)

912 (d) A Any person who makes a false or fraudulent return  
913 with a willful intent to evade payment of any tax or fee imposed  
914 under this chapter is; ~~any person who, after the department's~~  
915 ~~delivery of a written notice to the person's last known address~~  
916 ~~specifically alerting the person of the requirement to register~~  
917 ~~the person's business as a dealer, intentionally fails to~~  
918 ~~register the business; and any person who, after the~~  
919 ~~department's delivery of a written notice to the person's last~~  
920 ~~known address specifically alerting the person of the~~  
921 ~~requirement to collect tax on specific transactions,~~  
922 ~~intentionally fails to collect such tax, shall, in addition to~~  
923 ~~the other penalties provided by law, be liable for a specific~~  
924 ~~penalty of 100 percent of any unreported or any uncollected tax~~  
925 ~~or fee. This penalty is in addition to any other penalty~~  
926 provided by law. A person who makes a false or fraudulent return  
927 with a willful intent to evade payment of taxes or fees  
928 totaling:



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929 1. Less than \$300:

930 a. For a first offense commits a misdemeanor of the second  
931 degree, punishable as provided in s. 775.082 or s. 775.083.

932 b. For the second offense commits a misdemeanor of the  
933 first degree, punishable as provided in s. 775.082 or s.  
934 775.083.

935 c. For the third and subsequent offenses commits a felony  
936 of the third degree, punishable as provided in s. 775.082, s.  
937 775.083, or s. 775.084.

938 2. Three hundred dollars or more, but less than \$20,000,  
939 commits a felony of the third degree, punishable as provided in  
940 s. 775.082, s. 775.083, or s. 775.084.

941 3. Twenty thousand dollars or more, but less than \$100,000,  
942 commits a felony of the second degree, punishable as provided in  
943 s. 775.082, s. 775.083, or s. 775.084.

944 4. One hundred thousand dollars or more, commits a felony  
945 of the first degree, punishable as provided in s. 775.082, s.  
946 775.083, or s. 775.084. and, upon conviction, for fine and  
947 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.  
948 ~~Delivery of written notice may be made by certified mail, or by~~  
949 ~~the use of such other method as is documented as being necessary~~  
950 ~~and reasonable under the circumstances. The civil and criminal~~  
951 ~~penalties imposed herein for failure to comply with a written~~  
952 ~~notice alerting the person of the requirement to register the~~  
953 ~~person's business as a dealer or to collect tax on specific~~  
954 ~~transactions shall not apply if the person timely files a~~  
955 ~~written challenge to such notice in accordance with procedures~~  
956 ~~established by the department by rule or the notice fails to~~  
957 ~~clearly advise that failure to comply with or timely challenge~~

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958 ~~the notice will result in the imposition of the civil and~~  
959 ~~criminal penalties imposed herein.~~

960 ~~1. If the total amount of unreported or uncollected taxes~~  
961 ~~or fees is less than \$300, the first offense resulting in~~  
962 ~~conviction is a misdemeanor of the second degree, the second~~  
963 ~~offense resulting in conviction is a misdemeanor of the first~~  
964 ~~degree, and the third and all subsequent offenses resulting in~~  
965 ~~conviction is a misdemeanor of the first degree, and the third~~  
966 ~~and all subsequent offenses resulting in conviction are felonies~~  
967 ~~of the third degree.~~

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

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

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

977 Section 9. Subsection (3) of section 212.18, Florida  
978 Statutes, is amended to read:

979 212.18 Administration of law; registration of dealers;  
980 rules.—

981 (3) (a) Every person desiring to engage in or conduct  
982 business in this state as a dealer, ~~as defined in this chapter,~~  
983 or to lease, rent, or let or grant licenses in living quarters  
984 or sleeping or housekeeping accommodations in hotels, apartment  
985 houses, roominghouses, or tourist or trailer camps that are  
986 subject to tax under s. 212.03, or to lease, rent, or let or

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987 grant licenses in real property, ~~as defined in this chapter,~~ and  
988 every person who sells or receives anything of value by way of  
989 admissions, must file with the department an application for a  
990 certificate of registration for each place of business. The  
991 application must include, ~~showing~~ the names of the persons who  
992 have interests in the ~~such~~ business and their residences, the  
993 address of the business, and ~~such~~ other data reasonably required  
994 by ~~as~~ the department ~~may reasonably require~~. However, owners and  
995 operators of vending machines or newspaper rack machines are  
996 required to obtain only one certificate of registration for each  
997 county in which such machines are located. The department, by  
998 rule, may authorize a dealer that uses independent sellers to  
999 sell its merchandise to remit tax on the retail sales price  
1000 charged to the ultimate consumer in lieu of having the  
1001 independent seller register as a dealer and remit the tax. The  
1002 department may appoint the county tax collector as the  
1003 department's agent to accept applications for registrations. The  
1004 application must be made to the department before the person,  
1005 firm, copartnership, or corporation may engage in such business,  
1006 and it must be accompanied by a registration fee of \$5. However,  
1007 a registration fee is not required to accompany an application  
1008 to engage in or conduct business to make mail order sales. The  
1009 department may waive the registration fee for applications  
1010 submitted through the department's Internet registration  
1011 process.

1012 (b) The department, upon receipt of such application, shall  
1013 ~~will~~ grant to the applicant a separate certificate of  
1014 registration for each place of business, which certificate may  
1015 be canceled by the department or its designated assistants for

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1016 any failure by the certificateholder to comply with any of the  
 1017 provisions of this chapter. The certificate is not assignable  
 1018 and is valid only for the person, firm, copartnership, or  
 1019 corporation to which issued. The certificate must be placed in a  
 1020 conspicuous place in the business or businesses for which it is  
 1021 issued and must be displayed at all times. Except as provided in  
 1022 this subsection, a no person may not shall engage in business as  
 1023 a dealer or in leasing, renting, or letting of or granting  
 1024 licenses in living quarters or sleeping or housekeeping  
 1025 accommodations in hotels, apartment houses, roominghouses,  
 1026 tourist or trailer camps, or real property or as hereinbefore  
 1027 ~~defined, nor shall any person~~ sell or receive anything of value  
 1028 by way of admissions, without a valid first having obtained such  
 1029 ~~a certificate. A or after such certificate has been canceled; no~~  
 1030 ~~person may not shall~~ receive a any license from any authority  
 1031 within the state to engage in any such business without a valid  
 1032 ~~first having obtained such a certificate or after such~~  
 1033 ~~certificate has been canceled. A person may not engage~~ The  
 1034 ~~engaging~~ in the business of selling or leasing tangible personal  
 1035 property or services or as a dealer; engage, ~~as defined in this~~  
 1036 ~~chapter, or the engaging~~ in leasing, renting, or letting of or  
 1037 granting licenses in living quarters or sleeping or housekeeping  
 1038 accommodations in hotels, apartment houses, roominghouses, or  
 1039 tourist or trailer camps that are taxable under this chapter, or  
 1040 real property; r or engage ~~the engaging~~ in the business of  
 1041 selling or receiving anything of value by way of admissions,  
 1042 without a valid such certificate ~~first being obtained or after~~  
 1043 ~~such certificate has been canceled by the department, is~~  
 1044 prohibited.

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1045        (c)1. A The failure or refusal of any person who engages in  
1046 acts requiring registration under this subsection and who fails  
1047 or refuses to register, commits, firm, copartnership, or  
1048 corporation to so qualify when required hereunder is a  
1049 misdemeanor of the first degree, punishable as provided in s.  
1050 775.082 or s. 775.083. Such acts are, or subject to injunctive  
1051 proceedings as provided by law. A person who engages in acts  
1052 requiring registration and who fails or refuses to register is  
1053 also subject ~~Such failure or refusal also subjects the offender~~  
1054 to a \$100 initial registration fee in lieu of the \$5  
1055 registration fee required by authorized in paragraph (a).  
1056 However, the department may waive the increase in the  
1057 registration fee if it finds is determined by the department  
1058 that the failure to register was due to reasonable cause and not  
1059 to willful negligence, willful neglect, or fraud.

1060        2. A person who willfully fails to register after the  
1061 department provides notice of the duty to register as a dealer  
1062 commits a felony of the third degree, punishable as provided in  
1063 s. 775.082, s. 775.083, or s. 775.084.

1064        a. As used in this subsection, the term "willfully" means a  
1065 voluntary, intentional violation of a known legal duty.

1066        b. The department shall give written notice of the duty to  
1067 register to the person by personal service, by sending notice by  
1068 registered mail to the person's last known address, or by  
1069 personal service and mail.

1070        (d)(e) ~~In addition to the certificate of registration, the~~  
1071 department shall provide to each newly registered dealer an  
1072 initial resale certificate that will be valid for the remainder  
1073 of the period of issuance. The department shall provide each

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1074 active dealer with an annual resale certificate. For purposes of  
1075 this section, "active dealer" means a person who is currently  
1076 registered with the department and who is required to file at  
1077 least once during each applicable reporting period.

1078 (e)~~(d)~~ The department may revoke a ~~any~~ dealer's certificate  
1079 of registration if ~~when~~ the dealer fails to comply with this  
1080 chapter. Prior to revocation of a dealer's certificate of  
1081 registration, the department must schedule an informal  
1082 conference at which the dealer may present evidence regarding  
1083 the department's intended revocation or enter into a compliance  
1084 agreement with the department. The department must notify the  
1085 dealer of its intended action and the time, place, and date of  
1086 the scheduled informal conference by written notification sent  
1087 by United States mail to the dealer's last known address of  
1088 record furnished by the dealer on a form prescribed by the  
1089 department. The dealer is required to attend the informal  
1090 conference and present evidence refuting the department's  
1091 intended revocation or enter into a compliance agreement with  
1092 the department which resolves the dealer's failure to comply  
1093 with this chapter. The department shall issue an administrative  
1094 complaint under s. 120.60 if the dealer fails to attend the  
1095 department's informal conference, fails to enter into a  
1096 compliance agreement with the department resolving the dealer's  
1097 noncompliance with this chapter, or fails to comply with the  
1098 executed compliance agreement.

1099 (f)~~(e)~~ As used in this paragraph, the term "exhibitor"  
1100 means a person who enters into an agreement authorizing the  
1101 display of tangible personal property or services at a  
1102 convention or a trade show. The following provisions apply to

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1103 the registration of exhibitors as dealers under this chapter:

1104 1. An exhibitor whose agreement prohibits the sale of  
1105 tangible personal property or services subject to the tax  
1106 imposed in this chapter is not required to register as a dealer.

1107 2. An exhibitor whose agreement provides for the sale at  
1108 wholesale only of tangible personal property or services subject  
1109 to the tax imposed in this chapter must obtain a resale  
1110 certificate from the purchasing dealer but is not required to  
1111 register as a dealer.

1112 3. An exhibitor whose agreement authorizes the retail sale  
1113 of tangible personal property or services subject to the tax  
1114 imposed in this chapter must register as a dealer and collect  
1115 the tax imposed under this chapter on such sales.

1116 4. Any exhibitor who makes a mail order sale pursuant to s.  
1117 212.0596 must register as a dealer.

1118  
1119 Any person who conducts a convention or a trade show must make  
1120 their exhibitor's agreements available to the department for  
1121 inspection and copying.

1122 Section 10. Effective upon this act becoming a law and  
1123 operating retroactively to July 1, 2008, paragraph (y) of  
1124 subsection (8) of section 213.053, Florida Statutes, is amended  
1125 to read:

1126 213.053 Confidentiality and information sharing.—

1127 (8) Notwithstanding any other provision of this section,  
1128 the department may provide:

1129 (y) Information relative to ss. 212.08(7)(ccc) and 220.192  
1130 to the Florida Energy and Climate Commission ~~Department of~~  
1131 ~~Environmental Protection~~ for use in the conduct of its official

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1132 business.

1133  
1134 Disclosure of information under this subsection shall be  
1135 pursuant to a written agreement between the executive director  
1136 and the agency. Such agencies, governmental or nongovernmental,  
1137 shall be bound by the same requirements of confidentiality as  
1138 the Department of Revenue. Breach of confidentiality is a  
1139 misdemeanor of the first degree, punishable as provided by s.  
1140 775.082 or s. 775.083.

1141 Section 11. Effective July 1, 2009, subsection (5) and  
1142 paragraph (d) of subsection (8) of section 213.053, Florida  
1143 Statutes, are amended, paragraph (z) is added to subsection (8)  
1144 of that section, and subsection (19) is added to that section,  
1145 to read:

1146 213.053 Confidentiality and information sharing.—

1147 (5) This section does not prohibit ~~Nothing contained in~~  
1148 ~~this section shall prevent~~ the department from:

1149 (a) Publishing statistics so classified as to prevent the  
1150 identification of particular accounts, reports, declarations, or  
1151 returns; or

1152 (b) Using telephones, electronic mail, facsimile machines,  
1153 or other electronic means to:

1154 1. Distribute information relating to changes in law, tax  
1155 rates, or interest rates, or other information that is not  
1156 specific to a particular taxpayer;

1157 2. Remind taxpayers of due dates;

1158 3. Respond to a taxpayer by electronic mail to an  
1159 electronic mail address that does not support encryption if the  
1160 use of that address is authorized by the taxpayer; or



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1161 4. Notify taxpayers to contact the department. ~~Disclosing~~  
1162 ~~to the Chief Financial Officer the names and addresses of those~~  
1163 ~~taxpayers who have claimed an exemption pursuant to former s.~~  
1164 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

1165 (8) Notwithstanding any other provision of this section,  
1166 the department may provide:

1167 (d) Names, addresses, ~~and~~ sales tax registration  
1168 information, and information relating to s. 213.50 to the  
1169 Division of Hotels and Restaurants of the Department of Business  
1170 and Professional Regulation in the conduct of its official  
1171 duties.

1172 (z) Taxpayer names and identification numbers for the  
1173 purposes of information-sharing agreements with financial  
1174 institutions pursuant to s. 213.0532.

1175  
1176 Disclosure of information under this subsection shall be  
1177 pursuant to a written agreement between the executive director  
1178 and the agency. Such agencies, governmental or nongovernmental,  
1179 shall be bound by the same requirements of confidentiality as  
1180 the Department of Revenue. Breach of confidentiality is a  
1181 misdemeanor of the first degree, punishable as provided by s.  
1182 775.082 or s. 775.083.

1183 (19) (a) The department may publish a list of taxpayers  
1184 against whom it has filed a warrant or judgment lien  
1185 certificate. The list includes the name and address of each  
1186 taxpayer; the amounts and types of delinquent taxes, fees or  
1187 surcharges, penalties, or interest; and the employer  
1188 identification number or other taxpayer identification number.

1189 (b) The department shall update the list at least monthly

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1190 to reflect payments for resolution of deficiencies and to  
1191 otherwise add or remove taxpayers from the list.

1192 (c) The department may adopt rules to administer this  
1193 subsection.

1194 Section 12. Effective July 1, 2009, section 213.0532,  
1195 Florida Statutes, is created to read:

1196 213.0532 Information-sharing agreements with financial  
1197 institutions.-

1198 (1) As used in this section, the term:

1199 (a) "Account" means a demand deposit account, checking or  
1200 negotiable withdrawal order account, savings account, time  
1201 deposit account, or money-market mutual fund account.

1202 (b) "Department" means the Department of Revenue.

1203 (c) "Financial institution" means:

1204 1. A depository institution as defined in 12 U.S.C. s.  
1205 1813(c);

1206 2. An institution-affiliated party as defined in 12 U.S.C.  
1207 s. 1813(u);

1208 3. A federal credit union or state credit union as defined  
1209 in 12 U.S.C. s. 1752, including an institution-affiliated party  
1210 of such a credit union as defined in 12 U.S.C s. 1786(r); or

1211 4. A benefit association, insurance company, safe-deposit  
1212 company, money-market mutual fund, or similar entity authorized  
1213 to do business in this state.

1214 (d) "Obligor" means a person against whose property the  
1215 department has filed a warrant or judgment lien certificate.

1216 (e) "Person" has the same meaning as in s. 212.02.

1217 (2) The department shall request information and assistance  
1218 from a financial institution as necessary to enforce the tax

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1219 laws of the state. Pursuant to this subsection, financial  
1220 institutions doing business in the state shall enter into  
1221 agreements with the department to develop and operate a data  
1222 match system, using an automated data exchange to the maximum  
1223 extent feasible, in which the financial institution must provide  
1224 for each calendar quarter the name, record address, social  
1225 security number or other taxpayer identification number, average  
1226 daily account balance, and other identifying information for:

1227 (a) Each obligor who maintains an account at the financial  
1228 institution as identified to the institution by the department  
1229 by name and social security number or other taxpayer  
1230 identification number; or

1231 (b) At the financial institution's option, each person who  
1232 maintains an account at the institution.

1233 (3) The department may use the information received  
1234 pursuant to this section only for the purpose of enforcing the  
1235 collection of taxes and fees administered by the department.

1236 (4) The department shall, to the extent possible and in  
1237 compliance with state and federal law, administer this section  
1238 in conjunction with s. 409.25657 in order to avoid duplication  
1239 and reduce the burden on financial institutions.

1240 (5) The department shall pay a reasonable fee to the  
1241 financial institution for conducting the data match provided for  
1242 in this section, which may not exceed actual costs incurred by  
1243 the financial institution.

1244 (6) A financial institution is not required to provide  
1245 notice to its customers and is not liable to any person for:

1246 (a) Disclosing to the department any information required  
1247 under this section.

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1248 (b) Encumbering or surrendering any assets held by the  
 1249 financial institution in response to a notice of lien, freeze,  
 1250 or levy issued by the department.

1251 (c) Disclosing any information in connection with a data  
 1252 match.

1253 (d) Taking any other action in good faith to comply with  
 1254 the requirements of this section.

1255 (7) Any financial records obtained pursuant to this section  
 1256 may be disclosed only for the purpose of, and to the extent  
 1257 necessary, to administer and enforce the tax laws of this state.

1258 (8) The department may institute civil proceedings against  
 1259 financial institutions, as necessary, to enforce the provisions  
 1260 of this section.

1261 (9) The department may adopt rules to establish the  
 1262 procedures and requirements for conducting automated data  
 1263 matches with financial institutions pursuant to this section.

1264 Section 13. Effective July 1, 2009, section 213.25, Florida  
 1265 Statutes, is amended to read:

1266 213.25 Refunds; credits; right of setoff.—~~If In any~~  
 1267 ~~instance that a taxpayer has a tax refund or tax credit is due~~  
 1268 ~~to a taxpayer for an overpayment of taxes assessed under any of~~  
 1269 ~~the chapters specified in s. 72.011(1), the department may~~  
 1270 reduce the such refund or credit to the extent of any billings  
 1271 not subject to protest under s. 213.21 or chapter 443 for ~~the~~  
 1272 ~~same or any other~~ tax owed by the ~~same~~ taxpayer.

1273 Section 14. Effective July 1, 2009, section 213.50, Florida  
 1274 Statutes, is amended to read:

1275 213.50 Failure to comply; revocation of corporate charter  
 1276 or hotel or restaurant license; refusal to reinstate charter or

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1277 hotel or restaurant license.—

1278 (1) Any corporation of this state which has an outstanding  
1279 tax warrant that has existed for more than 3 consecutive months  
1280 is subject to the revocation of its charter as provided in s.  
1281 607.1420.

1282 (2) A request for reinstatement of a corporate charter may  
1283 not be granted by the Division of Corporations of the Department  
1284 of State if an outstanding tax warrant has existed for that  
1285 corporation for more than 3 consecutive months.

1286 (3) The Department of Business and Professional Regulation  
1287 may revoke the hotel or restaurant license of a licenseholder if  
1288 a tax warrant has been outstanding against the licenseholder for  
1289 more than 3 months.

1290 (4) The Department of Business and Professional Regulation  
1291 may deny an application to renew the hotel or restaurant license  
1292 of a licenseholder if a tax warrant has been outstanding against  
1293 the licenseholder for more than 3 months.

1294 Section 15. Effective July 1, 2009, subsection (8) of  
1295 section 213.67, Florida Statutes, is amended to read:

1296 213.67 Garnishment.—

1297 (8) An action may not be brought to contest a notice of  
1298 intent to levy under chapter 120 or in circuit court if the  
1299 petition is postmarked or the action is filed more, later than  
1300 21 days after the date of receipt of the notice of intent to  
1301 levy.

1302 Section 16. Section 213.758, Florida Statutes, is created  
1303 to read:

1304 213.758 Transfer of tax liabilities.—

1305 (1) As used in this section, the term:

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1306       (a) "Involuntary transfer" means a transfer of a business  
1307 or stock of goods made without the consent of the transferor,  
1308 including, but not limited to, a:

1309       1. Transfer that occurs due to the foreclosure of a  
1310 security interest issued to a person who is not an insider as  
1311 defined by s. 726.102;

1312       2. Transfer that results from eminent domain and  
1313 condemnation actions;

1314       3. Transfer pursuant to chapter 61, chapter 702, or the  
1315 United States Bankruptcy Code;

1316       4. Transfer to a financial institution, as defined in s.  
1317 655.005, if the transfer is made to satisfy the transferor's  
1318 debt to the financial institution; or

1319       5. Transfer to a third party to the extent that the  
1320 proceeds are used to satisfy the transferor's indebtedness to a  
1321 financial institution as defined in s. 655.005. If the third  
1322 party receives assets worth more than the indebtedness, the  
1323 transfer of the excess may not be deemed an involuntary  
1324 transfer.

1325       (b) "Transfer" means every mode, direct or indirect, with  
1326 or without consideration, of disposing of or parting with a  
1327 business or stock of goods, and includes, but is not limited to,  
1328 assigning, conveying, demising, gifting, granting, or selling.

1329       (2) A taxpayer who is liable for any tax, interest,  
1330 penalty, surcharge, or fee administered by the department in  
1331 accordance with chapter 443 or s. 72.011(1), excluding corporate  
1332 income tax, and who quits a business without the benefit of a  
1333 purchaser, successor, or assignee, or without transferring the  
1334 business or stock of goods to a transferee, must file a final

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1335 return and make full payment within 15 days after quitting the  
1336 business. A taxpayer who fails to file a final return and make  
1337 payment may not engage in any business in the state until the  
1338 final return has been filed and the all tax, interest, or  
1339 penalties due have been paid. The Department of Legal Affairs  
1340 may seek an injunction at the request of the department to  
1341 prevent further business activity until such tax, interest, or  
1342 penalties are paid. A temporary injunction enjoining further  
1343 business activity may be granted by a court without notice.

1344 (3) A taxpayer who is liable for taxes, interest, or  
1345 penalties levied under chapter 443 or any of the chapters  
1346 specified in s. 213.05, excluding corporate income tax, who  
1347 transfers the taxpayer's business or stock of goods, must file a  
1348 final return and make full payment within 15 days after the date  
1349 of transfer.

1350 (4) (a) A transferee, or a group of transferees acting in  
1351 concert, of more than 50 percent of a business or stock of goods  
1352 is liable for any tax, interest, or penalties owed by the  
1353 transferor unless:

1354 1. The transferor provides a receipt or certificate from  
1355 the department to the transferee showing that the transferor is  
1356 not liable for taxes, interest, or penalties from the operation  
1357 of the business; and

1358 2. The department finds that the transferor is not liable  
1359 for taxes, interest, or penalties after an audit of the  
1360 transferor's books and records. The audit may be requested by  
1361 the transferee or the transferor. The department may charge a  
1362 fee for the cost of the audit if it has not issued a notice of  
1363 intent to audit by the time the request for the audit is

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1364 received.

1365 (b) A transferee may withhold a portion of the  
1366 consideration for a business or stock of goods to pay the taxes,  
1367 interest, or penalties owed to the state from the operation of  
1368 the business. The transferee shall pay the withheld  
1369 consideration to the state within 30 days after the date of the  
1370 transfer. If the consideration withheld is less than the  
1371 transferor's liability, the transferor remains liable for the  
1372 deficiency.

1373 (c) A transferee who acquires the business or stock of  
1374 goods and fails to pay the taxes, interest, or penalties due,  
1375 may not engage in any business in the state until the taxes,  
1376 interest, or penalties are paid. The Department of Legal Affairs  
1377 may seek an injunction at the request of the department to  
1378 prevent further business activity until such tax, interest, or  
1379 penalties are paid. A temporary injunction enjoining further  
1380 business activity may be granted by a court without notice.

1381 (5) The transferee, or transferees acting in concert, of  
1382 more than 50 percent of a business or stock of goods are jointly  
1383 and severally liable with the transferor for the payment of the  
1384 taxes, interest, or penalties owed to the state from the  
1385 operation of the business by the transferor.

1386 (6) The maximum liability of a transferee pursuant to this  
1387 section is equal to the fair market value of the property  
1388 transferred or the total purchase price, whichever is greater.

1389 (7) This section does not impose liability on a transferee  
1390 of a business or stock of goods pursuant to an involuntary  
1391 transfer.

1392 (8) The department may adopt rules necessary to administer



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1393 and enforce this section.

1394 Section 17. Effective upon this act becoming a law and  
1395 operating retroactively to July 1, 2008, subsections (4) and (5)  
1396 of section 220.192, Florida Statutes, are amended to read:

1397 220.192 Renewable energy technologies investment tax  
1398 credit.—

1399 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under  
1400 this section, each taxpayer must apply to the Florida Energy and  
1401 Climate Commission ~~Department of Environmental Protection~~ for an  
1402 allocation of each type of annual credit by the date established  
1403 by the Florida Energy and Climate Commission ~~Department of~~  
1404 ~~Environmental Protection~~. The application form may be  
1405 established by the Florida Energy and Climate Commission. The  
1406 form must ~~Department of Environmental Protection and shall~~  
1407 include an affidavit from each taxpayer certifying that all  
1408 information contained in the application, including all records  
1409 of eligible costs claimed as the basis for the tax credit, are  
1410 true and correct. Approval of the credits under this section  
1411 shall be accomplished on a first-come, first-served basis, based  
1412 upon the date complete applications are received by the Florida  
1413 Energy and Climate Commission ~~Department of Environmental~~  
1414 ~~Protection~~. A taxpayer shall submit only one complete  
1415 application based upon eligible costs incurred within a  
1416 particular state fiscal year. Incomplete placeholder  
1417 applications will not be accepted and will not secure a place in  
1418 the first-come, first-served application line. If a taxpayer  
1419 does not receive a tax credit allocation due to the exhaustion  
1420 of the annual tax credit authorizations, then such taxpayer may  
1421 reapply in the following year for those eligible costs and will

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1422 have priority over other applicants for the allocation of  
1423 credits.

1424 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF CREDITS.—

1425 (a) In addition to its existing audit and investigation  
1426 authority, the Department of Revenue may perform any additional  
1427 financial and technical audits and investigations, including  
1428 examining the accounts, books, and records of the tax credit  
1429 applicant, which ~~that~~ are necessary to verify the eligible costs  
1430 included in the tax credit return and to ensure compliance with  
1431 this section. The Florida Energy and Climate Commission  
1432 ~~Department of Environmental Protection~~ shall provide technical  
1433 assistance when requested by the Department of Revenue on any  
1434 technical audits or examinations performed pursuant to this  
1435 section.

1436 (b) It is grounds for forfeiture of previously claimed and  
1437 received tax credits if the Department of Revenue determines, as  
1438 a result of ~~either~~ an audit or examination or from information  
1439 received from the Florida Energy and Climate Commission  
1440 ~~Department of Environmental Protection~~, that a taxpayer received  
1441 tax credits pursuant to this section to which the taxpayer was  
1442 not entitled. The taxpayer is responsible for returning  
1443 forfeited tax credits to the Department of Revenue, and such  
1444 funds shall be paid into the General Revenue Fund of the state.

1445 (c) The Florida Energy and Climate Commission ~~Department of~~  
1446 ~~Environmental Protection~~ may revoke or modify any written  
1447 decision granting eligibility for tax credits under this section  
1448 if it is discovered that the tax credit applicant submitted any  
1449 false statement, representation, or certification in any  
1450 application, record, report, plan, or other document filed in an

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1451 attempt to receive tax credits under this section. The Florida  
1452 Energy and Climate Commission ~~Department of Environmental~~  
1453 ~~Protection~~ shall immediately notify the Department of Revenue of  
1454 any revoked or modified orders affecting previously granted tax  
1455 credits. Additionally, the taxpayer must notify the Department  
1456 of Revenue of any change in its tax credit claimed.

1457 (d) The taxpayer shall file with the Department of Revenue  
1458 an amended return or such other report as the Department of  
1459 Revenue prescribes by rule and shall pay any required tax and  
1460 interest within 60 days after the taxpayer receives notification  
1461 from the Florida Energy and Climate Commission ~~Department of~~  
1462 ~~Environmental Protection~~ that previously approved tax credits  
1463 have been revoked or modified. If the revocation or modification  
1464 order is contested, the taxpayer shall file an amended return or  
1465 other report as provided in this paragraph within 60 days after  
1466 a final order is issued following proceedings.

1467 (e) A notice of deficiency may be issued by the Department  
1468 of Revenue at any time within 3 years after the taxpayer  
1469 receives formal notification from the Florida Energy and Climate  
1470 Commission ~~Department of Environmental Protection~~ that  
1471 previously approved tax credits have been revoked or modified.  
1472 If a taxpayer fails to notify the Department of Revenue of any  
1473 changes to its tax credit claimed, a notice of deficiency may be  
1474 issued at any time.

1475 Section 18. Effective July 1, 2009, paragraph (c) of  
1476 subsection (1) of section 336.021, Florida Statutes, is amended  
1477 to read:

1478 336.021 County transportation system; levy of ninth-cent  
1479 fuel tax on motor fuel and diesel fuel.—

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1480 (1)

1481 (c) Local option taxes collected on sales or use of diesel  
1482 fuel in this state shall be distributed in the following manner:

1483 1. The fiscal year of July 1, 1995, through June 30, 1996,  
1484 shall be the base year for all distributions.

1485 2. Each year the tax collected, less the service and  
1486 administrative charges enumerated in s. 215.20 and the  
1487 allowances allowed under s. 206.91, on the number of gallons  
1488 reported, up to the total number of gallons reported in the base  
1489 year, shall be distributed to each county using the distribution  
1490 percentage calculated for the base year.

1491 3. After the distribution of taxes pursuant to subparagraph  
1492 4. ~~2.~~, additional taxes available for distribution shall first  
1493 be distributed pursuant to this subparagraph. A distribution  
1494 shall be made to each county in which a qualified new retail  
1495 station is located. A qualified new retail station is a retail  
1496 station that began operation after June 30, 1996, and that has  
1497 sales of diesel fuel exceeding 50 percent of the sales of diesel  
1498 fuel reported in the county in which it is located during the  
1499 1995-1996 state fiscal year. The determination of whether a new  
1500 retail station is qualified shall be based on the total gallons  
1501 of diesel fuel sold at the station during each full month of  
1502 operation during the 12-month period ending January 31, divided  
1503 by the number of full months of operation during those 12  
1504 months, and the result multiplied by 12. The amount distributed  
1505 pursuant to this subparagraph to each county in which a  
1506 qualified new retail station is located shall equal the local  
1507 option taxes due on the gallons of diesel fuel sold by the new  
1508 retail station during the year ending January 31, less the

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1509 service charges enumerated in s. 215.20 and the dealer allowance  
1510 provided for by s. 206.91. Gallons of diesel fuel sold at the  
1511 qualified new retail station shall be certified to the  
1512 department by the county requesting the additional distribution  
1513 by June 15, 1997, and by March 1 in each subsequent year. The  
1514 certification shall include the beginning inventory, fuel  
1515 purchases and sales, and the ending inventory for the new retail  
1516 station for each month of operation during the year, the  
1517 original purchase invoices for the period, and any other  
1518 information the department deems reasonable and necessary to  
1519 establish the certified gallons. The department may review and  
1520 audit the retail dealer's records provided to a county to  
1521 establish the gallons sold by the new retail station.

1522 Notwithstanding the provisions of this subparagraph, when more  
1523 than one county qualifies for a distribution pursuant to this  
1524 subparagraph and the requested distributions exceed the total  
1525 taxes available for distribution, each county shall receive a  
1526 prorated share of the moneys available for distribution.

1527 4. After the distribution of taxes pursuant to subparagraph  
1528 2. ~~3.~~, all additional taxes available for distribution, except  
1529 the taxes described in subparagraph 3., shall be distributed  
1530 based on vehicular diesel fuel storage capacities in each county  
1531 pursuant to this subparagraph. The total vehicular diesel fuel  
1532 storage capacity shall be established for each fiscal year based  
1533 on the registration of facilities with the Department of  
1534 Environmental Protection as required by s. 376.303 for the  
1535 following facility types: retail stations, fuel user/nonretail,  
1536 state government, local government, and county government. Each  
1537 county shall receive a share of the total taxes available for

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1538 distribution pursuant to this subparagraph equal to a fraction,  
1539 the numerator of which is the storage capacity located within  
1540 the county for vehicular diesel fuel in the facility types  
1541 listed in this subparagraph and the denominator of which is the  
1542 total statewide storage capacity for vehicular diesel fuel in  
1543 those facility types. The vehicular diesel fuel storage capacity  
1544 for each county and facility type shall be that established by  
1545 the Department of Environmental Protection by June 1, 1997, for  
1546 the 1996-1997 fiscal year, and by January 31 for each succeeding  
1547 fiscal year. The storage capacities so established shall be  
1548 final. The storage capacity for any new retail station for which  
1549 a county receives a distribution pursuant to subparagraph 3.  
1550 shall not be included in the calculations pursuant to this  
1551 subparagraph.

1552 Section 19. Subsection (20) of section 443.036, Florida  
1553 Statutes, is amended to read:

1554 443.036 Definitions.—As used in this chapter, the term:

1555 (20) "Employing unit" means an individual or type of  
1556 organization, including a partnership, limited liability  
1557 company, association, trust, estate, joint-stock company,  
1558 insurance company, or corporation, whether domestic or foreign;  
1559 the receiver, trustee in bankruptcy, trustee, or successor of  
1560 any of the foregoing; or the legal representative of a deceased  
1561 person, which has or had in its employ one or more individuals  
1562 performing services for it within this state.

1563 (a) Each individual employed to perform or to assist in  
1564 performing the work of any agent or employee of an employing  
1565 unit is deemed to be employed by the employing unit for the  
1566 purposes of this chapter, regardless of whether the individual

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1567 was hired or paid directly by the employing unit or by an agent  
1568 or employee of the employing unit, if the employing unit had  
1569 actual or constructive knowledge of the work.

1570 (b) Each individual performing services in this state for  
1571 an employing unit maintaining at least two separate  
1572 establishments in this state is deemed to be performing services  
1573 for a single employing unit for the purposes of this chapter.

1574 (c) A person who is an officer of a corporation, or a  
1575 member of a limited liability company classified as a  
1576 corporation for federal income tax purposes, and who performs  
1577 services for the corporation or limited liability company in  
1578 this state, regardless of whether those services are continuous,  
1579 is deemed an employee of the corporation or the limited  
1580 liability company during all of each week of his or her tenure  
1581 of office, regardless of whether he or she is compensated for  
1582 those services. Services are presumed to be rendered for the  
1583 corporation in cases in which the officer is compensated by  
1584 means other than dividends upon shares of stock of the  
1585 corporation owned by him or her.

1586 (d) A limited liability company shall be treated as having  
1587 the same status as it is classified for federal income tax  
1588 purposes. However, a single-member limited liability company  
1589 shall be treated as the employer.

1590 Section 20. Paragraph (b) of subsection (2) of section  
1591 443.1215, Florida Statutes, is amended to read:

1592 443.1215 Employers.—

1593 (2)

1594 (b) In determining whether an employing unit for which  
1595 service, other than agricultural labor, is also performed is an

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1596 employer under paragraph (1) (a), paragraph (1) (b), paragraph  
 1597 (1) (c), or subparagraph (1) (d)2., the wages earned or the  
 1598 employment of an employee performing service in agricultural  
 1599 labor may not be taken into account. If an employing unit is  
 1600 determined to be an employer of agricultural labor, the  
 1601 employing unit is considered an employer for purposes of  
 1602 paragraph (1) (a) ~~subsection (1)~~.

1603 Section 21. Subsection (2) of section 443.1316, Florida  
 1604 Statutes, is amended to read:

1605 443.1316 Unemployment tax collection services; interagency  
 1606 agreement.—

1607 (2) (a) The Department of Revenue is considered to be  
 1608 administering a revenue law of this state when the department  
 1609 implements this chapter, or otherwise provides unemployment tax  
 1610 collection services, under contract with the Agency for  
 1611 Workforce Innovation through the interagency agreement.

1612 (b) Sections 213.015(1)-(3), (5)-(7), (9)-(19), and (21);  
 1613 213.018; 213.025; 213.051; 213.053; 213.0532; 213.0535; 213.055;  
 1614 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25;  
 1615 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37;  
 1616 213.50; 213.67; 213.69; 213.691; 213.692; 213.73; 213.733;  
 1617 213.74; ~~and~~ 213.757; and 213.758 apply to the collection of  
 1618 unemployment contributions and reimbursements by the Department  
 1619 of Revenue unless prohibited by federal law.

1620 Section 22. Section 443.141, Florida Statutes, is amended  
 1621 to read:

1622 443.141 Collection of contributions and reimbursements.—

1623 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
 1624 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—



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1625 (a) *Interest.*—Contributions or reimbursements unpaid on the  
1626 date due shall bear interest at the rate of 1 percent per month  
1627 from and after that date until payment plus accrued interest is  
1628 received by the tax collection service provider, unless the  
1629 service provider finds that the employing unit has or had good  
1630 reason for failure to pay the contributions or reimbursements  
1631 when due. Interest collected under this subsection must be paid  
1632 into the Special Employment Security Administration Trust Fund.

1633 (b) *Penalty for delinquent, erroneous, incomplete, or*  
1634 *insufficient reports.*—

1635 1. An employing unit that fails to file any report required  
1636 by the Agency for Workforce Innovation or its tax collection  
1637 service provider, in accordance with rules for administering  
1638 this chapter, shall pay to the tax collection service provider  
1639 for each delinquent report the sum of \$25 for each 30 days or  
1640 fraction thereof that the employing unit is delinquent, unless  
1641 the agency or its service provider, whichever required the  
1642 report, finds that the employing unit has or had good reason for  
1643 failure to file the report. The agency or its service provider  
1644 may assess penalties only through the date of the issuance of  
1645 the final assessment notice. However, additional penalties  
1646 accrue if the delinquent report is subsequently filed.

1647 2.a. An employing unit that files an erroneous, incomplete,  
1648 or insufficient report with the Agency for Workforce Innovation  
1649 or its tax collection service provider, shall pay a penalty. The  
1650 amount of the penalty is \$50 or 10 percent of any tax due,  
1651 whichever is greater, but no more than \$300 per report. The  
1652 penalty shall be added to any tax, penalty, or interest  
1653 otherwise due.

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1654 b. The agency or its tax collection service provider shall  
1655 waive the penalty if the employing unit files an accurate,  
1656 complete, and sufficient report within 30 days after a penalty  
1657 notice is issued to the employing unit. The penalty may not be  
1658 waived more than one time during a 12-month period.

1659 c. As used in this subsection, the term "erroneous,  
1660 incomplete, or insufficient report" means a report so lacking in  
1661 information, completeness, or arrangement that the report cannot  
1662 be readily understood, verified, or reviewed. Such reports  
1663 include, but are not limited to, reports having missing wage or  
1664 employee information, missing or incorrect social security  
1665 numbers, or illegible entries; reports submitted in a format  
1666 that is not approved by the agency or its tax collection service  
1667 provider; and reports showing gross wages that do not equal the  
1668 total of the wages of each employee. However, the term does not  
1669 include a report that merely contains inaccurate data that was  
1670 supplied to the employer by the employee, if the employer was  
1671 unaware of the inaccuracy.

1672 3.2. Sums collected as Penalties imposed pursuant to this  
1673 paragraph shall under subparagraph 1. must be deposited in the  
1674 Special Employment Security Administration Trust Fund.

1675 4.3. The penalty and interest for a delinquent, erroneous,  
1676 incomplete, or insufficient report may be waived if when the  
1677 penalty or interest is inequitable. The provisions of s.  
1678 213.24(1) apply to any penalty or interest that is imposed under  
1679 this section.

1680 5. The Agency for Workforce Innovation and the state agency  
1681 providing unemployment tax collection services may adopt rules  
1682 to administer this subsection.

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1683           (c) *Application of partial payments.*—~~If when~~ a delinquency  
 1684 exists in the employment record of an employer not in  
 1685 bankruptcy, a partial payment less than the total delinquency  
 1686 amount shall be applied to the employment record as the payor  
 1687 directs. In the absence of specific direction, the partial  
 1688 payment shall be applied to the payor's employment record as  
 1689 prescribed in the rules of the Agency for Workforce Innovation  
 1690 or the state agency providing tax collection services.

1691           (2) REPORTS, CONTRIBUTIONS, APPEALS.—

1692           (a) *Failure to make reports and pay contributions.*—If an  
 1693 employing unit determined by the tax collection service provider  
 1694 to be an employer subject to this chapter fails to make and file  
 1695 any report as and when required by this chapter or by any rule  
 1696 of the Agency for Workforce Innovation or the state agency  
 1697 providing tax collection services, for the purpose of  
 1698 determining the amount of contributions due by the employer  
 1699 under this chapter, or if any filed report is found by the  
 1700 service provider to be incorrect or insufficient, and the  
 1701 employer, after being notified in writing by the service  
 1702 provider to file the report, or a corrected or sufficient  
 1703 report, as applicable, fails to file the report within 15 days  
 1704 after the date of the mailing of the notice, the tax collection  
 1705 service provider may:

1706           1. Determine the amount of contributions due from the  
 1707 employer based on the information readily available to it, which  
 1708 determination is deemed to be prima facie correct;

1709           2. Assess the employer the amount of contributions  
 1710 determined to be due; and

1711           3. Immediately notify the employer by mail of the

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1712 determination and assessment including penalties as provided in  
1713 this chapter, if any, added and assessed, and demand payment  
1714 together with interest on the amount of contributions from the  
1715 date that amount was due and payable.

1716 (b) *Hearings.*—The determination and assessment are final 15  
1717 days after the date the assessment is mailed unless the employer  
1718 files with the tax collection service provider within the 15  
1719 days a written protest and petition for hearing specifying the  
1720 objections thereto. The tax collection service provider shall  
1721 promptly review each petition and may reconsider its  
1722 determination and assessment in order to resolve the  
1723 petitioner's objections. The tax collection service provider  
1724 shall forward each petition remaining unresolved to the Agency  
1725 for Workforce Innovation for a hearing on the objections. Upon  
1726 receipt of a petition, the Agency for Workforce Innovation shall  
1727 schedule a hearing and notify the petitioner of the time and  
1728 place of the hearing. The Agency for Workforce Innovation may  
1729 appoint special deputies to conduct hearings and to submit their  
1730 findings together with a transcript of the proceedings before  
1731 them and their recommendations to the agency for its final  
1732 order. Special deputies are subject to the prohibition against  
1733 ex parte communications in s. 120.66. At any hearing conducted  
1734 by the Agency for Workforce Innovation or its special deputy,  
1735 evidence may be offered to support the determination and  
1736 assessment or to prove it is incorrect. In order to prevail,  
1737 however, the petitioner must either prove that the determination  
1738 and assessment are incorrect or file full and complete corrected  
1739 reports. Evidence may also be submitted at the hearing to rebut  
1740 the determination by the tax collection service provider that

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1741 the petitioner is an employer under this chapter. Upon evidence  
1742 taken before it or upon the transcript submitted to it with the  
1743 findings and recommendation of its special deputy, the Agency  
1744 for Workforce Innovation shall either set aside the tax  
1745 collection service provider's determination that the petitioner  
1746 is an employer under this chapter or reaffirm the determination.  
1747 The amounts assessed under the final order, together with  
1748 interest and penalties, must be paid within 15 days after notice  
1749 of the final order is mailed to the employer, unless judicial  
1750 review is instituted in a case of status determination. Amounts  
1751 due when the status of the employer is in dispute are payable  
1752 within 15 days after the entry of an order by the court  
1753 affirming the determination. However, any determination that an  
1754 employing unit is not an employer under this chapter does not  
1755 affect the benefit rights of any individual as determined by an  
1756 appeals referee or the commission unless:

1757 1. The individual is made a party to the proceedings before  
1758 the special deputy; or

1759 2. The decision of the appeals referee or the commission  
1760 has not become final or the employing unit and the Agency for  
1761 Workforce Innovation were not made parties to the proceedings  
1762 before the appeals referee or the commission.

1763 (c) *Appeals.*—The Agency for Workforce Innovation and the  
1764 state agency providing unemployment tax collection services  
1765 shall adopt rules prescribing the procedures for an employing  
1766 unit determined to be an employer to file an appeal and be  
1767 afforded an opportunity for a hearing on the determination.  
1768 Pending a hearing, the employing unit must file reports and pay  
1769 contributions in accordance with s. 443.131.

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1770 (3) COLLECTION PROCEEDINGS.—

1771 (a) *Lien for payment of contributions or reimbursements.*—

1772 1. ~~There is created~~ A lien exists in favor of the tax

1773 collection service provider upon all the property, both real and

1774 personal, of any employer liable for payment of any contribution

1775 or reimbursement levied and imposed under this chapter for the

1776 amount of the contributions or reimbursements due, together with

1777 any interest, costs, and penalties. If any contribution or

1778 reimbursement imposed under this chapter or any portion of that

1779 contribution, reimbursement, interest, or penalty is not paid

1780 within 60 days after becoming delinquent, the tax collection

1781 service provider may file ~~subsequently issue~~ a notice of lien

1782 ~~that may be filed~~ in the office of the clerk of the circuit

1783 court of any county in which the delinquent employer owns

1784 property or ~~has conducted~~ business. The notice of lien must

1785 include the periods for which the contributions, reimbursements,

1786 interest, or penalties are demanded and the amounts due. A copy

1787 of the notice of lien must be mailed to the employer at the

1788 employer's ~~her or his~~ last known address. The notice of lien may

1789 not be filed ~~issued and recorded~~ until 15 days after the date

1790 the assessment becomes final under subsection (2). Upon filing

1791 ~~presentation of the notice of lien~~, the clerk of the circuit

1792 court shall record the notice of lien ~~it~~ in a book maintained

1793 for that purpose, and the amount of the notice of lien, together

1794 with the cost of recording and interest accruing upon the amount

1795 of the contribution or reimbursement, becomes a lien upon the

1796 title to and interest, whether legal or equitable, in any real

1797 property, chattels real, or personal property of the employer

1798 against whom the notice of lien is issued, in the same manner as

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1799 a judgment of the circuit court docketed in the office of the  
1800 circuit court clerk, with execution issued to the sheriff for  
1801 levy. This lien is prior, preferred, and superior to all  
1802 mortgages or other liens filed, recorded, or acquired after the  
1803 notice of lien is filed. Upon the payment of the amounts due, or  
1804 upon determination by the tax collection service provider that  
1805 the notice of lien was erroneously issued, the lien is satisfied  
1806 when the service provider acknowledges in writing that the lien  
1807 is fully satisfied. A lien's satisfaction does not need to be  
1808 acknowledged before any notary or other public officer, and the  
1809 signature of the director of the tax collection service provider  
1810 or his or her designee is conclusive evidence of the  
1811 satisfaction of the lien, which satisfaction shall be recorded  
1812 by the clerk of the circuit court who receives the fees for  
1813 those services.

1814       2. The tax collection service provider may subsequently  
1815 issue a warrant directed to any sheriff in this state,  
1816 commanding him or her to levy upon and sell any real or personal  
1817 property of the employer liable for any amount under this  
1818 chapter within his or her jurisdiction, for payment, with the  
1819 added penalties and interest and the costs of executing the  
1820 warrant, together with the costs of the clerk of the circuit  
1821 court in recording and docketing the notice of lien, and to  
1822 return the warrant to the service provider with payment. The  
1823 warrant may only be issued and enforced for all amounts due to  
1824 the tax collection service provider on the date the warrant is  
1825 issued, together with interest accruing on the contribution or  
1826 reimbursement due from the employer to the date of payment at  
1827 the rate provided in this section. In the event of sale of any

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1828 assets of the employer, however, priorities under the warrant  
1829 shall be determined in accordance with the priority established  
1830 by any notices of lien filed by the tax collection service  
1831 provider and recorded by the clerk of the circuit court. The  
1832 sheriff shall execute the warrant in the same manner prescribed  
1833 by law for executions issued by the clerk of the circuit court  
1834 for judgments of the circuit court. The sheriff is entitled to  
1835 the same fees for executing the warrant as for a writ of  
1836 execution out of the circuit court, and these fees must be  
1837 collected in the same manner.

1838 3. The lien expires 10 years after the filing of a notice  
1839 of lien with the clerk of court. An action to collect amounts  
1840 due under this chapter may not be commenced after the expiration  
1841 of the lien securing the payment of the amounts owed.

1842 (b) *Injunctive procedures to contest warrants after*  
1843 *issuance.*—An injunction or restraining order to stay the  
1844 execution of a warrant may not be issued until a motion is  
1845 filed; reasonable notice of a hearing on the motion for the  
1846 injunction is served on the tax collection service provider; and  
1847 the party seeking the injunction either pays into the custody of  
1848 the court the full amount of contributions, reimbursements,  
1849 interests, costs, and penalties claimed in the warrant or enters  
1850 into and files with the court a bond with two or more good and  
1851 sufficient sureties approved by the court in a sum at least  
1852 twice the amount of the contributions, reimbursements,  
1853 interests, costs, and penalties, payable to the tax collection  
1854 service provider. The bond must also be conditioned to pay the  
1855 amount of the warrant, interest, and any damages resulting from  
1856 the wrongful issuing of the injunction, if the injunction is



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1857 dissolved, or the motion for the injunction is dismissed. Only  
1858 one surety is required when the bond is executed by a lawfully  
1859 authorized surety company.

1860 (c) *Attachment and garnishment.*—Upon the filing of notice  
1861 of lien as provided in subparagraph (a)1., the tax collection  
1862 service provider is entitled to remedy by attachment or  
1863 garnishment as provided in chapters 76 and 77, as for a debt  
1864 due. Upon application by the tax collection service provider,  
1865 these writs shall be issued by the clerk of the circuit court as  
1866 upon a judgment of the circuit court duly docketed and recorded.  
1867 These writs shall be returnable to the circuit court. A bond may  
1868 not be required of the tax collection service provider as a  
1869 condition required for the issuance of these writs of attachment  
1870 or garnishment. Issues raised under proceedings by attachment or  
1871 garnishment shall be tried by the circuit court in the same  
1872 manner as a judgment under chapters 76 and 77. Further, the  
1873 notice of lien filed by the tax collection service provider is  
1874 valid for purposes of all remedies under this chapter until  
1875 satisfied under this chapter, and revival by scire facias or  
1876 other proceedings are not necessary before pursuing any remedy  
1877 authorized by law. Proceedings authorized upon a judgment of the  
1878 circuit court do not make the lien a judgment of the circuit  
1879 court upon a debt for any purpose other than as are specifically  
1880 provided by law as procedural remedies.

1881 (d) *Third-party claims.*—Upon any levy made by the sheriff  
1882 under a writ of attachment or garnishment as provided in  
1883 paragraph (c), the circuit court shall try third-party claims to  
1884 property involved as upon a judgment thereof and all proceedings  
1885 authorized on third-party claims in ss. 56.16, 56.20, 76.21, and

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1886 77.16 shall apply.

1887 (e) *Proceedings supplementary to execution.*—At any time  
1888 after a warrant provided for in subparagraph (a)2. is returned  
1889 unsatisfied by any sheriff of this state, the tax collection  
1890 service provider may file an affidavit in the circuit court  
1891 affirming the warrant was returned unsatisfied and remains valid  
1892 and outstanding. The affidavit must also state the residence of  
1893 the party or parties against whom the warrant is issued. The tax  
1894 collection service provider is subsequently entitled to have  
1895 other and further proceedings in the circuit court as upon a  
1896 judgment thereof as provided in s. 56.29.

1897 (f) *Reproductions.*—In any proceedings in any court under  
1898 this chapter, reproductions of the original records of the  
1899 Agency for Workforce Innovation, its tax collection service  
1900 provider, the former Department of Labor and Employment  
1901 Security, or the commission, including, but not limited to,  
1902 photocopies or microfilm, are primary evidence in lieu of the  
1903 original records or of the documents that were transcribed into  
1904 those records.

1905 (g) *Jeopardy assessment and warrant.*—If the tax collection  
1906 service provider reasonably believes that the collection of  
1907 contributions or reimbursements from an employer will be  
1908 jeopardized by delay, the service provider may assess the  
1909 contributions or reimbursements immediately, together with  
1910 interest or penalties when due, regardless of whether the  
1911 contributions or reimbursements accrued are due, and may  
1912 immediately issue a notice of lien and jeopardy warrant upon  
1913 which proceedings may be conducted as provided in this section  
1914 for notice of lien and warrant of the service provider. Within

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1915 15 days after mailing the notice of lien by registered mail, the  
1916 employer may protest the issuance of the lien in the same manner  
1917 provided in paragraph (2) (a). The protest does not operate as a  
1918 supersedeas or stay of enforcement unless the employer files  
1919 with the sheriff seeking to enforce the warrant a good and  
1920 sufficient surety bond in twice the amount demanded by the  
1921 notice of lien or warrant. The bond must be conditioned upon  
1922 payment of the amount subsequently found to be due from the  
1923 employer to the tax collection service provider in the final  
1924 order of the Agency for Workforce Innovation upon protest of  
1925 assessment. The jeopardy warrant and notice of lien are  
1926 satisfied in the manner provided in this section upon payment of  
1927 the amount finally determined to be due from the employer. If  
1928 enforcement of the jeopardy warrant is not superseded as  
1929 provided in this section, the employer is entitled to a refund  
1930 from the fund of all amounts paid as contributions or  
1931 reimbursements in excess of the amount finally determined to be  
1932 due by the employer upon application being made as provided in  
1933 this chapter.

1934 (4) MISCELLANEOUS PROVISIONS FOR COLLECTION OF  
1935 CONTRIBUTIONS AND REIMBURSEMENTS.—

1936 (a) In addition to all other remedies and proceedings  
1937 authorized by this chapter for the collection of contributions  
1938 and reimbursements, a right of action by suit in the name of the  
1939 tax collection service provider is created. A suit may be  
1940 brought, and all proceedings taken, to the same effect and  
1941 extent as for the enforcement of a right of action for debt or  
1942 assumpsit, and all remedies available in such actions, including  
1943 attachment and garnishment, are available to the tax collection

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1944 service provider for the collection of any contribution or  
1945 reimbursement. The tax collection service provider is not,  
1946 however, required to post bond in any such action or  
1947 proceedings. In addition, this section does not make these  
1948 contributions or reimbursements a debt or demand unenforceable  
1949 against homestead property as provided by Art. X of the State  
1950 Constitution, and these remedies are solely procedural.

1951 (b) An employer who fails to make return or pay the  
1952 contributions or reimbursements levied under this chapter, and  
1953 who remains an employer as provided in s. 443.121, may be  
1954 enjoined from employing individuals in employment as defined in  
1955 this chapter upon the complaint of the tax collection service  
1956 provider in the circuit court of the county in which the  
1957 employer does business. An employer who fails to make return or  
1958 pay contributions or reimbursements shall be enjoined from  
1959 employing individuals in employment until the return is made and  
1960 the contributions or reimbursements are paid to the tax  
1961 collection service provider.

1962 (c) Any agent or employee designated by the Agency for  
1963 Workforce Innovation or its tax collection service provider may  
1964 administer an oath to any person for any return or report  
1965 required by this chapter or by the rules of the Agency for  
1966 Workforce Innovation or the state agency providing unemployment  
1967 tax collection services, and an oath made before the agency or  
1968 its service provider or any authorized agent or employee has the  
1969 same effect as an oath made before any judicial officer or  
1970 notary public of the state.

1971 (d) Civil actions brought under this chapter to collect  
1972 contributions, reimbursements, or interest, or any proceeding

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1973 conducted for the collection of contributions or reimbursements  
1974 from an employer, shall be heard by the court having  
1975 jurisdiction at the earliest possible date and are entitled to  
1976 preference upon the calendar of the court over all other civil  
1977 actions except petitions for judicial review of claims for  
1978 benefits arising under this chapter and cases arising under the  
1979 Workers' Compensation Law of this state.

1980 (e) The tax collection service provider may commence an  
1981 action in any other state to collect unemployment compensation  
1982 contributions, reimbursements, penalties, and interest legally  
1983 due this state. The officials of other states that extend a like  
1984 comity to this state may sue for the collection of  
1985 contributions, reimbursements, interest, and penalties in the  
1986 courts of this state. The courts of this state shall recognize  
1987 and enforce liability for contributions, reimbursements,  
1988 interest, and penalties imposed by other states that extend a  
1989 like comity to this state.

1990 (f) The collection of any contribution, reimbursement,  
1991 interest, or penalty due under this chapter is not enforceable  
1992 by civil action, warrant, claim, or other means unless the  
1993 notice of lien is filed with the clerk of the circuit court as  
1994 described in subsection (3) within 5 years after the date the  
1995 contribution, reimbursement, interest, and penalty were due.

1996 (5) PRIORITIES UNDER LEGAL DISSOLUTION OR DISTRIBUTIONS.—In  
1997 the event of any distribution of any employer's assets pursuant  
1998 to an order of any court under the laws of this state, including  
1999 any receivership, assignment for the benefit of creditors,  
2000 adjudicated insolvency, composition, administration of estates  
2001 of decedents, or other similar proceeding, contributions or

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2002 reimbursements then or subsequently due must be paid in full  
2003 before all other claims except claims for wages of \$250 or less  
2004 to each claimant, earned within 6 months after the commencement  
2005 of the proceeding, and on a parity with all other tax claims  
2006 wherever those tax claims are given priority. In the  
2007 administration of the estate of any decedent, the filing of  
2008 notice of lien is a proceeding required upon protest of the  
2009 claim filed by the tax collection service provider for  
2010 contributions or reimbursements due under this chapter, and the  
2011 claim must be allowed by the circuit judge. The personal  
2012 representative of the decedent, however, may by petition to the  
2013 circuit court object to the validity of the tax collection  
2014 service provider's claim, and proceedings shall be conducted in  
2015 the circuit court for the determination of the validity of the  
2016 service provider's claim. Further, the bond of the personal  
2017 representative may not be discharged until the claim is finally  
2018 determined by the circuit court. When a bond is not given by the  
2019 personal representative, the assets of the estate may not be  
2020 distributed until the final determination by the circuit court.  
2021 Upon distribution of the assets of the estate of any decedent,  
2022 the tax collection service provider's claim has a class 8  
2023 priority established in s. 733.707(1)(h), subject to the above  
2024 limitations with reference to wages. In the event of any  
2025 employer's adjudication in bankruptcy, judicially confirmed  
2026 extension proposal, or composition, under the Federal Bankruptcy  
2027 Act of 1898, as amended, contributions or reimbursements then or  
2028 subsequently due are entitled to priority as is provided in s.  
2029 64B of that act (U.S.C. Title II, s. 104(b), as amended).

2030 (6) REFUNDS.—

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2031 (a) Within 4 years after payment of any amount as  
2032 contributions, reimbursements, interest, or penalties, an  
2033 employing unit may apply for an adjustment of its subsequent  
2034 payments of contributions or reimbursements, or for a refund if  
2035 the adjustment cannot be made.

2036 (b) If the tax collection service provider determines that  
2037 any contributions, reimbursements, interest, or penalties were  
2038 erroneously collected, the employing unit may adjust its  
2039 subsequent payment of contributions or reimbursements by the  
2040 amount erroneously collected. If an adjustment cannot be made,  
2041 the tax collection service provider shall refund the amount  
2042 erroneously collected from the fund.

2043 (c) Within the time limit provided in paragraph (a), the  
2044 tax collection service provider may on its own initiative adjust  
2045 or refund the amount erroneously collected.

2046 (d) This chapter does not authorize a refund of  
2047 contributions or reimbursements properly paid in accordance with  
2048 this chapter when the payment was made, except as required by s.  
2049 443.1216(13)(e).

2050 (e) An employing unit entitled to a refund or adjustment  
2051 for erroneously collected contributions, reimbursements,  
2052 interest, or penalties is not entitled to interest on that  
2053 erroneously collected amount.

2054 (f) Refunds under this subsection and under s.  
2055 443.1216(13)(e) may be paid from the clearing account or the  
2056 benefit account of the Unemployment Compensation Trust Fund and  
2057 from the Special Employment Security Administration Trust Fund  
2058 for interest or penalties previously paid into the fund,  
2059 notwithstanding s. 443.191(2).

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2060 Section 23. Effective July 1, 2009, subsection (2) of  
2061 section 443.163, Florida Statutes, is amended to read:

2062 443.163 Electronic reporting and remitting of contributions  
2063 and reimbursements.—

2064 (2) (a) An employer who is required by law to file an  
2065 Employers Quarterly Report (UCT-6) by approved electronic means,  
2066 but who files the report by a means other than approved  
2067 electronic means, is liable for a penalty of \$50 ~~\$10~~ for that  
2068 report and \$1 for each employee. This penalty, ~~which~~ is in  
2069 addition to any other ~~applicable~~ penalty provided by this  
2070 chapter. However, unless the penalty does not apply if employer  
2071 first obtains a waiver of this requirement from the tax  
2072 collection service provider waives the electronic filing  
2073 requirement in advance. An employer who fails to remit  
2074 contributions or reimbursements by approved electronic means as  
2075 required by law is liable for a penalty of \$50 ~~\$10~~ for each  
2076 remittance submitted by a means other than electronic means.  
2077 This penalty, ~~which~~ is in addition to any other ~~applicable~~  
2078 penalty provided by this chapter.

2079 (b) A person who prepared and reported for 100 or more  
2080 employers in any quarter during the preceding state fiscal year,  
2081 but who fails to file an Employers Quarterly Report (UCT-6) for  
2082 each calendar quarter in the current calendar year by approved  
2083 electronic means ~~as required by law~~, is liable for a penalty of  
2084 \$50 ~~\$10~~ for that report and \$1 for each employee. This penalty,  
2085 ~~which~~ is in addition to any other ~~applicable~~ penalty provided by  
2086 this chapter. However, unless the penalty does not apply if  
2087 person first obtains a waiver of this requirement from the tax  
2088 collection service provider waives the electronic filing



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2089 requirement in advance.

2090 Section 24. Subsection (3) of section 443.163, Florida  
2091 Statutes, is amended to read:

2092 443.163 Electronic reporting and remitting of contributions  
2093 and reimbursements.—

2094 (3) The tax collection service provider may waive the  
2095 requirement to file an Employers Quarterly Report (UCT-6) by  
2096 electronic means for employers that are unable to comply despite  
2097 good faith efforts or due to circumstances beyond the employer's  
2098 reasonable control.

2099 (a) As prescribed by the Agency for Workforce Innovation or  
2100 its tax collection service provider, grounds for approving the  
2101 waiver include, but are not limited to, circumstances in which  
2102 the employer does not:

2103 1. Currently file information or data electronically with  
2104 any business or government agency; or

2105 2. Have a compatible computer that meets or exceeds the  
2106 standards prescribed by the Agency for Workforce Innovation or  
2107 its tax collection service provider.

2108 (b) The tax collection service provider shall accept other  
2109 reasons for requesting a waiver from the requirement to submit  
2110 the Employers Quarterly Report (UCT-6) by electronic means,  
2111 including, but not limited to:

2112 1. That the employer needs additional time to program his  
2113 or her computer;

2114 2. That complying with this requirement causes the employer  
2115 financial hardship; or

2116 3. That complying with this requirement conflicts with the  
2117 employer's business procedures.

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2118 (c) The Agency for Workforce Innovation or the state agency  
2119 providing unemployment tax collection services may establish by  
2120 rule the length of time a waiver is valid and may determine  
2121 whether subsequent waivers will be authorized, based on this  
2122 subsection; ~~however, the tax collection service provider may~~  
2123 ~~only grant a waiver from electronic reporting if the employer~~  
2124 ~~timely files the Employers Quarterly Report (UCT-6) by telefile,~~  
2125 ~~unless the employer wage detail exceeds the service provider's~~  
2126 ~~telefile system capabilities.~~

2127 Section 25. Effective July 1, 2009, section 213.691,  
2128 Florida Statutes, is created to read:

2129 213.691 Integrated warrants and judgment lien  
2130 certificates.—The department may file a single integrated  
2131 warrant or a single integrated judgment lien certificate for a  
2132 taxpayer's total liability for all taxes, fees, or surcharges  
2133 administered by the department. Such warrants and judgment lien  
2134 certificates may be filed in lieu of or to replace individual  
2135 warrants, notices of liens, and judgment lien certificates. Each  
2136 integrated warrant or integrated judgment lien certificate must  
2137 itemize the amount due for each tax, fee, or surcharge and any  
2138 related interest and penalty.

2139 Section 26. Effective July 1, 2009, section 213.692,  
2140 Florida Statutes, is created to read:

2141 213.692 Integrated enforcement authority.—

2142 (1) If the department has filed a warrant, notice of lien,  
2143 or judgment lien certificate against the property of a taxpayer,  
2144 the department may also revoke all certificates of registration,  
2145 permits, or licenses issued by the department to that taxpayer.

2146 (a) Before the department may revoke the certificates of

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2147 registration, permits, or licenses, the department must schedule  
2148 an informal conference that the taxpayer is required to attend.  
2149 At the conference, the taxpayer may present evidence regarding  
2150 the department's intended action or enter into a compliance  
2151 agreement. The department must provide written notice to the  
2152 taxpayer of the department's intended action and the time, date,  
2153 place of the conference. The department shall issue an  
2154 administrative complaint to revoke the certificates of  
2155 registration, permits, or licenses if the taxpayer does not  
2156 attend the conference, enter into a compliance agreement, or  
2157 comply with a compliance agreement.

2158 (b) The department may not issue a certificate of  
2159 registration, permit, or license to a taxpayer whose certificate  
2160 of registration, permit, or license has been revoked unless:

2161 1. The outstanding liabilities of the taxpayer have been  
2162 satisfied; or

2163 2. The department enters into a written agreement with the  
2164 taxpayer regarding any outstanding liabilities and, as part of  
2165 such agreement, agrees to issue a certificate of registration,  
2166 permit, or license.

2167 (c) The department shall require a cash deposit, bond, or  
2168 other security as a condition of issuing a new certificate of  
2169 registration pursuant to the requirements of s. 212.14(4).

2170 (2) If the department files a warrant or a judgment lien  
2171 certificate in connection with a jeopardy assessment, the  
2172 department must comply with the procedures in s. 213.732 before  
2173 or in conjunction with those provided in this section.

2174 (3) The department may adopt rules to administer this  
2175 section.

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2176           Section 27. Effective July 1, 2009, the Department of  
2177 Revenue is authorized to adopt emergency rules to administer s.  
2178 213.692, Florida Statutes. The emergency rules shall remain in  
2179 effect for 6 months after adoption and may be renewed during the  
2180 pendency of procedures to adopt rules addressing the subject of  
2181 the emergency rules.

2182           Section 28. Effective July 1, 2009, section 195.095,  
2183 Florida Statutes, is repealed.

2184           Section 29. Effective July 1, 2009, section 213.054,  
2185 Florida Statutes, is repealed.

2186           Section 30. Except as otherwise expressly provided in this  
2187 act, this act shall take effect upon becoming a law.