

By the Committee on Finance and Tax; and 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. 202.125, F.S.; clarifying
18 that an exemption from the communications services tax
19 does not apply to a residence that is all or part of a
20 transient public lodging establishment; amending s.
21 212.08, F.S.; providing criteria to determine the tax
22 on a package that contains taxable nonfood products
23 and exempt food products; clarifying that the sales
24 tax exemption for building materials used in the
25 rehabilitation of real property located in an
26 enterprise zone applies only during the rehabilitation
27 of the real property; authorizing a single application
28 for a tax refund for certain contiguous parcels of
29 real property; revising information that must be

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30 included in the application for the tax refund;
31 providing that the tax exemption for building
32 materials used in an enterprise zone may inure to a
33 unit of government; amending s. 213.053, F.S.;
34 providing that the Department of Revenue may share
35 certain information with the Florida Energy and
36 Climate Commission; providing that the Department of
37 Revenue may share taxpayer names and identification
38 numbers for purposes of information-sharing agreements
39 with financial institutions; providing that provisions
40 restricting the disclosure of confidential information
41 do not apply to certain methods of electronic
42 communication for certain purposes; providing that the
43 Department of Revenue may release information relating
44 to outstanding tax warrants to the Department of
45 Business and Professional Regulation; authorizing the
46 Department of Revenue to publish a list of taxpayers
47 against whom it has filed a warrant or judgment lien
48 certificate; requiring the department to update the
49 list at least monthly; authorizing the Department of
50 Revenue to adopt rules; creating s. 213.0532, F.S.;
51 defining terms; requiring the Department of Revenue to
52 enter into information-sharing agreements with certain
53 financial institutions; requiring the department to
54 pay a reasonable fee to a financial institution for
55 certain costs; providing that financial institutions
56 do not need to provide notice of information-sharing
57 agreements to accountholders; providing that financial
58 institutions are not liable for certain acts taken in

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59 connection with information-sharing agreements;
60 authorizing the Department of Revenue to adopt rules;
61 amending s. 213.25, F.S.; authorizing the Department
62 of Revenue to reduce a tax refund or a tax credit to
63 the extent of liability for unemployment compensation
64 taxes; amending s. 213.50, F.S.; authorizing the
65 Department of Business and Professional Regulation to
66 revoke the hotel or restaurant license of a
67 licenseholder having an outstanding tax warrant for a
68 certain period; authorizing the Department of Business
69 and Professional Regulation to deny an application to
70 renew the hotel or restaurant license of a
71 licenseholder having an outstanding tax warrant for a
72 certain period; amending s. 213.67, F.S.; clarifying
73 the date by which an action to contest a notice of
74 intent to levy must be filed; creating s. 213.758,
75 F.S.; defining terms; providing for the transfer of
76 tax liabilities to the transferee of a business or a
77 stock of goods under certain circumstances; providing
78 exceptions; requiring a taxpayer who quits a business
79 to file a final tax return; authorizing the Department
80 of Legal Affairs to seek injunctions to prevent
81 business activities until taxes are paid; requiring
82 the transferor of a business or stock of goods to file
83 a final tax return and make a full tax payment after a
84 transfer; authorizing a transferee of a business or
85 stock of goods to withhold a portion of the
86 consideration for the transfer for the payment of
87 certain taxes; authorizing the Department of Legal

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88 Affairs to seek an injunction to prevent business
89 activities by a transferee until the taxes are paid;
90 providing that the transferees are jointly and
91 severally liable with the transferor for the payment
92 of taxes, interest, or penalties under certain
93 circumstances; limiting the transferee's liability to
94 the value or purchase price of the transferred
95 property; authorizing the Department of Revenue to
96 adopt rules; amending s. 220.192, F.S.; providing for
97 the administration of certain portions of the
98 renewable energy technologies tax credit program by
99 the Florida Energy and Climate Commission; providing
100 for retroactive application; amending s. 336.021,
101 F.S.; revising the distribution of the ninth-cent fuel
102 tax on motor fuel and diesel fuel; amending s.
103 443.036, F.S.; providing for the treatment of a
104 single-member limited liability company as the
105 employer; amending s. 443.1215, F.S.; correcting a
106 cross-reference; amending s. 443.1316, F.S.;
107 conforming cross-references; amending s. 443.141,
108 F.S.; providing penalties for erroneous, incomplete,
109 or insufficient reports; authorizing a waiver of the
110 penalty under certain circumstances; defining a term;
111 authorizing the Agency for Workforce Innovation and
112 the state agency providing unemployment compensation
113 tax collection services to adopt rules; providing an
114 expiration date for liens for contributions and
115 reimbursements; amending s. 443.163, F.S.; increasing
116 penalties for failing to file Employers Quarterly

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117 Reports by means other than approved electronic means;
118 creating s. 213.691, F.S.; authorizing the Department
119 of Revenue to file an integrated warrant or judgment
120 lien for a taxpayer's total liability for taxes, fees,
121 or surcharges; requiring the integrated warrant or
122 judgment lien certificate to itemize amounts due for
123 each tax, fee, or surcharge; creating s. 213.692,
124 F.S.; authorizing the Department of Revenue to revoke
125 all certificates of registration, permits, or licenses
126 issued to a taxpayer against whose property the
127 department has filed a warrant or tax lien; requiring
128 the scheduling of an informal conference before
129 revocation of the certificates of registration,
130 permits, or licenses; prohibiting the Department of
131 Revenue from issuing a certificate of registration,
132 permit, or license to a taxpayer whose certificate of
133 registration, permit, or license has been revoked;
134 providing exceptions; requiring security as a
135 condition of issuing a new certificate of registration
136 to a person whose certificate of registration, permit,
137 or license has been revoked after the filing of a
138 warrant or tax lien certificate; authorizing the
139 department to adopt rules; repealing s. 195.095, F.S.,
140 relating to the authority of the Department of Revenue
141 to develop lists of bidders that are approved to
142 contract with property appraisers, tax collectors, or
143 county commissions for assessment or collection
144 services; repealing s. 213.054, F.S., relating to
145 monitoring and reporting on the use of a tax deduction

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146 claimed by international banking institutions;
147 providing effective dates.

148

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

150

151 Section 1. Section 55.204, Florida Statutes, is amended to
152 read:

153 55.204 Duration and continuation of judgment lien;
154 destruction of records.—

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

158 (2) Liens securing the payment of child support or tax
159 obligations as set forth in s. 95.091(1)(b) ~~shall not~~ lapse
160 ~~until~~ 20 years after the date of the original filing of the
161 warrant or other document required by law to establish a lien.
162 Liens securing the payment of unemployment tax obligations lapse
163 10 years after the date of the original filing of the notice of
164 lien. ~~A No~~ second lien based on the original filing may not be
165 obtained.

166 (3) At any time within 6 months before or 6 months after
167 the scheduled lapse of a judgment lien under subsection (1), the
168 judgment creditor may acquire a second judgment lien by filing a
169 new judgment lien certificate. The effective date of the second
170 judgment lien is the date and time on which the judgment lien
171 certificate is filed. The second judgment lien is a new judgment
172 lien and not a continuation of the original judgment lien. The
173 second judgment lien permanently lapses and becomes invalid 5
174 years after its filing date, and no additional liens based on

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175 the original judgment or any judgment based on the original
176 judgment may be acquired.

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

180 (a) The property had been itemized and its location
181 described with sufficient particularity in the instructions for
182 levy to permit the sheriff to act;

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

185 (c) The property was located in the county in which the
186 sheriff has jurisdiction at the time of delivery of the
187 instruction for levy. Subsequent removal of the property does
188 not defeat the lien. A court may order continuation of the lien
189 beyond the 90-day period on a showing that extraordinary
190 circumstances have prevented levy.

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

195 (6) If a ~~no~~ second judgment lien is not filed, the
196 Department of State shall maintain each judgment lien file and
197 all information contained therein for a minimum of 1 year after
198 the judgment lien lapses in accordance with this section. If a
199 second judgment lien is filed, the department shall maintain
200 both files and all information contained in such files for a
201 minimum of 1 year after the second judgment lien lapses.

202 (7) ~~Nothing in~~ This section does not ~~shall be construed to~~
203 extend the life of a judgment lien beyond the time that the

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204 underlying judgment, order, decree, or warrant otherwise expires
205 or becomes invalid pursuant to law.

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

208 72.011 Jurisdiction of circuit courts in specific tax
209 matters; administrative hearings and appeals; time for
210 commencing action; parties; deposits.-

211 (1) (a) A taxpayer may contest the legality of any
212 assessment or denial of refund of tax, fee, surcharge, permit,
213 interest, or penalty provided for under s. 125.0104, s.
214 125.0108, chapter 198, chapter 199, chapter 201, chapter 202,
215 chapter 203, chapter 206, chapter 207, chapter 210, chapter 211,
216 chapter 212, chapter 213, chapter 220, chapter 221, s.
217 379.362(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, s.
218 538.09, s. 538.25, chapter 550, chapter 561, chapter 562,
219 chapter 563, chapter 564, chapter 565, chapter 624, or s.
220 681.117 by filing an action in circuit court; or, alternatively,
221 the taxpayer may file a petition under the applicable provisions
222 of chapter 120. However, once an action has been initiated under
223 s. 120.56, s. 120.565, s. 120.569, s. 120.57, or s.
224 120.80(14) (b), no action relating to the same subject matter may
225 be filed by the taxpayer in circuit court, and judicial review
226 shall be exclusively limited to appellate review pursuant to s.
227 120.68; and once an action has been initiated in circuit court,
228 no action may be brought under chapter 120.

229 (b) A taxpayer may not file an action under paragraph (a)
230 to contest an assessment or a denial of refund of any tax, fee,
231 surcharge, permit, interest, or penalty relating to the statutes
232 listed in paragraph (a) until the taxpayer complies with the

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233 applicable registration requirements contained in those statutes
234 which apply to the tax for which the action is filed.

235 (2) (a) An action may not be brought to contest an
236 assessment of any tax, interest, or penalty assessed under a
237 section or chapter specified in subsection (1) if the petition
238 is postmarked or the action is filed more than 60 days after the
239 date the assessment becomes final. An action may not be brought
240 to contest a denial of refund of any tax, interest, or penalty
241 paid under a section or chapter specified in subsection (1) if
242 the petition is postmarked or the action is filed more than 60
243 days after the date the denial becomes final.

244 (b) The date on which an assessment or a denial of refund
245 becomes final and procedures by which a taxpayer must be
246 notified of the assessment or of the denial of refund must be
247 established:

- 248 1. By rule adopted by the Department of Revenue;
- 249 2. With respect to assessments or refund denials under
250 chapter 207, by rule adopted by the Department of Highway Safety
251 and Motor Vehicles;
- 252 3. With respect to assessments or refund denials under
253 chapters 210, 550, 561, 562, 563, 564, and 565, by rule adopted
254 by the Department of Business and Professional Regulation; or
- 255 4. With respect to taxes that a county collects or enforces
256 under s. 125.0104(10) or s. 212.0305(5), by an ordinance that
257 may additionally provide for informal dispute resolution
258 procedures in accordance with s. 213.21.

259 (c) The applicable department or county need not file or
260 docket an assessment or a refund denial with the agency clerk or
261 county official designated by ordinance in order for the

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262 assessment or refund denial to become final for purposes of an
263 action initiated under this chapter or chapter 120.

264 (3) In any action filed in circuit court contesting the
265 legality of any tax, interest, or penalty assessed under a
266 section or chapter specified in subsection (1), the plaintiff
267 must:

268 (a) Pay to the applicable department or county the amount
269 of the tax, penalty, and accrued interest assessed by the
270 department or county which is not being contested by the
271 taxpayer; and ~~either~~

272 (b)1. Tender into the registry of the court with the
273 complaint the amount of the contested assessment complained of,
274 including penalties and accrued interest, unless this
275 requirement is waived in writing by the executive director of
276 the applicable department or by the county official designated
277 by ordinance; or

278 2. File with the complaint a cash bond or a surety bond for
279 the amount of the contested assessment endorsed by a surety
280 company authorized to do business in this state, or by any other
281 security arrangement as may be approved by the court, and
282 conditioned upon payment in full of the judgment, including the
283 taxes, costs, penalties, and interest, unless this requirement
284 is waived in writing by the executive director of the applicable
285 department or by the county official designated by ordinance.

286

287 The Department of Revenue, the Department of Highway Safety and
288 Motor Vehicles, or the Department of Business and Professional
289 Regulation may adopt rules that govern the manner and form in
290 which a plaintiff may request a waiver from the respective

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291 agency. Failure to pay the uncontested amount as required in
292 paragraph (a) shall result in the dismissal of the action and
293 imposition of an additional penalty in the amount of 25 percent
294 of the tax assessed. ~~Provided,~~ However, ~~that~~ if, at any point in
295 the action, it is determined or discovered that a plaintiff, due
296 to a good faith de minimis error, failed to comply with any of
297 the requirements of paragraph (a) or paragraph (b), the
298 plaintiff shall be given a reasonable time within which to
299 comply before the action is dismissed. For purposes of this
300 subsection, there shall be a rebuttable presumption that if the
301 error involves an amount equal to or less than 5 percent of the
302 total assessment the error is de minimis and that if the error
303 is more than 5 percent of the total assessment the error is not
304 de minimis.

305 (4) (a) Except as provided in paragraph (b), an action
306 initiated in circuit court pursuant to subsection (1) shall be
307 filed in the Second Judicial Circuit Court in and for Leon
308 County or in the circuit court in the county where the taxpayer
309 resides, maintains its principal commercial domicile in this
310 state, or, in the ordinary course of business, regularly
311 maintains its books and records in this state.

312 (b) Venue in an action initiated in circuit court pursuant
313 to subsection (1) by a taxpayer that is not a resident of this
314 state or that does not maintain a commercial domicile in this
315 state shall be in Leon County. Venue in an action contesting the
316 legality of an assessment or refund denial arising under chapter
317 198 shall be in the circuit court having jurisdiction over the
318 administration of the estate.

319 (5) The requirements of subsections (1), (2), and (3) are

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320 jurisdictional.

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

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

326 95.091 Limitation on actions to collect taxes.—

327 (1) (a) Except in the case of taxes for which certificates
328 have been sold, taxes enumerated in ss. 72.011 and 443.141 ~~s.~~
329 ~~72.011~~, or tax liens issued under s. 196.161, any tax lien
330 granted by law to the state or any of its political
331 subdivisions, any municipality, any public corporation or body
332 politic, or any other entity having authority to levy and
333 collect taxes shall expire 5 years after the date the tax is
334 assessed or becomes delinquent, whichever is later. No action
335 may be begun to collect any tax after the expiration of the lien
336 securing the payment of the tax.

337 (b) Any tax lien granted by law to the state or any of its
338 political subdivisions for any tax enumerated in s. 72.011 or
339 any tax lien imposed under s. 196.161 shall expire 20 years
340 after the last date the tax may be assessed, after the tax
341 becomes delinquent, or after the filing of a tax warrant,
342 whichever is later. An action to collect any tax enumerated in
343 s. 72.011 may not be commenced after the expiration of the lien
344 securing the payment of the tax.

345 Section 4. Subsection (1) of section 202.125, Florida
346 Statutes, is amended to read:

347 202.125 Sales of communications services; specified
348 exemptions.—

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349 (1) The separately stated sales price of communications
350 services sold to residential households is exempt from the tax
351 imposed by s. 202.12. This exemption shall not apply to any
352 residence that constitutes all or part of a transient public
353 lodging establishment as defined in chapter 509, any mobile
354 communications service, any cable service, or any direct-to-home
355 satellite service.

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

358 212.08 Sales, rental, use, consumption, distribution, and
359 storage tax; specified exemptions.—The sale at retail, the
360 rental, the use, the consumption, the distribution, and the
361 storage to be used or consumed in this state of the following
362 are hereby specifically exempt from the tax imposed by this
363 chapter.

364 (1) EXEMPTIONS; GENERAL GROCERIES.—

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

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

372 1. Cereals and cereal products, baked goods, oleomargarine,
373 meat and meat products, fish and seafood products, frozen foods
374 and dinners, poultry, eggs and egg products, vegetables and
375 vegetable products, fruit and fruit products, spices, salt,
376 sugar and sugar products, milk and dairy products, and products
377 intended to be mixed with milk.

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378 2. Natural fruit or vegetable juices or their concentrates
379 or reconstituted natural concentrated fruit or vegetable juices,
380 whether frozen or unfrozen, dehydrated, powdered, granulated,
381 sweetened or unsweetened, seasoned with salt or spice, or
382 unseasoned; coffee, coffee substitutes, or cocoa; and tea,
383 unless it is sold in a liquid form.

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

386 (c) The exemption provided by this subsection does not
387 apply:

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

390 2. When the food products are furnished, prepared, or
391 served for consumption at tables, chairs, or counters or from
392 trays, glasses, dishes, or other tableware, whether provided by
393 the dealer or by a person with whom the dealer contracts to
394 furnish, prepare, or serve food products to others.

395 3. When the food products are ordinarily sold for immediate
396 consumption on the seller's premises or near a location at which
397 parking facilities are provided primarily for the use of patrons
398 in consuming the products purchased at the location, even though
399 such products are sold on a "take out" or "to go" order and are
400 actually packaged or wrapped and taken from the premises of the
401 dealer.

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

404 5. When the food products are sold ready for immediate
405 consumption within a place, the entrance to which is subject to
406 an admission charge.

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407 6. When the food products are sold as hot prepared food
408 products.

409 7. To soft drinks, which include, but are not limited to,
410 any nonalcoholic beverage, any preparation or beverage commonly
411 referred to as a "soft drink," or any noncarbonated drink made
412 from milk derivatives or tea, when sold in cans or similar
413 containers.

414 8. To ice cream, frozen yogurt, and similar frozen dairy or
415 nondairy products in cones, small cups, or pints, popsicles,
416 frozen fruit bars, or other novelty items, whether or not sold
417 separately.

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

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

424 11. To candy and any similar product regarded as candy or
425 confection, based on its normal use, as indicated on the label
426 or advertising thereof.

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

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

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

434 1. "For consumption off the seller's premises" means that
435 the food or drink is intended by the customer to be consumed at

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436 a place away from the dealer's premises.

437 2. "For consumption on the seller's premises" means that
438 the food or drink sold may be immediately consumed on the
439 premises where the dealer conducts his or her business. In
440 determining whether an item of food is sold for immediate
441 consumption, there shall be considered the customary consumption
442 practices prevailing at the selling facility.

443 3. "Premises" shall be construed broadly, and means, but is
444 not limited to, the lobby, aisle, or auditorium of a theater;
445 the seating, aisle, or parking area of an arena, rink, or
446 stadium; or the parking area of a drive-in or outdoor theater.
447 The premises of a caterer with respect to catered meals or
448 beverages shall be the place where such meals or beverages are
449 served.

450 4. "Hot prepared food products" means those products,
451 items, or components which have been prepared for sale in a
452 heated condition and which are sold at any temperature that is
453 higher than the air temperature of the room or place where they
454 are sold. "Hot prepared food products," for the purposes of this
455 subsection, includes a combination of hot and cold food items or
456 components where a single price has been established for the
457 combination and the food products are sold in such combination,
458 such as a hot meal, a hot specialty dish or serving, or a hot
459 sandwich or hot pizza, including cold components or side items.

460 (e)1. Food or drinks not exempt under paragraphs (a), (b),
461 (c), and (d) shall be exempt, notwithstanding those paragraphs,
462 when purchased with food coupons or Special Supplemental Food
463 Program for Women, Infants, and Children vouchers issued under
464 authority of federal law.

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

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

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

477 1. If the taxable items represent more than 25 percent of
478 the cost of the complete package and a single charge is made,
479 the entire sales price of the package is taxable. If the taxable
480 items are separately stated, the separate charge for the taxable
481 items is subject to tax.

482 2. If the taxable items represent 25 percent or less of the
483 cost of the complete package and a single charge is made, the
484 entire sales price of the package is exempt from tax. The person
485 preparing the package is liable for the tax on the cost of the
486 taxable items going into the complete package. If the taxable
487 items are separately stated, the separate charge is subject to
488 tax.

489 (5) EXEMPTIONS; ACCOUNT OF USE.—

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

492 1. Building materials used in the rehabilitation of real
493 property located in an enterprise zone shall be exempt from the

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494 tax imposed by this chapter upon an affirmative showing to the
495 satisfaction of the department that the items have been used for
496 the rehabilitation of real property located in an enterprise
497 zone. Except as provided in subparagraph 2., this exemption
498 inures to the owner, lessee, or lessor at the time of the
499 ~~rehabilitated~~ real property is rehabilitated, but located in an
500 ~~enterprise zone~~ only through a refund of previously paid taxes.
501 To receive a refund pursuant to this paragraph, the owner,
502 lessee, or lessor of the rehabilitated real property ~~located in~~
503 ~~an enterprise zone~~ must file an application under oath with the
504 governing body or enterprise zone development agency having
505 jurisdiction over the enterprise zone where the business is
506 located, as applicable. A single application for a refund may be
507 submitted for multiple, contiguous parcels that were part of a
508 single parcel that was divided as part of the rehabilitation of
509 the property. All other requirements of this paragraph apply to
510 each parcel on an individual basis. The application must
511 include, which includes:

- 512 a. The name and address of the person claiming the refund.
- 513 b. An address and assessment roll parcel number of the
514 rehabilitated real property ~~in an enterprise zone~~ for which a
515 refund of previously paid taxes is being sought.
- 516 c. A description of the improvements made to accomplish the
517 rehabilitation of the real property.
- 518 d. A copy of a valid the building permit issued by the
519 county or municipal building department for the rehabilitation
520 of the real property.
- 521 e. A sworn statement, under ~~the~~ penalty of perjury, from
522 the general contractor licensed in this state with whom the

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523 applicant contracted to make the improvements necessary to
524 rehabilitate ~~accomplish the rehabilitation of~~ the real property,
525 which ~~statement~~ lists the building materials used to
526 rehabilitate ~~in the rehabilitation of~~ the real property, the
527 actual cost of the building materials, and the amount of sales
528 tax paid in this state on the building materials. If ~~In the~~
529 ~~event that~~ a general contractor has not been used, the applicant
530 shall provide this information in a sworn statement, under ~~the~~
531 penalty of perjury. Copies of the invoices which evidence the
532 purchase of the building materials used in the ~~such~~
533 rehabilitation and the payment of sales tax on the building
534 materials shall be attached to the sworn statement ~~provided by~~
535 ~~the general contractor or by the applicant~~. Unless the actual
536 cost of building materials used in the rehabilitation of real
537 property and the payment of sales taxes ~~due thereon~~ is
538 documented by a general contractor or by the applicant in this
539 manner, the cost of the ~~such~~ building materials shall be an
540 amount equal to 40 percent of the increase in assessed value for
541 ad valorem tax purposes.

542 f. The identifying number assigned pursuant to s. 290.0065
543 to the enterprise zone in which the rehabilitated real property
544 is located.

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

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

550 i. If applicable, the name and address of each permanent
551 employee of the business, including, for each employee who is a

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552 resident of an enterprise zone, the identifying number assigned
553 pursuant to s. 290.0065 to the enterprise zone in which the
554 employee resides.

555 2. This exemption inures to a municipality ~~city~~, county,
556 other governmental unit or agency, or nonprofit community-based
557 organization through a refund of previously paid taxes if the
558 building materials used in the rehabilitation of real property
559 located in an enterprise zone are paid for from the funds of a
560 community development block grant, State Housing Initiatives
561 Partnership Program, or similar grant or loan program. To
562 receive a refund ~~pursuant to this paragraph~~, a municipality
563 ~~city~~, county, other governmental unit or agency, or nonprofit
564 community-based organization must file an application that ~~which~~
565 includes the same information required ~~to be provided~~ in
566 subparagraph 1. ~~by an owner, lessee, or lessor of rehabilitated~~
567 ~~real property~~. In addition, the application must include a sworn
568 statement signed by the chief executive officer of the
569 municipality ~~city~~, county, other governmental unit or agency, or
570 nonprofit community-based organization seeking a refund which
571 states that the building materials for which a refund is sought
572 were funded by ~~paid for from the funds of~~ a community
573 development block grant, State Housing Initiatives Partnership
574 Program, or similar grant or loan program.

575 3. Within 10 working days after receipt of an application,
576 the governing body or enterprise zone development agency shall
577 review the application to determine if it contains all the
578 information required under ~~pursuant to~~ subparagraph 1. or
579 subparagraph 2. and meets the criteria set out in this
580 paragraph. The governing body or agency shall certify all

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581 applications that contain the required information ~~required~~
582 ~~pursuant to subparagraph 1. or subparagraph 2.~~ and are ~~meet the~~
583 ~~criteria set out in this paragraph as~~ eligible to receive a
584 refund. If applicable, the governing body or agency shall also
585 certify if 20 percent of the employees of the business are
586 residents of an enterprise zone, excluding temporary and part-
587 time employees. The certification must ~~shall~~ be in writing, and
588 a copy of the certification shall be transmitted to the
589 executive director of the Department of Revenue. The applicant
590 is ~~shall be~~ responsible for forwarding a certified application
591 to the department within the time specified in subparagraph 4.

592 4. An application for a refund ~~pursuant to this paragraph~~
593 must be submitted to the department within 6 months after the
594 rehabilitation of the property is deemed to be substantially
595 completed by the local building code inspector or by November 1
596 ~~September 1~~ after the rehabilitated property is first subject to
597 assessment.

598 5. Only ~~Not more than~~ one exemption through a refund of
599 previously paid taxes for the rehabilitation of real property is
600 ~~shall be~~ permitted for any single parcel of property unless
601 there is a change in ownership, a new lessor, or a new lessee of
602 the real property. A ~~No~~ refund may not ~~shall~~ be granted ~~pursuant~~
603 ~~to this paragraph~~ unless the amount to be refunded exceeds \$500.
604 A ~~No~~ refund may not ~~granted pursuant to this paragraph shall~~
605 exceed the lesser of 97 percent of the Florida sales or use tax
606 paid on the cost of the building materials used in the
607 rehabilitation of the real property as determined pursuant to
608 sub-subparagraph 1.e. or \$5,000, or, if no less than 20 percent
609 of the employees of the business are residents of an enterprise

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610 zone, excluding temporary and part-time employees, the amount of
611 refund may ~~granted pursuant to this paragraph shall~~ not exceed
612 the lesser of 97 percent of the sales tax paid on the cost of
613 the ~~such~~ building materials or \$10,000. A refund ~~approved~~
614 ~~pursuant to this paragraph~~ shall be made within 30 days after ~~of~~
615 formal approval by the department of the application for the
616 refund. ~~This subparagraph shall apply retroactively to July 1,~~
617 ~~2005.~~

618 6. The department shall adopt rules governing the manner
619 and form of refund applications and may establish guidelines as
620 to the requisites for an affirmative showing of qualification
621 for exemption under this paragraph.

622 7. The department shall deduct an amount equal to 10
623 percent of each refund granted under the provisions of this
624 paragraph from the amount transferred into the Local Government
625 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20
626 for the county area in which the rehabilitated real property is
627 located and shall transfer that amount to the General Revenue
628 Fund.

629 8. For the purposes of the exemption provided in this
630 paragraph, the term:

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

633 b. "Real property" has the same meaning as provided in s.
634 192.001(12).

635 c. "Rehabilitation of real property" means the
636 reconstruction, renovation, restoration, rehabilitation,
637 construction, or expansion of improvements to real property.

638 d. "Substantially completed" has the same meaning as

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639 provided in s. 192.042(1).

640 9. This paragraph expires on the date specified in s.
641 290.016 for the expiration of the Florida Enterprise Zone Act.

642 Section 6. Effective upon this act becoming a law and
643 operating retroactively to July 1, 2008, paragraph (y) of
644 subsection (8) of section 213.053, Florida Statutes, is amended
645 to read:

646 213.053 Confidentiality and information sharing.—

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

649 (y) Information relative to ss. 212.08(7)(ccc) and 220.192
650 to the Florida Energy and Climate Commission ~~Department of~~
651 ~~Environmental Protection~~ for use in the conduct of its official
652 business.

653
654 Disclosure of information under this subsection shall be
655 pursuant to a written agreement between the executive director
656 and the agency. Such agencies, governmental or nongovernmental,
657 shall be bound by the same requirements of confidentiality as
658 the Department of Revenue. Breach of confidentiality is a
659 misdemeanor of the first degree, punishable as provided by s.
660 775.082 or s. 775.083.

661 Section 7. Effective July 1, 2009, subsection (5) and
662 paragraph (d) of subsection (8) of section 213.053, Florida
663 Statutes, are amended, paragraph (z) is added to subsection (8)
664 of that section, and subsection (19) is added to that section,
665 to read:

666 213.053 Confidentiality and information sharing.—

667 (5) This section does not prohibit ~~Nothing contained in~~

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668 ~~this section shall prevent~~ the department from:

669 (a) Publishing statistics so classified as to prevent the
670 identification of particular accounts, reports, declarations, or
671 returns; or

672 (b) Using telephones, electronic mail, facsimile machines,
673 or other electronic means to:

674 1. Distribute information relating to changes in law, tax
675 rates, or interest rates, or other information that is not
676 specific to a particular taxpayer;

677 2. Remind taxpayers of due dates;

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

681 4. Notify taxpayers to contact the department. ~~Disclosing~~
682 ~~to the Chief Financial Officer the names and addresses of those~~
683 ~~taxpayers who have claimed an exemption pursuant to former s.~~
684 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

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

687 (d) Names, addresses, ~~and~~ sales tax registration
688 information, and information relating to s. 213.50 to the
689 Division of Hotels and Restaurants of the Department of Business
690 and Professional Regulation in the conduct of its official
691 duties.

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

695

696 Disclosure of information under this subsection shall be

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697 pursuant to a written agreement between the executive director
698 and the agency. Such agencies, governmental or nongovernmental,
699 shall be bound by the same requirements of confidentiality as
700 the Department of Revenue. Breach of confidentiality is a
701 misdemeanor of the first degree, punishable as provided by s.
702 775.082 or s. 775.083.

703 (19) (a) The department may publish a list of taxpayers
704 against whom it has filed a warrant or judgment lien
705 certificate. The list includes the name and address of each
706 taxpayer; the amounts and types of delinquent taxes, fees or
707 surcharges, penalties, or interest; and the employer
708 identification number or other taxpayer identification number.

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

712 (c) The department may adopt rules to administer this
713 subsection.

714 Section 8. Effective July 1, 2009, section 213.0532,
715 Florida Statutes, is created to read:

716 213.0532 Agreements with financial institutions.-

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

718 (a) "Account" means a demand deposit account, checking or
719 negotiable withdrawal order account, savings account, time
720 deposit account, or money-market mutual fund account.

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

722 (c) "Financial institution" means:

723 1. A depository institution as defined in 12 U.S.C. s.
724 1813(c);

725 2. An institution-affiliated party as defined in 12 U.S.C.

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726 s. 1813(u);

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

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

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

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

736 (2) The department shall request information and assistance
737 from a financial institution as necessary to enforce the tax
738 laws of the state.

739 (a) Financial institutions doing business in the state and
740 having deposits of \$50 million or more shall enter into
741 agreements with the department to develop and operate a data
742 match system, using an automated data exchange to the maximum
743 extent feasible, in which the financial institution must
744 provide, to the extent allowable by law, for each calendar
745 quarter the name, record address, social security number or
746 other taxpayer identification number, average daily account
747 balance, and other identifying information for:

748 1. Each obligor who maintains an account at the financial
749 institution as identified to the institution by the department
750 by name and social security number or other taxpayer
751 identification number; or

752 2. At the financial institution's option, each person who
753 maintains an account at the institution.

754 (b) The department may pursue agreements described in

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755 paragraph (a) with financial institutions doing business in this
756 state which have less than \$50 million in deposits.

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

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

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

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

770 (a) Disclosing to the department any information required
771 under this section.

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

775 (c) Disclosing any information in connection with a data
776 match.

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

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

782 (8) The department may adopt rules to establish the
783 procedures and requirements for conducting automated data

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784 matches with financial institutions pursuant to this section.

785 Section 9. Effective July 1, 2009, section 213.25, Florida
786 Statutes, is amended to read:

787 213.25 Refunds; credits; right of setoff.-~~If In any~~
788 ~~instance that a taxpayer has a tax refund or tax credit is due~~
789 ~~to a taxpayer for an overpayment of taxes assessed under any of~~
790 ~~the chapters specified in s. 72.011(1), the department may~~
791 ~~reduce the such~~ refund or credit to the extent of any billings
792 not subject to protest under s. 213.21 or chapter 443 for ~~the~~
793 ~~same or any other~~ tax owed by the ~~same~~ taxpayer.

794 Section 10. Effective July 1, 2009, section 213.50, Florida
795 Statutes, is amended to read:

796 213.50 Failure to comply; revocation of corporate charter
797 or hotel or restaurant license; refusal to reinstate charter or
798 hotel or restaurant license.-

799 (1) Any corporation of this state which has an outstanding
800 tax warrant that has existed for more than 3 consecutive months
801 is subject to the revocation of its charter as provided in s.
802 607.1420.

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

807 (3) The Department of Business and Professional Regulation
808 may revoke the hotel or restaurant license of a licenseholder if
809 a tax warrant has been outstanding against the licenseholder for
810 more than 3 months.

811 (4) The Department of Business and Professional Regulation
812 may deny an application to renew the hotel or restaurant license

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813 of a licenseholder if a tax warrant has been outstanding against
814 the licenseholder for more than 3 months.

815 Section 11. Effective July 1, 2009, subsection (8) of
816 section 213.67, Florida Statutes, is amended to read:

817 213.67 Garnishment.—

818 (8) An action may not be brought to contest a notice of
819 intent to levy under chapter 120 or in circuit court if the
820 petition is postmarked or the action is filed more, later than
821 21 days after the date of receipt of the notice of intent to
822 levy.

823 Section 12. Section 213.758, Florida Statutes, is created
824 to read:

825 213.758 Transfer of tax liabilities.—

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

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

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

833 2. Transfer that results from eminent domain and
834 condemnation actions;

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

837 4. Transfer to a financial institution, as defined in s.
838 655.005, if the transfer is made to satisfy the transferor's
839 debt to the financial institution; or

840 5. Transfer to a third party to the extent that the
841 proceeds are used to satisfy the transferor's indebtedness to a

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842 financial institution as defined in s. 655.005. If the third
843 party receives assets worth more than the indebtedness, the
844 transfer of the excess may not be deemed an involuntary
845 transfer.

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

850 (2) A taxpayer who is liable for any tax, interest,
851 penalty, surcharge, or fee administered by the department in
852 accordance with chapter 443 or s. 72.011(1), excluding corporate
853 income tax, and who quits a business without the benefit of a
854 purchaser, successor, or assignee, or without transferring the
855 business or stock of goods to a transferee, must file a final
856 return and make full payment within 15 days after quitting the
857 business. A taxpayer who fails to file a final return and make
858 payment may not engage in any business in the state until the
859 final return has been filed and the all tax, interest, or
860 penalties due have been paid. The Department of Legal Affairs
861 may seek an injunction at the request of the department to
862 prevent further business activity until such tax, interest, or
863 penalties are paid. A temporary injunction enjoining further
864 business activity may be granted by a court without notice.

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

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

875 1. The transferor provides a receipt or certificate from
876 the department to the transferee showing that the transferor is
877 not liable for taxes, interest, or penalties from the operation
878 of the business; and

879 2. The department finds that the transferor is not liable
880 for taxes, interest, or penalties after an audit of the
881 transferor's books and records. The audit may be requested by
882 the transferee or the transferor. The department may charge a
883 fee for the cost of the audit if it has not issued a notice of
884 intent to audit by the time the request for the audit is
885 received.

886 (b) A transferee may withhold a portion of the
887 consideration for a business or stock of goods to pay the taxes,
888 interest, or penalties owed to the state from the operation of
889 the business. The transferee shall pay the withheld
890 consideration to the state within 30 days after the date of the
891 transfer. If the consideration withheld is less than the
892 transferor's liability, the transferor remains liable for the
893 deficiency.

894 (c) A transferee who acquires the business or stock of
895 goods and fails to pay the taxes, interest, or penalties due,
896 may not engage in any business in the state until the taxes,
897 interest, or penalties are paid. The Department of Legal Affairs
898 may seek an injunction at the request of the department to
899 prevent further business activity until such tax, interest, or

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900 penalties are paid. A temporary injunction enjoining further
901 business activity may be granted by a court without notice.

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

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

910 (7) After notice by the department of transferee liability
911 under this section, the transferee shall have 60 days within
912 which to file an action to contest the determination of
913 transferee liability pursuant to chapter 72.

914 (8) This section does not impose liability on a transferee
915 of a business or stock of goods pursuant to an involuntary
916 transfer.

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

919 Section 13. Effective upon this act becoming a law and
920 operating retroactively to July 1, 2008, subsections (4) and (5)
921 of section 220.192, Florida Statutes, are amended to read:

922 220.192 Renewable energy technologies investment tax
923 credit.—

924 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
925 this section, each taxpayer must apply to the Florida Energy and
926 Climate Commission ~~Department of Environmental Protection~~ for an
927 allocation of each type of annual credit by the date established
928 by the Florida Energy and Climate Commission ~~Department of~~

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929 ~~Environmental Protection.~~ The application form may be
930 established by the Florida Energy and Climate Commission. The
931 form must ~~Department of Environmental Protection and shall~~
932 include an affidavit from each taxpayer certifying that all
933 information contained in the application, including all records
934 of eligible costs claimed as the basis for the tax credit, are
935 true and correct. Approval of the credits under this section
936 shall be accomplished on a first-come, first-served basis, based
937 upon the date complete applications are received by the Florida
938 Energy and Climate Commission ~~Department of Environmental~~
939 ~~Protection~~. A taxpayer shall submit only one complete
940 application based upon eligible costs incurred within a
941 particular state fiscal year. Incomplete placeholder
942 applications will not be accepted and will not secure a place in
943 the first-come, first-served application line. If a taxpayer
944 does not receive a tax credit allocation due to the exhaustion
945 of the annual tax credit authorizations, then such taxpayer may
946 reapply in the following year for those eligible costs and will
947 have priority over other applicants for the allocation of
948 credits.

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

950 (a) In addition to its existing audit and investigation
951 authority, the Department of Revenue may perform any additional
952 financial and technical audits and investigations, including
953 examining the accounts, books, and records of the tax credit
954 applicant, which ~~that~~ are necessary to verify the eligible costs
955 included in the tax credit return and to ensure compliance with
956 this section. The Florida Energy and Climate Commission
957 ~~Department of Environmental Protection~~ shall provide technical

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958 assistance when requested by the Department of Revenue on any
959 technical audits or examinations performed pursuant to this
960 section.

961 (b) It is grounds for forfeiture of previously claimed and
962 received tax credits if the Department of Revenue determines, as
963 a result of ~~either~~ an audit or examination or from information
964 received from the Florida Energy and Climate Commission
965 ~~Department of Environmental Protection~~, that a taxpayer received
966 tax credits pursuant to this section to which the taxpayer was
967 not entitled. The taxpayer is responsible for returning
968 forfeited tax credits to the Department of Revenue, and such
969 funds shall be paid into the General Revenue Fund of the state.

970 (c) The Florida Energy and Climate Commission ~~Department of~~
971 ~~Environmental Protection~~ may revoke or modify any written
972 decision granting eligibility for tax credits under this section
973 if it is discovered that the tax credit applicant submitted any
974 false statement, representation, or certification in any
975 application, record, report, plan, or other document filed in an
976 attempt to receive tax credits under this section. The Florida
977 Energy and Climate Commission ~~Department of Environmental~~
978 ~~Protection~~ shall immediately notify the Department of Revenue of
979 any revoked or modified orders affecting previously granted tax
980 credits. Additionally, the taxpayer must notify the Department
981 of Revenue of any change in its tax credit claimed.

982 (d) The taxpayer shall file with the Department of Revenue
983 an amended return or such other report as the Department of
984 Revenue prescribes by rule and shall pay any required tax and
985 interest within 60 days after the taxpayer receives notification
986 from the Florida Energy and Climate Commission ~~Department of~~

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987 ~~Environmental Protection~~ that previously approved tax credits
988 have been revoked or modified. If the revocation or modification
989 order is contested, the taxpayer shall file an amended return or
990 other report as provided in this paragraph within 60 days after
991 a final order is issued following proceedings.

992 (e) A notice of deficiency may be issued by the Department
993 of Revenue at any time within 3 years after the taxpayer
994 receives formal notification from the Florida Energy and Climate
995 Commission ~~Department of Environmental Protection~~ that
996 previously approved tax credits have been revoked or modified.
997 If a taxpayer fails to notify the Department of Revenue of any
998 changes to its tax credit claimed, a notice of deficiency may be
999 issued at any time.

1000 Section 14. Effective July 1, 2009, paragraph (c) of
1001 subsection (1) of section 336.021, Florida Statutes, is amended
1002 to read:

1003 336.021 County transportation system; levy of ninth-cent
1004 fuel tax on motor fuel and diesel fuel.—

1005 (1)

1006 (c) Local option taxes collected on sales or use of diesel
1007 fuel in this state shall be distributed in the following manner:

1008 1. The fiscal year of July 1, 1995, through June 30, 1996,
1009 shall be the base year for all distributions.

1010 2. Each year the tax collected, less the service and
1011 administrative charges enumerated in s. 215.20 and the
1012 allowances allowed under s. 206.91, on the number of gallons
1013 reported, up to the total number of gallons reported in the base
1014 year, shall be distributed to each county using the distribution
1015 percentage calculated for the base year.

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1016 3. After the distribution of taxes pursuant to subparagraph
1017 4. ~~2.~~, additional taxes available for distribution shall first
1018 be distributed pursuant to this subparagraph. A distribution
1019 shall be made to each county in which a qualified new retail
1020 station is located. A qualified new retail station is a retail
1021 station that began operation after June 30, 1996, and that has
1022 sales of diesel fuel exceeding 50 percent of the sales of diesel
1023 fuel reported in the county in which it is located during the
1024 1995-1996 state fiscal year. The determination of whether a new
1025 retail station is qualified shall be based on the total gallons
1026 of diesel fuel sold at the station during each full month of
1027 operation during the 12-month period ending January 31, divided
1028 by the number of full months of operation during those 12
1029 months, and the result multiplied by 12. The amount distributed
1030 pursuant to this subparagraph to each county in which a
1031 qualified new retail station is located shall equal the local
1032 option taxes due on the gallons of diesel fuel sold by the new
1033 retail station during the year ending January 31, less the
1034 service charges enumerated in s. 215.20 and the dealer allowance
1035 provided for by s. 206.91. Gallons of diesel fuel sold at the
1036 qualified new retail station shall be certified to the
1037 department by the county requesting the additional distribution
1038 by June 15, 1997, and by March 1 in each subsequent year. The
1039 certification shall include the beginning inventory, fuel
1040 purchases and sales, and the ending inventory for the new retail
1041 station for each month of operation during the year, the
1042 original purchase invoices for the period, and any other
1043 information the department deems reasonable and necessary to
1044 establish the certified gallons. The department may review and

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1045 audit the retail dealer's records provided to a county to
1046 establish the gallons sold by the new retail station.
1047 Notwithstanding the provisions of this subparagraph, when more
1048 than one county qualifies for a distribution pursuant to this
1049 subparagraph and the requested distributions exceed the total
1050 taxes available for distribution, each county shall receive a
1051 prorated share of the moneys available for distribution.

1052 4. After the distribution of taxes pursuant to subparagraph
1053 2. 3., all additional taxes available for distribution, except
1054 the taxes described in subparagraph 3., shall be distributed
1055 based on vehicular diesel fuel storage capacities in each county
1056 pursuant to this subparagraph. The total vehicular diesel fuel
1057 storage capacity shall be established for each fiscal year based
1058 on the registration of facilities with the Department of
1059 Environmental Protection as required by s. 376.303 for the
1060 following facility types: retail stations, fuel user/nonretail,
1061 state government, local government, and county government. Each
1062 county shall receive a share of the total taxes available for
1063 distribution pursuant to this subparagraph equal to a fraction,
1064 the numerator of which is the storage capacity located within
1065 the county for vehicular diesel fuel in the facility types
1066 listed in this subparagraph and the denominator of which is the
1067 total statewide storage capacity for vehicular diesel fuel in
1068 those facility types. The vehicular diesel fuel storage capacity
1069 for each county and facility type shall be that established by
1070 the Department of Environmental Protection by June 1, 1997, for
1071 the 1996-1997 fiscal year, and by January 31 for each succeeding
1072 fiscal year. The storage capacities so established shall be
1073 final. The storage capacity for any new retail station for which

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1074 a county receives a distribution pursuant to subparagraph 3.
1075 shall not be included in the calculations pursuant to this
1076 subparagraph.

1077 Section 15. Subsection (20) of section 443.036, Florida
1078 Statutes, is amended to read:

1079 443.036 Definitions.—As used in this chapter, the term:

1080 (20) "Employing unit" means an individual or type of
1081 organization, including a partnership, limited liability
1082 company, association, trust, estate, joint-stock company,
1083 insurance company, or corporation, whether domestic or foreign;
1084 the receiver, trustee in bankruptcy, trustee, or successor of
1085 any of the foregoing; or the legal representative of a deceased
1086 person, which has or had in its employ one or more individuals
1087 performing services for it within this state.

1088 (a) Each individual employed to perform or to assist in
1089 performing the work of any agent or employee of an employing
1090 unit is deemed to be employed by the employing unit for the
1091 purposes of this chapter, regardless of whether the individual
1092 was hired or paid directly by the employing unit or by an agent
1093 or employee of the employing unit, if the employing unit had
1094 actual or constructive knowledge of the work.

1095 (b) Each individual performing services in this state for
1096 an employing unit maintaining at least two separate
1097 establishments in this state is deemed to be performing services
1098 for a single employing unit for the purposes of this chapter.

1099 (c) A person who is an officer of a corporation, or a
1100 member of a limited liability company classified as a
1101 corporation for federal income tax purposes, and who performs
1102 services for the corporation or limited liability company in

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1103 this state, regardless of whether those services are continuous,
1104 is deemed an employee of the corporation or the limited
1105 liability company during all of each week of his or her tenure
1106 of office, regardless of whether he or she is compensated for
1107 those services. Services are presumed to be rendered for the
1108 corporation in cases in which the officer is compensated by
1109 means other than dividends upon shares of stock of the
1110 corporation owned by him or her.

1111 (d) A limited liability company shall be treated as having
1112 the same status as it is classified for federal income tax
1113 purposes. However, a single-member limited liability company
1114 shall be treated as the employer.

1115 Section 16. Paragraph (b) of subsection (2) of section
1116 443.1215, Florida Statutes, is amended to read:

1117 443.1215 Employers.—

1118 (2)

1119 (b) In determining whether an employing unit for which
1120 service, other than agricultural labor, is also performed is an
1121 employer under paragraph (1)(a), paragraph (1)(b), paragraph
1122 (1)(c), or subparagraph (1)(d)2., the wages earned or the
1123 employment of an employee performing service in agricultural
1124 labor may not be taken into account. If an employing unit is
1125 determined to be an employer of agricultural labor, the
1126 employing unit is considered an employer for purposes of
1127 paragraph (1)(a) ~~subsection (1)~~.

1128 Section 17. Subsection (2) of section 443.1316, Florida
1129 Statutes, is amended to read:

1130 443.1316 Unemployment tax collection services; interagency
1131 agreement.—

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1132 (2) (a) The Department of Revenue is considered to be
1133 administering a revenue law of this state when the department
1134 implements this chapter, or otherwise provides unemployment tax
1135 collection services, under contract with the Agency for
1136 Workforce Innovation through the interagency agreement.

1137 (b) Sections 213.015(1)-(3), (5)-(7), (9)-(19), and (21);
1138 213.018; 213.025; 213.051; 213.053; 213.0532; 213.0535; 213.055;
1139 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25;
1140 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37;
1141 213.50; 213.67; 213.69; 213.691; 213.692; 213.73; 213.733;
1142 213.74; ~~and 213.757~~; and 213.758 apply to the collection of
1143 unemployment contributions and reimbursements by the Department
1144 of Revenue unless prohibited by federal law.

1145 Section 18. Section 443.141, Florida Statutes, is amended
1146 to read:

1147 443.141 Collection of contributions and reimbursements.—

1148 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
1149 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

1150 (a) *Interest.*—Contributions or reimbursements unpaid on the
1151 date due shall bear interest at the rate of 1 percent per month
1152 from and after that date until payment plus accrued interest is
1153 received by the tax collection service provider, unless the
1154 service provider finds that the employing unit has or had good
1155 reason for failure to pay the contributions or reimbursements
1156 when due. Interest collected under this subsection must be paid
1157 into the Special Employment Security Administration Trust Fund.

1158 (b) *Penalty for delinquent, erroneous, incomplete, or*
1159 *insufficient reports.*—

1160 1. An employing unit that fails to file any report required

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1161 by the Agency for Workforce Innovation or its tax collection
1162 service provider, in accordance with rules for administering
1163 this chapter, shall pay to the tax collection service provider
1164 for each delinquent report the sum of \$25 for each 30 days or
1165 fraction thereof that the employing unit is delinquent, unless
1166 the agency or its service provider, whichever required the
1167 report, finds that the employing unit has or had good reason for
1168 failure to file the report. The agency or its service provider
1169 may assess penalties only through the date of the issuance of
1170 the final assessment notice. However, additional penalties
1171 accrue if the delinquent report is subsequently filed.

1172 2.a. An employing unit that files an erroneous, incomplete,
1173 or insufficient report with the Agency for Workforce Innovation
1174 or its tax collection service provider, shall pay a penalty. The
1175 amount of the penalty is \$50 or 10 percent of any tax due,
1176 whichever is greater, but no more than \$300 per report. The
1177 penalty shall be added to any tax, penalty, or interest
1178 otherwise due.

1179 b. The agency or its tax collection service provider shall
1180 waive the penalty if the employing unit files an accurate,
1181 complete, and sufficient report within 30 days after a penalty
1182 notice is issued to the employing unit. The penalty may not be
1183 waived more than one time during a 12-month period.

1184 c. As used in this subsection, the term "erroneous,
1185 incomplete, or insufficient report" means a report so lacking in
1186 information, completeness, or arrangement that the report cannot
1187 be readily understood, verified, or reviewed. Such reports
1188 include, but are not limited to, reports having missing wage or
1189 employee information, missing or incorrect social security

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1190 numbers, or illegible entries; reports submitted in a format
1191 that is not approved by the agency or its tax collection service
1192 provider; and reports showing gross wages that do not equal the
1193 total of the wages of each employee. However, the term does not
1194 include a report that merely contains inaccurate data that was
1195 supplied to the employer by the employee, if the employer was
1196 unaware of the inaccuracy.

1197 3.2. Sums collected as Penalties imposed pursuant to this
1198 paragraph shall under subparagraph 1. must be deposited in the
1199 Special Employment Security Administration Trust Fund.

1200 4.3. The penalty and interest for a delinquent, erroneous,
1201 incomplete, or insufficient report may be waived if when the
1202 penalty or interest is inequitable. The provisions of s.
1203 213.24(1) apply to any penalty or interest that is imposed under
1204 this section.

1205 5. The Agency for Workforce Innovation and the state agency
1206 providing unemployment tax collection services may adopt rules
1207 to administer this subsection.

1208 (c) Application of partial payments.—If when a delinquency
1209 exists in the employment record of an employer not in
1210 bankruptcy, a partial payment less than the total delinquency
1211 amount shall be applied to the employment record as the payor
1212 directs. In the absence of specific direction, the partial
1213 payment shall be applied to the payor's employment record as
1214 prescribed in the rules of the Agency for Workforce Innovation
1215 or the state agency providing tax collection services.

1216 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

1217 (a) Failure to make reports and pay contributions.—If an
1218 employing unit determined by the tax collection service provider

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1219 to be an employer subject to this chapter fails to make and file
1220 any report as and when required by this chapter or by any rule
1221 of the Agency for Workforce Innovation or the state agency
1222 providing tax collection services, for the purpose of
1223 determining the amount of contributions due by the employer
1224 under this chapter, or if any filed report is found by the
1225 service provider to be incorrect or insufficient, and the
1226 employer, after being notified in writing by the service
1227 provider to file the report, or a corrected or sufficient
1228 report, as applicable, fails to file the report within 15 days
1229 after the date of the mailing of the notice, the tax collection
1230 service provider may:

1231 1. Determine the amount of contributions due from the
1232 employer based on the information readily available to it, which
1233 determination is deemed to be prima facie correct;

1234 2. Assess the employer the amount of contributions
1235 determined to be due; and

1236 3. Immediately notify the employer by mail of the
1237 determination and assessment including penalties as provided in
1238 this chapter, if any, added and assessed, and demand payment
1239 together with interest on the amount of contributions from the
1240 date that amount was due and payable.

1241 (b) *Hearings.*—The determination and assessment are final 15
1242 days after the date the assessment is mailed unless the employer
1243 files with the tax collection service provider within the 15
1244 days a written protest and petition for hearing specifying the
1245 objections thereto. The tax collection service provider shall
1246 promptly review each petition and may reconsider its
1247 determination and assessment in order to resolve the

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1248 petitioner's objections. The tax collection service provider
1249 shall forward each petition remaining unresolved to the Agency
1250 for Workforce Innovation for a hearing on the objections. Upon
1251 receipt of a petition, the Agency for Workforce Innovation shall
1252 schedule a hearing and notify the petitioner of the time and
1253 place of the hearing. The Agency for Workforce Innovation may
1254 appoint special deputies to conduct hearings and to submit their
1255 findings together with a transcript of the proceedings before
1256 them and their recommendations to the agency for its final
1257 order. Special deputies are subject to the prohibition against
1258 ex parte communications in s. 120.66. At any hearing conducted
1259 by the Agency for Workforce Innovation or its special deputy,
1260 evidence may be offered to support the determination and
1261 assessment or to prove it is incorrect. In order to prevail,
1262 however, the petitioner must either prove that the determination
1263 and assessment are incorrect or file full and complete corrected
1264 reports. Evidence may also be submitted at the hearing to rebut
1265 the determination by the tax collection service provider that
1266 the petitioner is an employer under this chapter. Upon evidence
1267 taken before it or upon the transcript submitted to it with the
1268 findings and recommendation of its special deputy, the Agency
1269 for Workforce Innovation shall either set aside the tax
1270 collection service provider's determination that the petitioner
1271 is an employer under this chapter or reaffirm the determination.
1272 The amounts assessed under the final order, together with
1273 interest and penalties, must be paid within 15 days after notice
1274 of the final order is mailed to the employer, unless judicial
1275 review is instituted in a case of status determination. Amounts
1276 due when the status of the employer is in dispute are payable

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1277 within 15 days after the entry of an order by the court
1278 affirming the determination. However, any determination that an
1279 employing unit is not an employer under this chapter does not
1280 affect the benefit rights of any individual as determined by an
1281 appeals referee or the commission unless:

1282 1. The individual is made a party to the proceedings before
1283 the special deputy; or

1284 2. The decision of the appeals referee or the commission
1285 has not become final or the employing unit and the Agency for
1286 Workforce Innovation were not made parties to the proceedings
1287 before the appeals referee or the commission.

1288 (c) *Appeals.*—The Agency for Workforce Innovation and the
1289 state agency providing unemployment tax collection services
1290 shall adopt rules prescribing the procedures for an employing
1291 unit determined to be an employer to file an appeal and be
1292 afforded an opportunity for a hearing on the determination.
1293 Pending a hearing, the employing unit must file reports and pay
1294 contributions in accordance with s. 443.131.

1295 (3) COLLECTION PROCEEDINGS.—

1296 (a) *Lien for payment of contributions or reimbursements.*—

1297 1. ~~There is created~~ A lien exists in favor of the tax
1298 collection service provider upon all the property, both real and
1299 personal, of any employer liable for payment of any contribution
1300 or reimbursement levied and imposed under this chapter for the
1301 amount of the contributions or reimbursements due, together with
1302 any interest, costs, and penalties. If any contribution or
1303 reimbursement imposed under this chapter or any portion of that
1304 contribution, reimbursement, interest, or penalty is not paid
1305 within 60 days after becoming delinquent, the tax collection

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1306 service provider may file ~~subsequently issue~~ a notice of lien
1307 ~~that may be filed~~ in the office of the clerk of the circuit
1308 court of any county in which the delinquent employer owns
1309 property or ~~has conducted~~ business. The notice of lien must
1310 include the periods for which the contributions, reimbursements,
1311 interest, or penalties are demanded and the amounts due. A copy
1312 of the notice of lien must be mailed to the employer at the
1313 employer's ~~her or his~~ last known address. The notice of lien may
1314 not be filed ~~issued and recorded~~ until 15 days after the date
1315 the assessment becomes final under subsection (2). Upon filing
1316 ~~presentation of the notice of lien~~, the clerk of the circuit
1317 court shall record the notice of lien ~~it~~ in a book maintained
1318 for that purpose, and the amount of the notice of lien, together
1319 with the cost of recording and interest accruing upon the amount
1320 of the contribution or reimbursement, becomes a lien upon the
1321 title to and interest, whether legal or equitable, in any real
1322 property, chattels real, or personal property of the employer
1323 against whom the notice of lien is issued, in the same manner as
1324 a judgment of the circuit court docketed in the office of the
1325 circuit court clerk, with execution issued to the sheriff for
1326 levy. This lien is prior, preferred, and superior to all
1327 mortgages or other liens filed, recorded, or acquired after the
1328 notice of lien is filed. Upon the payment of the amounts due, or
1329 upon determination by the tax collection service provider that
1330 the notice of lien was erroneously issued, the lien is satisfied
1331 when the service provider acknowledges in writing that the lien
1332 is fully satisfied. A lien's satisfaction does not need to be
1333 acknowledged before any notary or other public officer, and the
1334 signature of the director of the tax collection service provider

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1335 or his or her designee is conclusive evidence of the
1336 satisfaction of the lien, which satisfaction shall be recorded
1337 by the clerk of the circuit court who receives the fees for
1338 those services.

1339 2. The tax collection service provider may subsequently
1340 issue a warrant directed to any sheriff in this state,
1341 commanding him or her to levy upon and sell any real or personal
1342 property of the employer liable for any amount under this
1343 chapter within his or her jurisdiction, for payment, with the
1344 added penalties and interest and the costs of executing the
1345 warrant, together with the costs of the clerk of the circuit
1346 court in recording and docketing the notice of lien, and to
1347 return the warrant to the service provider with payment. The
1348 warrant may only be issued and enforced for all amounts due to
1349 the tax collection service provider on the date the warrant is
1350 issued, together with interest accruing on the contribution or
1351 reimbursement due from the employer to the date of payment at
1352 the rate provided in this section. In the event of sale of any
1353 assets of the employer, however, priorities under the warrant
1354 shall be determined in accordance with the priority established
1355 by any notices of lien filed by the tax collection service
1356 provider and recorded by the clerk of the circuit court. The
1357 sheriff shall execute the warrant in the same manner prescribed
1358 by law for executions issued by the clerk of the circuit court
1359 for judgments of the circuit court. The sheriff is entitled to
1360 the same fees for executing the warrant as for a writ of
1361 execution out of the circuit court, and these fees must be
1362 collected in the same manner.

1363 3. The lien expires 10 years after the filing of a notice

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1364 of lien with the clerk of court. An action to collect amounts
1365 due under this chapter may not be commenced after the expiration
1366 of the lien securing the payment of the amounts owed.

1367 (b) *Injunctive procedures to contest warrants after*
1368 *issuance.*—An injunction or restraining order to stay the
1369 execution of a warrant may not be issued until a motion is
1370 filed; reasonable notice of a hearing on the motion for the
1371 injunction is served on the tax collection service provider; and
1372 the party seeking the injunction either pays into the custody of
1373 the court the full amount of contributions, reimbursements,
1374 interests, costs, and penalties claimed in the warrant or enters
1375 into and files with the court a bond with two or more good and
1376 sufficient sureties approved by the court in a sum at least
1377 twice the amount of the contributions, reimbursements,
1378 interests, costs, and penalties, payable to the tax collection
1379 service provider. The bond must also be conditioned to pay the
1380 amount of the warrant, interest, and any damages resulting from
1381 the wrongful issuing of the injunction, if the injunction is
1382 dissolved, or the motion for the injunction is dismissed. Only
1383 one surety is required when the bond is executed by a lawfully
1384 authorized surety company.

1385 (c) *Attachment and garnishment.*—Upon the filing of notice
1386 of lien as provided in subparagraph (a)1., the tax collection
1387 service provider is entitled to remedy by attachment or
1388 garnishment as provided in chapters 76 and 77, as for a debt
1389 due. Upon application by the tax collection service provider,
1390 these writs shall be issued by the clerk of the circuit court as
1391 upon a judgment of the circuit court duly docketed and recorded.
1392 These writs shall be returnable to the circuit court. A bond may

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1393 not be required of the tax collection service provider as a
1394 condition required for the issuance of these writs of attachment
1395 or garnishment. Issues raised under proceedings by attachment or
1396 garnishment shall be tried by the circuit court in the same
1397 manner as a judgment under chapters 76 and 77. Further, the
1398 notice of lien filed by the tax collection service provider is
1399 valid for purposes of all remedies under this chapter until
1400 satisfied under this chapter, and revival by scire facias or
1401 other proceedings are not necessary before pursuing any remedy
1402 authorized by law. Proceedings authorized upon a judgment of the
1403 circuit court do not make the lien a judgment of the circuit
1404 court upon a debt for any purpose other than as are specifically
1405 provided by law as procedural remedies.

1406 (d) *Third-party claims.*—Upon any levy made by the sheriff
1407 under a writ of attachment or garnishment as provided in
1408 paragraph (c), the circuit court shall try third-party claims to
1409 property involved as upon a judgment thereof and all proceedings
1410 authorized on third-party claims in ss. 56.16, 56.20, 76.21, and
1411 77.16 shall apply.

1412 (e) *Proceedings supplementary to execution.*—At any time
1413 after a warrant provided for in subparagraph (a)2. is returned
1414 unsatisfied by any sheriff of this state, the tax collection
1415 service provider may file an affidavit in the circuit court
1416 affirming the warrant was returned unsatisfied and remains valid
1417 and outstanding. The affidavit must also state the residence of
1418 the party or parties against whom the warrant is issued. The tax
1419 collection service provider is subsequently entitled to have
1420 other and further proceedings in the circuit court as upon a
1421 judgment thereof as provided in s. 56.29.

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1422 (f) *Reproductions.*—In any proceedings in any court under
1423 this chapter, reproductions of the original records of the
1424 Agency for Workforce Innovation, its tax collection service
1425 provider, the former Department of Labor and Employment
1426 Security, or the commission, including, but not limited to,
1427 photocopies or microfilm, are primary evidence in lieu of the
1428 original records or of the documents that were transcribed into
1429 those records.

1430 (g) *Jeopardy assessment and warrant.*—If the tax collection
1431 service provider reasonably believes that the collection of
1432 contributions or reimbursements from an employer will be
1433 jeopardized by delay, the service provider may assess the
1434 contributions or reimbursements immediately, together with
1435 interest or penalties when due, regardless of whether the
1436 contributions or reimbursements accrued are due, and may
1437 immediately issue a notice of lien and jeopardy warrant upon
1438 which proceedings may be conducted as provided in this section
1439 for notice of lien and warrant of the service provider. Within
1440 15 days after mailing the notice of lien by registered mail, the
1441 employer may protest the issuance of the lien in the same manner
1442 provided in paragraph (2) (a). The protest does not operate as a
1443 supersedeas or stay of enforcement unless the employer files
1444 with the sheriff seeking to enforce the warrant a good and
1445 sufficient surety bond in twice the amount demanded by the
1446 notice of lien or warrant. The bond must be conditioned upon
1447 payment of the amount subsequently found to be due from the
1448 employer to the tax collection service provider in the final
1449 order of the Agency for Workforce Innovation upon protest of
1450 assessment. The jeopardy warrant and notice of lien are

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1451 satisfied in the manner provided in this section upon payment of
1452 the amount finally determined to be due from the employer. If
1453 enforcement of the jeopardy warrant is not superseded as
1454 provided in this section, the employer is entitled to a refund
1455 from the fund of all amounts paid as contributions or
1456 reimbursements in excess of the amount finally determined to be
1457 due by the employer upon application being made as provided in
1458 this chapter.

1459 (4) MISCELLANEOUS PROVISIONS FOR COLLECTION OF
1460 CONTRIBUTIONS AND REIMBURSEMENTS.—

1461 (a) In addition to all other remedies and proceedings
1462 authorized by this chapter for the collection of contributions
1463 and reimbursements, a right of action by suit in the name of the
1464 tax collection service provider is created. A suit may be
1465 brought, and all proceedings taken, to the same effect and
1466 extent as for the enforcement of a right of action for debt or
1467 assumpsit, and all remedies available in such actions, including
1468 attachment and garnishment, are available to the tax collection
1469 service provider for the collection of any contribution or
1470 reimbursement. The tax collection service provider is not,
1471 however, required to post bond in any such action or
1472 proceedings. In addition, this section does not make these
1473 contributions or reimbursements a debt or demand unenforceable
1474 against homestead property as provided by Art. X of the State
1475 Constitution, and these remedies are solely procedural.

1476 (b) An employer who fails to make return or pay the
1477 contributions or reimbursements levied under this chapter, and
1478 who remains an employer as provided in s. 443.121, may be
1479 enjoined from employing individuals in employment as defined in

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1480 this chapter upon the complaint of the tax collection service
1481 provider in the circuit court of the county in which the
1482 employer does business. An employer who fails to make return or
1483 pay contributions or reimbursements shall be enjoined from
1484 employing individuals in employment until the return is made and
1485 the contributions or reimbursements are paid to the tax
1486 collection service provider.

1487 (c) Any agent or employee designated by the Agency for
1488 Workforce Innovation or its tax collection service provider may
1489 administer an oath to any person for any return or report
1490 required by this chapter or by the rules of the Agency for
1491 Workforce Innovation or the state agency providing unemployment
1492 tax collection services, and an oath made before the agency or
1493 its service provider or any authorized agent or employee has the
1494 same effect as an oath made before any judicial officer or
1495 notary public of the state.

1496 (d) Civil actions brought under this chapter to collect
1497 contributions, reimbursements, or interest, or any proceeding
1498 conducted for the collection of contributions or reimbursements
1499 from an employer, shall be heard by the court having
1500 jurisdiction at the earliest possible date and are entitled to
1501 preference upon the calendar of the court over all other civil
1502 actions except petitions for judicial review of claims for
1503 benefits arising under this chapter and cases arising under the
1504 Workers' Compensation Law of this state.

1505 (e) The tax collection service provider may commence an
1506 action in any other state to collect unemployment compensation
1507 contributions, reimbursements, penalties, and interest legally
1508 due this state. The officials of other states that extend a like

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1509 comity to this state may sue for the collection of
1510 contributions, reimbursements, interest, and penalties in the
1511 courts of this state. The courts of this state shall recognize
1512 and enforce liability for contributions, reimbursements,
1513 interest, and penalties imposed by other states that extend a
1514 like comity to this state.

1515 (f) The collection of any contribution, reimbursement,
1516 interest, or penalty due under this chapter is not enforceable
1517 by civil action, warrant, claim, or other means unless the
1518 notice of lien is filed with the clerk of the circuit court as
1519 described in subsection (3) within 5 years after the date the
1520 contribution, reimbursement, interest, and penalty were due.

1521 (5) PRIORITIES UNDER LEGAL DISSOLUTION OR DISTRIBUTIONS.—In
1522 the event of any distribution of any employer's assets pursuant
1523 to an order of any court under the laws of this state, including
1524 any receivership, assignment for the benefit of creditors,
1525 adjudicated insolvency, composition, administration of estates
1526 of decedents, or other similar proceeding, contributions or
1527 reimbursements then or subsequently due must be paid in full
1528 before all other claims except claims for wages of \$250 or less
1529 to each claimant, earned within 6 months after the commencement
1530 of the proceeding, and on a parity with all other tax claims
1531 wherever those tax claims are given priority. In the
1532 administration of the estate of any decedent, the filing of
1533 notice of lien is a proceeding required upon protest of the
1534 claim filed by the tax collection service provider for
1535 contributions or reimbursements due under this chapter, and the
1536 claim must be allowed by the circuit judge. The personal
1537 representative of the decedent, however, may by petition to the

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1538 circuit court object to the validity of the tax collection
1539 service provider's claim, and proceedings shall be conducted in
1540 the circuit court for the determination of the validity of the
1541 service provider's claim. Further, the bond of the personal
1542 representative may not be discharged until the claim is finally
1543 determined by the circuit court. When a bond is not given by the
1544 personal representative, the assets of the estate may not be
1545 distributed until the final determination by the circuit court.
1546 Upon distribution of the assets of the estate of any decedent,
1547 the tax collection service provider's claim has a class 8
1548 priority established in s. 733.707(1)(h), subject to the above
1549 limitations with reference to wages. In the event of any
1550 employer's adjudication in bankruptcy, judicially confirmed
1551 extension proposal, or composition, under the Federal Bankruptcy
1552 Act of 1898, as amended, contributions or reimbursements then or
1553 subsequently due are entitled to priority as is provided in s.
1554 64B of that act (U.S.C. Title II, s. 104(b), as amended).

1555 (6) REFUNDS.—

1556 (a) Within 4 years after payment of any amount as
1557 contributions, reimbursements, interest, or penalties, an
1558 employing unit may apply for an adjustment of its subsequent
1559 payments of contributions or reimbursements, or for a refund if
1560 the adjustment cannot be made.

1561 (b) If the tax collection service provider determines that
1562 any contributions, reimbursements, interest, or penalties were
1563 erroneously collected, the employing unit may adjust its
1564 subsequent payment of contributions or reimbursements by the
1565 amount erroneously collected. If an adjustment cannot be made,
1566 the tax collection service provider shall refund the amount

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1567 erroneously collected from the fund.

1568 (c) Within the time limit provided in paragraph (a), the
1569 tax collection service provider may on its own initiative adjust
1570 or refund the amount erroneously collected.

1571 (d) This chapter does not authorize a refund of
1572 contributions or reimbursements properly paid in accordance with
1573 this chapter when the payment was made, except as required by s.
1574 443.1216(13) (e).

1575 (e) An employing unit entitled to a refund or adjustment
1576 for erroneously collected contributions, reimbursements,
1577 interest, or penalties is not entitled to interest on that
1578 erroneously collected amount.

1579 (f) Refunds under this subsection and under s.
1580 443.1216(13) (e) may be paid from the clearing account or the
1581 benefit account of the Unemployment Compensation Trust Fund and
1582 from the Special Employment Security Administration Trust Fund
1583 for interest or penalties previously paid into the fund,
1584 notwithstanding s. 443.191(2).

1585 Section 19. Effective July 1, 2009, subsection (2) of
1586 section 443.163, Florida Statutes, is amended to read:

1587 443.163 Electronic reporting and remitting of contributions
1588 and reimbursements.—

1589 (2) (a) An employer who is required by law to file an
1590 Employers Quarterly Report (UCT-6) by approved electronic means,
1591 but who files the report by a means other than approved
1592 electronic means, is liable for a penalty of \$50 ~~\$10~~ for that
1593 report and \$1 for each employee. This penalty, ~~which~~ is in
1594 addition to any other ~~applicable~~ penalty provided by this
1595 chapter. However, unless the penalty does not apply if employer

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1596 ~~first obtains a waiver of this requirement from~~ the tax
1597 collection service provider waives the electronic filing
1598 requirement in advance. An employer who fails to remit
1599 contributions or reimbursements by approved electronic means as
1600 required by law is liable for a penalty of \$50 ~~\$10~~ for each
1601 remittance submitted by a means other than approved electronic
1602 means. This penalty, ~~which~~ is in addition to any other
1603 ~~applicable~~ penalty provided by this chapter.

1604 (b) A person who prepared and reported for 100 or more
1605 employers in any quarter during the preceding state fiscal year,
1606 but who fails to file an Employers Quarterly Report (UCT-6) for
1607 each calendar quarter in the current calendar year by approved
1608 electronic means ~~as required by law~~, is liable for a penalty of
1609 \$50 ~~\$10~~ for that report and \$1 for each employee. This penalty,
1610 ~~which~~ is in addition to any other ~~applicable~~ penalty provided by
1611 this chapter. However, unless the penalty does not apply if
1612 ~~person first obtains a waiver of this requirement from~~ the tax
1613 collection service provider waives the electronic filing
1614 requirement in advance.

1615 Section 20. Subsection (3) of section 443.163, Florida
1616 Statutes, is amended to read:

1617 443.163 Electronic reporting and remitting of contributions
1618 and reimbursements.—

1619 (3) The tax collection service provider may waive the
1620 requirement to file an Employers Quarterly Report (UCT-6) by
1621 electronic means for employers that are unable to comply despite
1622 good faith efforts or due to circumstances beyond the employer's
1623 reasonable control.

1624 (a) As prescribed by the Agency for Workforce Innovation or

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1625 its tax collection service provider, grounds for approving the
1626 waiver include, but are not limited to, circumstances in which
1627 the employer does not:

1628 1. Currently file information or data electronically with
1629 any business or government agency; or

1630 2. Have a compatible computer that meets or exceeds the
1631 standards prescribed by the Agency for Workforce Innovation or
1632 its tax collection service provider.

1633 (b) The tax collection service provider shall accept other
1634 reasons for requesting a waiver from the requirement to submit
1635 the Employers Quarterly Report (UCT-6) by electronic means,
1636 including, but not limited to:

1637 1. That the employer needs additional time to program his
1638 or her computer;

1639 2. That complying with this requirement causes the employer
1640 financial hardship; or

1641 3. That complying with this requirement conflicts with the
1642 employer's business procedures.

1643 (c) The Agency for Workforce Innovation or the state agency
1644 providing unemployment tax collection services may establish by
1645 rule the length of time a waiver is valid and may determine
1646 whether subsequent waivers will be authorized, based on this
1647 subsection; ~~however, the tax collection service provider may~~
1648 ~~only grant a waiver from electronic reporting if the employer~~
1649 ~~timely files the Employers Quarterly Report (UCT-6) by telefile,~~
1650 ~~unless the employer wage detail exceeds the service provider's~~
1651 ~~telefile system capabilities.~~

1652 Section 21. Effective July 1, 2009, section 213.691,
1653 Florida Statutes, is created to read:

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1654 213.691 Integrated warrants and judgment lien
1655 certificates.—The department may file a single integrated
1656 warrant or a single integrated judgment lien certificate for a
1657 taxpayer's total liability for all taxes, fees, or surcharges
1658 administered by the department. Such warrants and judgment lien
1659 certificates may be filed in lieu of or to replace individual
1660 warrants, notices of liens, and judgment lien certificates. Each
1661 integrated warrant or integrated judgment lien certificate must
1662 itemize the amount due for each tax, fee, or surcharge and any
1663 related interest and penalty.

1664 Section 22. Effective July 1, 2009, section 213.692,
1665 Florida Statutes, is created to read:

1666 213.692 Integrated enforcement authority.—

1667 (1) If the department has filed a warrant, notice of lien,
1668 or judgment lien certificate against the property of a taxpayer,
1669 the department may also revoke all certificates of registration,
1670 permits, or licenses issued by the department to that taxpayer.

1671 (a) Before the department may revoke the certificates of
1672 registration, permits, or licenses, the department must schedule
1673 an informal conference that the taxpayer is required to attend.
1674 At the conference, the taxpayer may present evidence regarding
1675 the department's intended action or enter into a compliance
1676 agreement. The department must provide written notice to the
1677 taxpayer of the department's intended action and the time, date,
1678 place of the conference. The department shall issue an
1679 administrative complaint to revoke the certificates of
1680 registration, permits, or licenses if the taxpayer does not
1681 attend the conference, enter into a compliance agreement, or
1682 comply with a compliance agreement.

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1683 (b) The department may not issue a certificate of
1684 registration, permit, or license to a taxpayer whose certificate
1685 of registration, permit, or license has been revoked unless:

1686 1. The outstanding liabilities of the taxpayer have been
1687 satisfied; or

1688 2. The department enters into a written agreement with the
1689 taxpayer regarding any outstanding liabilities and, as part of
1690 such agreement, agrees to issue a certificate of registration,
1691 permit, or license.

1692 (c) The department shall require a cash deposit, bond, or
1693 other security as a condition of issuing a new certificate of
1694 registration pursuant to the requirements of s. 212.14(4).

1695 (2) If the department files a warrant or a judgment lien
1696 certificate in connection with a jeopardy assessment, the
1697 department must comply with the procedures in s. 213.732 before
1698 or in conjunction with those provided in this section.

1699 (3) The department may adopt rules to administer this
1700 section.

1701 Section 23. Effective July 1, 2009, the Department of
1702 Revenue is authorized to adopt emergency rules to administer s.
1703 213.692, Florida Statutes. The emergency rules shall remain in
1704 effect for 6 months after adoption and may be renewed during the
1705 pendency of procedures to adopt rules addressing the subject of
1706 the emergency rules.

1707 Section 24. Effective July 1, 2009, section 195.095,
1708 Florida Statutes, is repealed.

1709 Section 25. Effective July 1, 2009, section 213.054,
1710 Florida Statutes, is repealed.

1711 Section 26. Except as otherwise expressly provided in this

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1712

act, this act shall take effect upon becoming a law.