

1 A bill to be entitled
2 An act relating to taxation; amending s. 55.204, F.S.;
3 specifying the duration of liens securing the payment of
4 unemployment compensation tax obligations; amending s.
5 95.091, F.S.; applying an exception to a limit on the
6 duration of tax liens for certain tax liens relating to
7 unemployment compensation taxes; amending s. 201.02, F.S.;
8 excluding certain unpaid indebtedness from the taxable
9 consideration for short sale transfers of real property;
10 defining the term "short sale"; amending s. 202.125, F.S.;
11 providing that an exemption from the communications
12 services tax does not apply to transient public lodging
13 establishments; amending s. 212.05, F.S.; specifying that
14 the tax on sales, use, and other transactions applies to
15 charges for nonresidential building cleaning and
16 nonresidential building pest control; amending s.
17 212.0515, F.S.; revising the content of a required notice
18 that must be posted on vending machines; amending s.
19 212.08, F.S.; providing criteria to determine whether the
20 tax on sales, use, and other transactions applies to a
21 package containing exempt food products and taxable
22 nonfood products; providing that the tax exemption for
23 building materials used in the rehabilitation of real
24 property in an enterprise zone applies only while the
25 property is being rehabilitated; providing that a single
26 application for a tax refund of taxes paid on building
27 materials used in the rehabilitation of real property may
28 be used for certain contiguous parcels; revising the

29 information that must be included in an application for a
30 tax refund; providing that the tax exemption for building
31 materials used in an enterprise zone may inure to a unit
32 of government; revising the date by which an application
33 for a tax refund for taxes paid on building materials used
34 in an enterprise zone must be submitted to the department;
35 amending s. 213.053, F.S.; authorizing the department to
36 provide certain confidential taxpayer information to the
37 Florida Energy and Climate Commission; providing for
38 retroactive operation; providing that restrictions on
39 disclosure of confidential taxpayer information do not
40 prohibit the department from using certain methods of
41 electronic communication for certain purposes; providing
42 that the department may release confidential taxpayer
43 information relating to a corporation having an
44 outstanding tax warrant to the Department of Business and
45 Professional Regulation; authorizing the department to
46 share taxpayer names and identification numbers for
47 purposes of information-sharing agreements with financial
48 institutions; authorizing the department to share certain
49 information relating to the tax on sales, use, and other
50 transactions with the Department of Environmental
51 Protection; authorizing the department to publish a list
52 of taxpayers against whom it has filed a warrant or
53 judgment lien certificate; requiring the department to
54 update the list at least monthly; authorizing the
55 department to adopt rules; authorizing the department to
56 provide confidential taxpayer information relating to

57 | collections from taxpayers against whom it has taken a
58 | collection action; creating s. 213.0532, F.S.; defining
59 | terms; requiring the department and certain financial
60 | institutions to enter into information-sharing agreements
61 | to enable the department to obtain the account balances
62 | and personally identifying information of taxpayers;
63 | authorizing the department and certain financial
64 | institutions to enter into information-sharing agreements
65 | to enable the department to obtain the account balances
66 | and personally identifying information of taxpayers;
67 | limiting the use of information gathered for the purpose
68 | of enforcing the collection of certain taxes and fees;
69 | requiring the department to pay a fee to the financial
70 | institutions for their services; limiting the liability
71 | for certain acts of financial institutions that enter into
72 | an information-sharing agreement; authorizing the
73 | department to adopt rules; amending s. 213.25, F.S.;
74 | authorizing the department to reduce a tax refund or
75 | credit owing to a taxpayer to the extent of liability for
76 | unemployment compensation taxes; amending s. 213.50, F.S.;
77 | authorizing the Division of Hotels and Restaurants of the
78 | Department of Business and Professional Regulation to
79 | suspend or deny the renewal of a license for a hotel or
80 | restaurant having an outstanding tax warrant for a certain
81 | period of time; amending s. 213.67, F.S.; specifying
82 | additional methods by which the department may give notice
83 | of a tax delinquency for garnishment purposes; amending s.
84 | 220.192, F.S.; providing for the administration of certain

85 portions of the renewable energy technologies tax credit
86 program by the Florida Energy and Climate Commission;
87 providing for retroactive application; amending s.
88 336.021, F.S.; revising the distribution of the ninth-cent
89 fuel tax on motor fuel and diesel fuel; amending s.
90 443.036, F.S.; providing for the treatment of a single-
91 member limited liability company as the employer for
92 purposes of unemployment compensation law; amending s.
93 443.1215, F.S.; correcting a cross-reference; amending s.
94 443.1316, F.S.; conforming cross-references; amending s.
95 443.141, F.S.; providing penalties for erroneous,
96 incomplete, or insufficient reports; authorizing a waiver
97 of the penalty under certain circumstances; defining a
98 term; authorizing the Agency for Workforce Innovation and
99 the state agency providing unemployment compensation tax
100 collection services to adopt rules; providing an
101 expiration date for liens for contributions and
102 reimbursements; amending s. 443.163, F.S.; increasing
103 penalties for failing to file Employers Quarterly Reports
104 by means other than approved electronic means; revising
105 waiver provisions; creating s. 213.692, F.S.; authorizing
106 the Department of Revenue to revoke all certificates of
107 registration, permits, or licenses issued to a taxpayer
108 against whose property the department has filed a warrant
109 or tax lien; requiring the scheduling of an informal
110 conference before revocation of the certificates of
111 registration, permits, or licenses; prohibiting the
112 Department of Revenue from issuing a certificate of

113 registration, permit, or license to a taxpayer whose
 114 certificate of registration, permit, or license has been
 115 revoked; providing exceptions; requiring security as a
 116 condition of issuing a new certificate of registration to
 117 a person whose certificate of registration, permit, or
 118 license has been revoked after the filing of a warrant or
 119 tax lien certificate; authorizing the department to adopt
 120 rules, including emergency rules; repealing s. 195.095,
 121 F.S., relating to the authority of the Department of
 122 Revenue to develop lists of bidders that are approved to
 123 contract with property appraisers, tax collectors, or
 124 county commissions for assessment or collection services;
 125 repealing s. 213.054, F.S., relating to monitoring and
 126 reporting on the use of a tax deduction claimed by
 127 international banking institutions; providing effective
 128 dates.

129

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

131

132 Section 1. Section 55.204, Florida Statutes, is amended to
 133 read:

134 55.204 Duration and continuation of judgment lien;
 135 destruction of records.—

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

139 (2) Liens securing the payment of child support or tax
 140 obligations under ~~as set forth in~~ s. 95.091(1)(b) ~~shall not~~

141 lapse ~~until~~ 20 years after the date of the original filing of
 142 the warrant or other document required by law to establish a
 143 lien. Liens securing the payment of unemployment tax obligations
 144 lapse 10 years after the date of the original filing of the
 145 notice of lien. A ~~Ne~~ second lien based on the original filing
 146 may not be obtained.

147 (3) At any time within 6 months before or 6 months after
 148 the scheduled lapse of a judgment lien under subsection (1), the
 149 judgment creditor may acquire a second judgment lien by filing a
 150 new judgment lien certificate. The effective date of the second
 151 judgment lien is the date and time on which the judgment lien
 152 certificate is filed. The second judgment lien is a new judgment
 153 lien and not a continuation of the original judgment lien. The
 154 second judgment lien permanently lapses and becomes invalid 5
 155 years after its filing date, and no additional liens based on
 156 the original judgment or any judgment based on the original
 157 judgment may be acquired.

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

161 (a) The property was ~~had been~~ itemized and its location
 162 described with sufficient particularity in the instructions for
 163 levy to permit the sheriff to act;

164 (b) The instructions for the levy had been delivered to
 165 the sheriff before ~~prior to~~ the date of lapse of the lien; and

166 (c) The property was located in the county in which the
 167 sheriff has jurisdiction at the time of delivery of the
 168 instruction for levy. Subsequent removal of the property does

CS/HB 7157

2010

169 not defeat the lien. A court may order continuation of the lien
 170 beyond the 90-day period on a showing that extraordinary
 171 circumstances have prevented levy.

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

176 (6) If a ~~ne~~ second judgment lien is not filed, the
 177 Department of State shall maintain each judgment lien file and
 178 all information contained therein for a minimum of 1 year after
 179 the judgment lien lapses in accordance with this section. If a
 180 second judgment lien is filed, the department shall maintain
 181 both files and all information contained in such files for a
 182 minimum of 1 year after the second judgment lien lapses.

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

187 Section 2. Section 95.091, Florida Statutes, is amended to
 188 read:

189 95.091 Limitation on actions to collect taxes.—

190 (1)(a) Except in the case of taxes for which certificates
 191 have been sold, taxes enumerated in s. 72.011, or tax liens
 192 issued under s. 196.161 or s. 443.141, any tax lien granted by
 193 law to the state or any of its political subdivisions, any
 194 municipality, any public corporation or body politic, or any
 195 other entity having authority to levy and collect taxes shall
 196 expire 5 years after the date the tax is assessed or becomes

CS/HB 7157

2010

197 delinquent, whichever is later. An ~~no~~ action ~~may be begun~~ to
 198 collect any tax may not be commenced after the expiration of the
 199 lien securing the payment of the tax.

200 (b) Any tax lien granted by law to the state or any of its
 201 political subdivisions for any tax enumerated in s. 72.011 or
 202 any tax lien imposed under s. 196.161 expires ~~shall expire~~ 20
 203 years after the last date the tax may be assessed, after the tax
 204 becomes delinquent, or after the filing of a tax warrant,
 205 whichever is later. An action to collect any tax enumerated in
 206 s. 72.011 may not be commenced after the expiration of the lien
 207 securing the payment of the tax.

208 (2) If a ~~no~~ lien to secure the payment of a tax is not
 209 provided by law, an ~~no~~ action ~~may be begun~~ to collect the tax
 210 may not be commenced after 5 years following ~~from~~ the date the
 211 tax is assessed or becomes delinquent, whichever is later.

212 (3) (a) With the exception of taxes levied under chapter
 213 198 and tax adjustments made pursuant to ss. 220.23 and
 214 624.50921, the Department of Revenue may determine and assess
 215 the amount of any tax, penalty, or interest due under any tax
 216 enumerated in s. 72.011 which it has authority to administer and
 217 the Department of Business and Professional Regulation may
 218 determine and assess the amount of any tax, penalty, or interest
 219 due under any tax enumerated in s. 72.011 which it has authority
 220 to administer:

221 1.a. For taxes due before July 1, 1999, within 5 years
 222 after the date the tax is due, any return with respect to the
 223 tax is due, or such return is filed, whichever occurs later; and
 224 for taxes due on or after July 1, 1999, within 3 years after the

225 | date the tax is due, any return with respect to the tax is due,
 226 | or such return is filed, whichever occurs later;

227 | b. Effective July 1, 2002, notwithstanding sub-
 228 | subparagraph a., within 3 years after the date the tax is due,
 229 | any return with respect to the tax is due, or such return is
 230 | filed, whichever occurs later;

231 | 2. For taxes due before July 1, 1999, within 6 years after
 232 | the date the taxpayer either makes a substantial underpayment of
 233 | tax, or files a substantially incorrect return;

234 | 3. At any time while the right to a refund or credit of
 235 | the tax is available to the taxpayer;

236 | 4. For taxes due before July 1, 1999, at any time after
 237 | the taxpayer has filed a grossly false return;

238 | 5. At any time after the taxpayer has failed to make any
 239 | required payment of the tax, has failed to file a required
 240 | return, or has filed a fraudulent return, except that for taxes
 241 | due on or after July 1, 1999, the limitation prescribed in
 242 | subparagraph 1. applies if the taxpayer has disclosed in writing
 243 | the tax liability to the department before the department has
 244 | contacted the taxpayer; or

245 | 6. In any case in which there has been a refund of tax
 246 | erroneously made for any reason:

247 | a. For refunds made before July 1, 1999, within 5 years
 248 | after making such refund; and

249 | b. For refunds made on or after July 1, 1999, within 3
 250 | years after making such refund,

251 |
 252 | or at any time after making such refund if it appears that any

253 part of the refund was induced by fraud or the misrepresentation
 254 of a material fact.

255 (b) For the purpose of this paragraph, a tax return filed
 256 before the last day prescribed by law, including any extension
 257 thereof, shall be deemed to have been filed on such last day,
 258 and payments made prior to the last day prescribed by law shall
 259 be deemed to have been paid on such last day.

260 (4) If administrative or judicial proceedings for review
 261 of the tax assessment or collection are initiated by a taxpayer
 262 within the period of limitation prescribed in this section, the
 263 running of the period ~~is shall be~~ tolled during the pendency of
 264 the proceeding. Administrative proceedings shall include
 265 taxpayer protest proceedings initiated under s. 213.21 and
 266 department rules.

267 Section 3. Effective July 1, 2010, subsection (11) is
 268 added to section 201.02, Florida Statutes, to read:

269 201.02 Tax on deeds and other instruments relating to real
 270 property or interests in real property.—

271 (11) The taxable consideration for a short sale transfer
 272 does not include unpaid indebtedness that is forgiven or
 273 released by a mortgagee holding a mortgage on the grantor's
 274 interest in the property. For purposes of this subsection, the
 275 term "short sale" means a purchase and sale of real property in
 276 which all of the following apply:

277 (a) The grantor's interest is encumbered by a mortgage or
 278 mortgages securing indebtedness in an aggregate amount greater
 279 than the consideration paid or given by the grantee.

280 (b) A mortgagee releases the real property from its

281 mortgage in exchange for a payment of less than the total of the
 282 outstanding mortgage indebtedness owed to the releasing
 283 mortgagee.

284 (c) The releasing mortgagee does not receive, directly or
 285 indirectly, any interest in the property transferred.

286 (d) The releasing mortgagee is not controlled by or
 287 related to the grantor or the grantee.

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

290 202.125 Sales of communications services; specified
 291 exemptions.—

292 (1) The separately stated sales price of communications
 293 services sold to residential households is exempt from the tax
 294 imposed by s. 202.12. This exemption does ~~shall~~ not apply to any
 295 residence that constitutes all or part of a transient public
 296 lodging establishment as defined in chapter 509, any mobile
 297 communications service, any cable service, or any direct-to-home
 298 satellite service.

299 Section 5. Paragraph (i) of subsection (1) of section
 300 212.05, Florida Statutes, is amended to read:

301 212.05 Sales, storage, use tax.—It is hereby declared to
 302 be the legislative intent that every person is exercising a
 303 taxable privilege who engages in the business of selling
 304 tangible personal property at retail in this state, including
 305 the business of making mail order sales, or who rents or
 306 furnishes any of the things or services taxable under this
 307 chapter, or who stores for use or consumption in this state any
 308 item or article of tangible personal property as defined herein

309 and who leases or rents such property within the state.

310 (1) For the exercise of such privilege, a tax is levied on
311 each taxable transaction or incident, which tax is due and
312 payable as follows:

313 (i)1. At the rate of 6 percent on charges for all:

314 a. Detective, burglar protection, and other protection
315 services (NAICS National Numbers 561611, 561612, 561613, and
316 561621). Any law enforcement officer, as defined in s. 943.10,
317 who is performing approved duties as determined by his or her
318 local law enforcement agency in his or her capacity as a law
319 enforcement officer, and who is subject to the direct and
320 immediate command of his or her law enforcement agency, and in
321 the law enforcement officer's uniform as authorized by his or
322 her law enforcement agency, is performing law enforcement and
323 public safety services and is not performing detective, burglar
324 protection, or other protective services, if the law enforcement
325 officer is performing his or her approved duties in a
326 geographical area in which the law enforcement officer has
327 arrest jurisdiction. Such law enforcement and public safety
328 services are not subject to tax irrespective of whether the duty
329 is characterized as "extra duty," "off-duty," or "secondary
330 employment," and irrespective of whether the officer is paid
331 directly or through the officer's agency by an outside source.
332 The term "law enforcement officer" includes full-time or part-
333 time law enforcement officers, and any auxiliary law enforcement
334 officer, when such auxiliary law enforcement officer is working
335 under the direct supervision of a full-time or part-time law
336 enforcement officer.

337 b. Nonresidential cleaning, excluding cleaning of the
338 interiors of transportation equipment, and nonresidential
339 building pest control services (NAICS National Numbers 561710
340 and 561720).

341 2. As used in this paragraph, "NAICS" means those
342 classifications contained in the North American Industry
343 Classification System, as published in 2007 by the Office of
344 Management and Budget, Executive Office of the President.

345 3. Charges for detective, burglar protection, and other
346 protection security services performed in this state but used
347 outside this state are exempt from taxation. Charges for
348 detective, burglar protection, and other protection security
349 services performed outside this state and used in this state are
350 subject to tax.

351 4. If a transaction involves both the sale or use of a
352 service taxable under this paragraph and the sale or use of a
353 service or any other item not taxable under this chapter, the
354 consideration paid must be separately identified and stated with
355 respect to the taxable and exempt portions of the transaction or
356 the entire transaction shall be presumed taxable. The burden
357 shall be on the seller of the service or the purchaser of the
358 service, whichever applicable, to overcome this presumption by
359 providing documentary evidence as to which portion of the
360 transaction is exempt from tax. The department is authorized to
361 adjust the amount of consideration identified as the taxable and
362 exempt portions of the transaction; however, a determination
363 that the taxable and exempt portions are inaccurately stated and
364 that the adjustment is applicable must be supported by

365 substantial competent evidence.

366 5. Each seller of services subject to sales tax pursuant
 367 to this paragraph shall maintain a monthly log showing each
 368 transaction for which sales tax was not collected because the
 369 services meet the requirements of subparagraph 3. for out-of-
 370 state use. The log must identify the purchaser's name, location
 371 and mailing address, and federal employer identification number,
 372 if a business, or the social security number, if an individual,
 373 the service sold, the price of the service, the date of sale,
 374 the reason for the exemption, and the sales invoice number. The
 375 monthly log shall be maintained pursuant to the same
 376 requirements and subject to the same penalties imposed for the
 377 keeping of similar records pursuant to this chapter.

378 Section 6. Paragraph (a) of subsection (3) of section
 379 212.0515, Florida Statutes, is amended to read:

380 212.0515 Sales from vending machines; sales to vending
 381 machine operators; special provisions; registration; penalties.—

382 (3) (a) An operator of a vending machine may not operate or
 383 cause to be operated in this state any vending machine until the
 384 operator has registered with the department, has obtained a
 385 separate registration certificate for each county in which such
 386 machines are located, and has affixed a notice to each vending
 387 machine selling food or beverages ~~which states the operator's~~
 388 ~~name, address, and Federal Employer Identification (FEI) number.~~
 389 ~~If the operator is not required to have an FEI number, the~~
 390 ~~notice shall include the operator's sales tax registration~~
 391 ~~number.~~ The notice must be conspicuously displayed on the
 392 vending machine when it is being operated in this state and

393 shall contain the following language in conspicuous type: NOTICE
 394 TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON
 395 ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT ANY MACHINE
 396 WITHOUT A NOTICE TO (TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR
 397 A CASH REWARD. DO NOT USE THIS NUMBER TO REPORT PROBLEMS WITH
 398 THE VENDING MACHINE SUCH AS LOST MONEY OR OUT-OF-DATE PRODUCTS.

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

401 212.08 Sales, rental, use, consumption, distribution, and
 402 storage tax; specified exemptions.—The sale at retail, the
 403 rental, the use, the consumption, the distribution, and the
 404 storage to be used or consumed in this state of the following
 405 are hereby specifically exempt from the tax imposed by this
 406 chapter.

407 (1) EXEMPTIONS; GENERAL GROCERIES.—

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

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

- 415 1. Cereals and cereal products, baked goods,
 416 oleomargarine, meat and meat products, fish and seafood
 417 products, frozen foods and dinners, poultry, eggs and egg
 418 products, vegetables and vegetable products, fruit and fruit
 419 products, spices, salt, sugar and sugar products, milk and dairy
 420 products, and products intended to be mixed with milk.

CS/HB 7157

2010

421 2. Natural fruit or vegetable juices or their concentrates
 422 or reconstituted natural concentrated fruit or vegetable juices,
 423 whether frozen or unfrozen, dehydrated, powdered, granulated,
 424 sweetened or unsweetened, seasoned with salt or spice, or
 425 unseasoned; coffee, coffee substitutes, or cocoa; and tea,
 426 unless it is sold in a liquid form.

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

429 (c) The exemption provided by this subsection does not
 430 apply to:

431 1. ~~When the~~ Food products ~~are~~ sold as meals for
 432 consumption on or off the premises of the dealer.

433 2. ~~When the~~ Food products ~~are~~ furnished, prepared, or
 434 served for consumption at tables, chairs, or counters or from
 435 trays, glasses, dishes, or other tableware, whether provided by
 436 the dealer or by a person with whom the dealer contracts to
 437 furnish, prepare, or serve food products to others.

438 3. ~~When the~~ Food products ~~are~~ ordinarily sold for
 439 immediate consumption on the seller's premises or near a
 440 location at which parking facilities are provided primarily for
 441 the use of patrons in consuming the products purchased at the
 442 location, even though such products are sold on a "take out" or
 443 "to go" order and are actually packaged or wrapped and taken
 444 from the premises of the dealer.

445 4. ~~The~~ Sandwiches sold ready for immediate consumption on
 446 or off the seller's premises.

447 5. ~~When the~~ Food products ~~are~~ sold ready for immediate
 448 consumption within a place, the entrance to which is subject to

CS/HB 7157

2010

449 an admission charge.

450 6. ~~When the~~ Food products ~~are~~ sold as hot prepared food
451 products.

452 7. ~~The~~ Soft drinks, including ~~which include~~, but ~~are~~ not
453 limited to, any nonalcoholic beverage, any preparation or
454 beverage commonly referred to as a "soft drink," or any
455 noncarbonated drink made from milk derivatives or tea, if ~~when~~
456 sold in cans or similar containers.

457 8. ~~The~~ Ice cream, frozen yogurt, and similar frozen dairy
458 or nondairy products in cones, small cups, or pints, popsicles,
459 frozen fruit bars, or other novelty items, whether or not sold
460 separately.

461 9. ~~The~~ Food that is prepared, whether on or off the
462 premises, and sold for immediate consumption. This does not
463 apply to food prepared off the premises and sold in the original
464 sealed container, or the slicing of products into smaller
465 portions.

466 10. ~~When the~~ Food products ~~are~~ sold through a vending
467 machine, pushcart, motor vehicle, or any other form of vehicle.

468 11. ~~The~~ Candy and any similar product regarded as candy or
469 confection, based on its normal use, as indicated on the label
470 or advertising thereof.

471 12. ~~The~~ Bakery products sold by bakeries, pastry shops, or
472 like establishments having ~~that have~~ eating facilities, except
473 when sold for consumption off the seller's premises.

474 13. ~~When~~ Food products ~~are~~ served, prepared, or sold in or
475 by restaurants, lunch counters, cafeterias, hotels, taverns, or
476 other like places of business.

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

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

481 2. "For consumption on the seller's premises" means that
482 the food or drink sold may be immediately consumed on the
483 premises where the dealer conducts his or her business. In
484 determining whether an item of food is sold for immediate
485 consumption, ~~there shall be considered~~ the customary consumption
486 practices prevailing at the selling facility shall be
487 considered.

488 3. "Premises" shall be construed broadly, and means, but
489 is not limited to, the lobby, aisle, or auditorium of a theater;
490 the seating, aisle, or parking area of an arena, rink, or
491 stadium; or the parking area of a drive-in or outdoor theater.
492 The premises of a caterer with respect to catered meals or
493 beverages shall be the place where such meals or beverages are
494 served.

495 4. "Hot prepared food products" means those products,
496 items, or components which have been prepared for sale in a
497 heated condition and which are sold at any temperature that is
498 higher than the air temperature of the room or place where they
499 are sold. "Hot prepared food products," for the purposes of this
500 subsection, includes a combination of hot and cold food items or
501 components where a single price has been established for the
502 combination and the food products are sold in such combination,
503 such as a hot meal, a hot specialty dish or serving, or a hot
504 sandwich or hot pizza, including cold components or side items.

CS/HB 7157

2010

505 (e)1. Food or drinks not exempt under paragraphs (a), (b),
506 (c), and (d) are ~~shall be~~ exempt, notwithstanding those
507 paragraphs, when purchased with food coupons or Special
508 Supplemental Food Program for Women, Infants, and Children
509 vouchers issued under authority of federal law.

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

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

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

522 1. If the taxable items represent more than 25 percent of
523 the cost of the complete package and a single charge is made,
524 the entire sales price of the package is taxable. If the taxable
525 items are separately stated, the separate charge for the taxable
526 items is subject to tax.

527 2. If the taxable items represent 25 percent or less of
528 the cost of the complete package and a single charge is made,
529 the entire sales price of the package is exempt from tax. The
530 person preparing the package is liable for the tax on the cost
531 of the taxable items going into the complete package. If the
532 taxable items are separately stated, the separate charge is

533 subject to tax.

534 (5) EXEMPTIONS; ACCOUNT OF USE.—

535 (g) Building materials used in the rehabilitation of real
536 property located in an enterprise zone.—

537 1. Building materials used in the rehabilitation of real
538 property located in an enterprise zone are ~~shall be~~ exempt from
539 the tax imposed by this chapter upon an affirmative showing to
540 the satisfaction of the department that the items have been used
541 for the rehabilitation of real property located in an enterprise
542 zone. Except as provided in subparagraph 2., this exemption
543 inures to the owner, lessee, or lessor at the time of the
544 ~~rehabilitated~~ real property is rehabilitated, but located in an
545 ~~enterprise zone~~ only through a refund of previously paid taxes.
546 To receive a refund pursuant to this paragraph, the owner,
547 lessee, or lessor of the rehabilitated real property ~~located in~~
548 ~~an enterprise zone~~ must file an application under oath with the
549 governing body or enterprise zone development agency having
550 jurisdiction over the enterprise zone where the business is
551 located, as applicable. A single application for a refund may be
552 submitted for multiple, contiguous parcels that were part of a
553 single parcel that was divided as part of the rehabilitation of
554 the property. All other requirements of this paragraph apply to
555 each parcel on an individual basis. The application must
556 include, which includes:

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

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

561 c. A description of the improvements made to accomplish
 562 the rehabilitation of the real property.

563 d. A copy of a valid ~~the~~ building permit issued by the
 564 county or municipal building department for the rehabilitation
 565 of the real property.

566 e. A sworn statement, under ~~the~~ penalty of perjury, from
 567 the general contractor licensed in this state with whom the
 568 applicant contracted to make the improvements necessary to
 569 rehabilitate ~~accomplish the rehabilitation of~~ the real property,
 570 which ~~statement~~ lists the building materials used to
 571 rehabilitate ~~in the rehabilitation of~~ the real property, the
 572 actual cost of the building materials, and the amount of sales
 573 tax paid in this state on the building materials. If ~~In the~~
 574 ~~event that~~ a general contractor was ~~has~~ not ~~been~~ used, the
 575 applicant, not a general contractor, shall make the sworn
 576 statement required by this sub-subparagraph ~~shall provide this~~
 577 ~~information in a sworn statement, under the penalty of perjury.~~
 578 Copies of the invoices that ~~which~~ evidence the purchase of the
 579 building materials used in the ~~such~~ rehabilitation and the
 580 payment of sales tax on the building materials must ~~shall~~ be
 581 attached to the sworn statement provided by the general
 582 contractor or by the applicant. Unless the actual cost of
 583 building materials used in the rehabilitation of real property
 584 and the payment of sales taxes ~~due thereon~~ is documented by a
 585 general contractor or by the applicant in this manner, the cost
 586 of the ~~such~~ building materials is deemed to ~~shall~~ be an amount
 587 equal to 40 percent of the increase in assessed value for ad
 588 valorem tax purposes.

CS/HB 7157

2010

589 f. The identifying number assigned pursuant to s. 290.0065
590 to the enterprise zone in which the rehabilitated real property
591 is located.

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

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

597 i. If applicable, the name and address of each permanent
598 employee of the business, including, for each employee who is a
599 resident of an enterprise zone, the identifying number assigned
600 pursuant to s. 290.0065 to the enterprise zone in which the
601 employee resides.

602 2. This exemption inures to a municipality ~~city~~, county,
603 other governmental unit or agency, or nonprofit community-based
604 organization through a refund of previously paid taxes if the
605 building materials used in the rehabilitation ~~of real property~~
606 ~~located in an enterprise zone~~ are paid for from the funds of a
607 community development block grant, State Housing Initiatives
608 Partnership Program, or similar grant or loan program. To
609 receive a refund ~~pursuant to this paragraph~~, a municipality
610 ~~city~~, county, other governmental unit or agency, or nonprofit
611 community-based organization must file an application that ~~which~~
612 includes the same information required ~~to be provided~~ in
613 subparagraph 1. ~~by an owner, lessee, or lessor of rehabilitated~~
614 ~~real property~~. In addition, the application must include a sworn
615 statement signed by the chief executive officer of the
616 municipality ~~city~~, county, other governmental unit or agency, or

617 nonprofit community-based organization seeking a refund which
618 states that the building materials for which a refund is sought
619 were funded by ~~paid for from the funds of~~ a community
620 development block grant, State Housing Initiatives Partnership
621 Program, or similar grant or loan program.

622 3. Within 10 working days after receipt of an application,
623 the governing body or enterprise zone development agency shall
624 review the application to determine if it contains all the
625 information required by ~~pursuant to~~ subparagraph 1. or
626 subparagraph 2. and meets the criteria set out in this
627 paragraph. The governing body or agency shall certify all
628 applications that contain the required information ~~required~~
629 ~~pursuant to subparagraph 1. or subparagraph 2.~~ and are ~~meet the~~
630 ~~criteria set out in this paragraph as~~ eligible to receive a
631 refund. If applicable, the governing body or agency shall also
632 certify if 20 percent of the employees of the business are
633 residents of an enterprise zone, excluding temporary and part-
634 time employees. The certification must ~~shall~~ be in writing, and
635 a copy of the certification shall be transmitted to the
636 executive director of the Department of Revenue. The applicant
637 is ~~shall be~~ responsible for forwarding a certified application
638 to the department within the time specified in subparagraph 4.

639 4. An application for a refund ~~pursuant to this paragraph~~
640 must be submitted to the department within 6 months after the
641 rehabilitation of the property is deemed to be substantially
642 completed by the local building code inspector or by November 1
643 ~~September 1~~ after the rehabilitated property is first subject to
644 assessment.

CS/HB 7157

2010

645 5. Only ~~Not more than~~ one exemption through a refund of
646 previously paid taxes for the rehabilitation of real property is
647 ~~shall be~~ permitted for any single parcel of property unless
648 there is a change in ownership, a new lessor, or a new lessee of
649 the real property. A ~~No~~ refund may not ~~shall~~ be granted pursuant
650 ~~to this paragraph~~ unless the amount to be refunded exceeds \$500.
651 A ~~No~~ refund may not ~~granted pursuant to this paragraph~~ shall
652 exceed the lesser of 97 percent of the Florida sales or use tax
653 paid on the cost of the building materials used in the
654 rehabilitation of the real property as determined pursuant to
655 sub-subparagraph 1.e. or \$5,000, or, if at least ~~no less than~~ 20
656 percent of the employees of the business are residents of an
657 enterprise zone, excluding temporary and part-time employees,
658 the amount of refund may ~~granted pursuant to this paragraph~~
659 ~~shall~~ not exceed the lesser of 97 percent of the sales tax paid
660 on the cost of the ~~such~~ building materials or \$10,000. A refund
661 ~~approved pursuant to this paragraph~~ shall be made within 30 days
662 after ~~of~~ formal approval by the department of the application
663 for the refund. ~~This subparagraph shall apply retroactively to~~
664 ~~July 1, 2005.~~

665 6. The department shall adopt rules governing the manner
666 and form of refund applications and may establish guidelines as
667 to the requisites for an affirmative showing of qualification
668 for exemption under this paragraph.

669 7. The department shall deduct an amount equal to 10
670 percent of each refund granted under the provisions of this
671 paragraph from the amount transferred into the Local Government
672 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20

CS/HB 7157

2010

673 | for the county area in which the rehabilitated real property is
 674 | located and shall transfer that amount to the General Revenue
 675 | Fund.

676 | 8. For the purposes of the exemption provided in this
 677 | paragraph, the term:

678 | a. "Building materials" means tangible personal property
 679 | which becomes a component part of improvements to real property.

680 | b. "Real property" has the same meaning as provided in s.
 681 | 192.001(12).

682 | c. "Rehabilitation of real property" means the
 683 | reconstruction, renovation, restoration, rehabilitation,
 684 | construction, or expansion of improvements to real property.

685 | d. "Substantially completed" has the same meaning as
 686 | provided in s. 192.042(1).

687 | 9. This paragraph expires on the date specified in s.
 688 | 290.016 for the expiration of the Florida Enterprise Zone Act.

689 | Section 8. Effective upon this act becoming a law and
 690 | operating retroactively to July 1, 2008, paragraph (y) of
 691 | subsection (8) of section 213.053, Florida Statutes, is amended
 692 | to read:

693 | 213.053 Confidentiality and information sharing.—

694 | (8) Notwithstanding any other provision of this section,
 695 | the department may provide:

696 | (y) Information relative to ss. 212.08(7)(ccc) and 220.192
 697 | to the Florida Energy and Climate Commission ~~Department of~~
 698 | ~~Environmental Protection~~ for use in the conduct of its official
 699 | business.

700 |

CS/HB 7157

2010

701 Disclosure of information under this subsection shall be
 702 pursuant to a written agreement between the executive director
 703 and the agency. Such agencies, governmental or nongovernmental,
 704 shall be bound by the same requirements of confidentiality as
 705 the Department of Revenue. Breach of confidentiality is a
 706 misdemeanor of the first degree, punishable as provided by s.
 707 775.082 or s. 775.083.

708 Section 9. Effective July 1, 2010, subsection (5) and
 709 paragraph (d) of subsection (8) of section 213.053, Florida
 710 Statutes, are amended, paragraphs (z) and (aa) are added to
 711 subsection (8), and subsections (20) and (21) are added to that
 712 section, to read:

713 213.053 Confidentiality and information sharing.—

714 (5) ~~Nothing contained in~~ This section does not shall
 715 prevent the department from:

716 (a) Publishing statistics so classified as to prevent the
 717 identification of particular accounts, reports, declarations, or
 718 returns; or

719 (b) Using telephones, e-mail, facsimile machines, or other
 720 electronic means to:

721 1. Distribute information relating to changes in law, tax
 722 rates, interest rates, or other information that is not specific
 723 to a particular taxpayer;

724 2. Remind taxpayers of due dates;

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

728 4. Notify taxpayers to contact the department ~~Disclosing~~

CS/HB 7157

2010

729 ~~to the Chief Financial Officer the names and addresses of those~~
730 ~~taxpayers who have claimed an exemption pursuant to former s.~~
731 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

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

734 (d) Names, addresses, and sales tax registration
735 information, and information relating to a hotel or restaurant
736 having an outstanding tax warrant, notice of lien, or judgment
737 lien certificate, to the Division of Hotels and Restaurants of
738 the Department of Business and Professional Regulation in the
739 conduct of its official duties.

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

743 (aa) Information relative to chapter 212 to the Department
744 of Environmental Protection in the conduct of its official
745 duties in the administration of s. 253.03(7)(b) and (11).

746
747 Disclosure of information under this subsection shall be
748 pursuant to a written agreement between the executive director
749 and the agency. Such agencies, governmental or nongovernmental,
750 shall be bound by the same requirements of confidentiality as
751 the Department of Revenue. Breach of confidentiality is a
752 misdemeanor of the first degree, punishable as provided by s.
753 775.082 or s. 775.083.

754 (20) (a) The department may publish a list of taxpayers
755 against whom the department has filed a warrant, notice of lien,
756 or judgment lien certificate. The list may include the name and

757 address of each taxpayer; the amounts and types of delinquent
 758 taxes, fees, surcharges, penalties, or interest; and the
 759 employer identification number or other taxpayer identification
 760 number.

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

764 (c) The department may adopt rules to administer this
 765 subsection.

766 (21) The department may disclose information relating to
 767 taxpayers against whom the department has filed a warrant,
 768 notice of lien, or judgment lien certificate. Such information
 769 may include the name and address of the taxpayer, the actions
 770 taken, the amounts and types of liabilities, and the amount of
 771 any collections made.

772 Section 10. Effective July 1, 2010, section 213.0532,
 773 Florida Statutes, is created to read:

774 213.0532 Information-sharing agreements with financial
 775 institutions.—

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

777 (a) "Account" means a demand deposit account, checking or
 778 negotiable withdrawal order account, savings account, time
 779 deposit account, or money-market mutual fund account.

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

781 (c) "Financial institution" means:

782 1. A depository institution as defined in 12 U.S.C. s.
 783 1813(c);

CS/HB 7157

2010

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

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

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

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

794 (e) "Person" has the same meaning as provided in s.
795 212.02.

796 (2) The department shall request information and
797 assistance from a financial institution as necessary to enforce
798 the tax laws of this state. Pursuant to this subsection,
799 financial institutions doing business in this state and having
800 deposits of at least \$50 million shall enter into agreements
801 with the department to develop and operate a data match system,
802 using an automated data exchange to the maximum extent feasible,
803 under which the financial institution shall provide, to the
804 extent allowable by law, for each calendar quarter the name,
805 record address, social security number or other taxpayer
806 identification number, average daily account balance, and other
807 identifying information for:

808 (a) Each obligor who maintains an account at the financial
809 institution as identified to the institution by the department
810 by name and social security number or other taxpayer
811 identification number; or

CS/HB 7157

2010

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

814 (3) The department may enter into agreements to operate an
815 automated data exchange with financial institutions having
816 deposits that do not exceed \$50 million.

817 (4) The department may use the information received
818 pursuant to this section only for the purpose of enforcing the
819 collection of taxes and fees administered by the department.

820 (5) To the extent possible and in compliance with state
821 and federal law, the department shall administer this section in
822 conjunction with s. 409.25657 in order to avoid duplication and
823 reduce the burden on financial institutions.

824 (6) The department shall pay a reasonable fee to the
825 financial institution for conducting the data match provided for
826 in this section, which may not exceed actual costs incurred by
827 the financial institution.

828 (7) A financial institution is not required to provide
829 notice to its customers and is not liable to any person for:

830 (a) Disclosing to the department any information required
831 under this section.

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

835 (c) Disclosing any information in connection with a data
836 match.

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

CS/HB 7157

2010

839 (8) Any financial records obtained pursuant to this
840 section may be disclosed only for the purpose of, and to the
841 extent necessary, to administer and enforce the tax laws of this
842 state.

843 (9) The department may adopt rules establishing the
844 procedures and requirements for conducting automated data
845 matches with financial institutions pursuant to this section.

846 Section 11. Effective July 1, 2010, section 213.25,
847 Florida Statutes, is amended to read:

848 213.25 Refunds; credits; right of setoff.—~~If in any~~
849 ~~instance that a taxpayer has a~~ tax refund or tax credit is due
850 to a taxpayer for an overpayment of taxes assessed under any of
851 ~~the chapters specified in s. 72.011(1),~~ the department may
852 reduce the ~~such~~ refund or credit to the extent of any billings
853 not subject to protest under s. 213.21 or chapter 443 for ~~the~~
854 ~~same or any other~~ tax owed by the ~~same~~ taxpayer.

855 Section 12. Effective July 1, 2010, section 213.50,
856 Florida Statutes, is amended to read:

857 213.50 Failure to comply; revocation of corporate charter
858 or hotel or restaurant license; refusal to reinstate charter or
859 license.—

860 (1) Any corporation of this state which has an outstanding
861 tax warrant that has existed for more than 3 consecutive months
862 is subject to the revocation of its charter as provided in s.
863 607.1420.

864 (2) A request for reinstatement of a corporate charter may
865 not be granted by the Division of Corporations of the Department
866 of State if an outstanding tax warrant has existed for that

867 corporation for more than 3 consecutive months.

868 (3) (a) The Division of Hotels and Restaurants of the
 869 Department of Business and Professional Regulation may suspend a
 870 license to operate a public lodging establishment or a public
 871 food service establishment if a tax warrant has been outstanding
 872 against the licenseholder for more than 3 months.

873 (b) The division may deny an application to renew a
 874 license to operate a public lodging establishment or a public
 875 food service establishment if a tax warrant has been outstanding
 876 against the licenseholder for more than 3 months.

877 Section 13. Effective July 1, 2010, subsection (1) of
 878 section 213.67, Florida Statutes, is amended to read:

879 213.67 Garnishment.—

880 (1) If a person is delinquent in the payment of any taxes,
 881 penalties, and interest owed to the department, the executive
 882 director or his or her designee may give notice of the amount of
 883 such delinquency by registered mail, personal service, or by
 884 electronic means, including, but not limited to, facsimile
 885 transmissions, electronic data interchange, or use of the
 886 Internet, to all persons having in their possession or under
 887 their control any credits or personal property, exclusive of
 888 wages, belonging to the delinquent taxpayer, or owing any debts
 889 to such delinquent taxpayer at the time of receipt by them of
 890 such notice. Thereafter, any person who has been notified may
 891 not transfer or make any other disposition of such credits,
 892 other personal property, or debts until the executive director
 893 or his or her designee consents to a transfer or disposition or
 894 until 60 days after the receipt of such notice. However, except

CS/HB 7157

2010

895 ~~that~~ the credits, other personal property, or debts that ~~which~~
 896 exceed the delinquent amount stipulated in the notice are ~~shall~~
 897 not ~~be~~ subject to ~~the provisions of~~ this section, wherever held,
 898 if ~~in any case in which~~ the taxpayer does not have a prior
 899 history of tax delinquencies. If during the effective period of
 900 the notice to withhold, any person so notified makes any
 901 transfer or disposition of the property or debts required to be
 902 withheld under this section hereunder, he or she is liable to
 903 the state for any indebtedness owed to the department by the
 904 person with respect to whose obligation the notice was given to
 905 the extent of the value of the property or the amount of the
 906 debts thus transferred or paid if, solely by reason of such
 907 transfer or disposition, the state is unable to recover the
 908 indebtedness of the person with respect to whose obligation the
 909 notice was given. If the delinquent taxpayer contests the
 910 intended levy in circuit court or under chapter 120, the notice
 911 under this section remains effective until that final resolution
 912 of the contest. Any financial institution receiving such notice
 913 will maintain a right of setoff for any transaction involving a
 914 debit card occurring on or before the date of receipt of such
 915 notice.

916 Section 14. Effective upon this act becoming a law and
 917 operating retroactively to July 1, 2008, subsections (4) and (5)
 918 of section 220.192, Florida Statutes, are amended to read:

919 220.192 Renewable energy technologies investment tax
 920 credit.—

921 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
 922 this section, each taxpayer must apply to the Florida Energy and

CS/HB 7157

2010

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

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

948 (a) In addition to its existing audit and investigation
 949 authority, the Department of Revenue may perform any additional
 950 financial and technical audits and investigations, including

951 examining the accounts, books, and records of the tax credit
 952 applicant, which ~~that~~ are necessary to verify the eligible costs
 953 included in the tax credit return and to ensure compliance with
 954 this section. The Florida Energy and Climate Commission
 955 ~~Department of Environmental Protection~~ shall provide technical
 956 assistance when requested by the Department of Revenue on any
 957 technical audits or examinations performed pursuant to this
 958 section.

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

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

CS/HB 7157

2010

979 of Revenue of any change in its tax credit claimed.

980 (d) The taxpayer shall file with the Department of Revenue
 981 an amended return or such other report as the Department of
 982 Revenue prescribes by rule and shall pay any required tax and
 983 interest within 60 days after the taxpayer receives notification
 984 from the Florida Energy and Climate Commission ~~Department of~~
 985 ~~Environmental Protection~~ that previously approved tax credits
 986 have been revoked or modified. If the revocation or modification
 987 order is contested, the taxpayer shall file an amended return or
 988 other report as provided in this paragraph within 60 days after
 989 a final order is issued after ~~following~~ proceedings.

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

998 Section 15. Effective July 1, 2010, paragraph (c) of
 999 subsection (1) of section 336.021, Florida Statutes, is amended
 1000 to read:

1001 336.021 County transportation system; levy of ninth-cent
 1002 fuel tax on motor fuel and diesel fuel.—

1003 (1)

1004 (c) Local option taxes collected on sales or use of diesel
 1005 fuel in this state shall be distributed in the following manner:

1006 1. The fiscal year of July 1, 1995, through June 30, 1996,

1007 shall be the base year for all distributions.

1008 2. Each year the tax collected, less the service and
 1009 administrative charges enumerated in s. 215.20 and the
 1010 allowances allowed under s. 206.91, on the number of gallons
 1011 reported, up to the total number of gallons reported in the base
 1012 year, shall be distributed to each county using the distribution
 1013 percentage calculated for the base year.

1014 3. After the distribution of taxes pursuant to
 1015 subparagraph 4. ~~2-~~, additional taxes available for distribution
 1016 shall first be distributed pursuant to this subparagraph. A
 1017 distribution shall be made to each county in which a qualified
 1018 new retail station is located. A qualified new retail station is
 1019 a retail station that began operation after June 30, 1996, and
 1020 that has sales of diesel fuel exceeding 50 percent of the sales
 1021 of diesel fuel reported in the county in which it is located
 1022 during the 1995-1996 state fiscal year. The determination of
 1023 whether a new retail station is qualified shall be based on the
 1024 total gallons of diesel fuel sold at the station during each
 1025 full month of operation during the 12-month period ending
 1026 January 31, divided by the number of full months of operation
 1027 during those 12 months, and the result multiplied by 12. The
 1028 amount distributed pursuant to this subparagraph to each county
 1029 in which a qualified new retail station is located shall equal
 1030 the local option taxes due on the gallons of diesel fuel sold by
 1031 the new retail station during the year ending January 31, less
 1032 the service charges enumerated in s. 215.20 and the dealer
 1033 allowance provided for by s. 206.91. Gallons of diesel fuel sold
 1034 at the qualified new retail station shall be certified to the

1035 department by the county requesting the additional distribution
 1036 by June 15, 1997, and by March 1 in each subsequent year. The
 1037 certification shall include the beginning inventory, fuel
 1038 purchases and sales, and the ending inventory for the new retail
 1039 station for each month of operation during the year, the
 1040 original purchase invoices for the period, and any other
 1041 information the department deems reasonable and necessary to
 1042 establish the certified gallons. The department may review and
 1043 audit the retail dealer's records provided to a county to
 1044 establish the gallons sold by the new retail station.
 1045 Notwithstanding the provisions of this subparagraph, when more
 1046 than one county qualifies for a distribution pursuant to this
 1047 subparagraph and the requested distributions exceed the total
 1048 taxes available for distribution, each county shall receive a
 1049 prorated share of the moneys available for distribution.

1050 4. After the distribution of taxes pursuant to
 1051 subparagraph 2. ~~3.~~, all additional taxes available for
 1052 distribution, except the taxes described in subparagraph 3.,
 1053 shall be distributed based on vehicular diesel fuel storage
 1054 capacities in each county pursuant to this subparagraph. The
 1055 total vehicular diesel fuel storage capacity shall be
 1056 established for each fiscal year based on the registration of
 1057 facilities with the Department of Environmental Protection as
 1058 required by s. 376.303 for the following facility types: retail
 1059 stations, fuel user/nonretail, state government, local
 1060 government, and county government. Each county shall receive a
 1061 share of the total taxes available for distribution pursuant to
 1062 this subparagraph equal to a fraction, the numerator of which is

CS/HB 7157

2010

1063 the storage capacity located within the county for vehicular
 1064 diesel fuel in the facility types listed in this subparagraph
 1065 and the denominator of which is the total statewide storage
 1066 capacity for vehicular diesel fuel in those facility types. The
 1067 vehicular diesel fuel storage capacity for each county and
 1068 facility type shall be that established by the Department of
 1069 Environmental Protection by June 1, 1997, for the 1996-1997
 1070 fiscal year, and by January 31 for each succeeding fiscal year.
 1071 The storage capacities so established shall be final. The
 1072 storage capacity for any new retail station for which a county
 1073 receives a distribution pursuant to subparagraph 3. shall not be
 1074 included in the calculations pursuant to this subparagraph.

1075 Section 16. Subsection (20) of section 443.036, Florida
 1076 Statutes, is amended to read:

1077 443.036 Definitions.—As used in this chapter, the term:

1078 (20) "Employing unit" means an individual or type of
 1079 organization, including a partnership, limited liability
 1080 company, association, trust, estate, joint-stock company,
 1081 insurance company, or corporation, whether domestic or foreign;
 1082 the receiver, trustee in bankruptcy, trustee, or successor of
 1083 any of the foregoing; or the legal representative of a deceased
 1084 person, which has or had in its employ one or more individuals
 1085 performing services for it within this state.

1086 (a) Each individual employed to perform or to assist in
 1087 performing the work of any agent or employee of an employing
 1088 unit is deemed to be employed by the employing unit for the
 1089 purposes of this chapter, regardless of whether the individual
 1090 was hired or paid directly by the employing unit or by an agent

1091 or employee of the employing unit, if the employing unit had
 1092 actual or constructive knowledge of the work.

1093 (b) Each individual performing services in this state for
 1094 an employing unit maintaining at least two separate
 1095 establishments in this state is deemed to be performing services
 1096 for a single employing unit for the purposes of this chapter.

1097 (c) A person who is an officer of a corporation, or a
 1098 member of a limited liability company classified as a
 1099 corporation for federal income tax purposes, and who performs
 1100 services for the corporation or limited liability company in
 1101 this state, regardless of whether those services are continuous,
 1102 is deemed an employee of the corporation or the limited
 1103 liability company during all of each week of his or her tenure
 1104 of office, regardless of whether he or she is compensated for
 1105 those services. Services are presumed to be rendered for the
 1106 corporation in cases in which the officer is compensated by
 1107 means other than dividends upon shares of stock of the
 1108 corporation owned by him or her.

1109 (d) A limited liability company shall be treated as having
 1110 the same status as it is classified for federal income tax
 1111 purposes. However, a single-member limited liability company
 1112 shall be treated as the employer.

1113 Section 17. Paragraph (b) of subsection (2) of section
 1114 443.1215, Florida Statutes, is amended to read:

1115 443.1215 Employers.—

1116 (2)

1117 (b) In determining whether an employing unit for which
 1118 service, other than agricultural labor, is also performed is an

CS/HB 7157

2010

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

1126 Section 18. Subsection (2) of section 443.1316, Florida
 1127 Statutes, is amended to read:

1128 443.1316 Unemployment tax collection services; interagency
 1129 agreement.—

1130 (2)(a) The Department of Revenue is considered to be
 1131 administering a revenue law of this state when the department
 1132 implements this chapter, or otherwise provides unemployment tax
 1133 collection services, under contract with the Agency for
 1134 Workforce Innovation through the interagency agreement.

1135 (b) Sections 213.015(1)-(3), (5)-(7), (9)-(19), and (21);
 1136 213.018; 213.025; 213.051; 213.053; 213.0532; 213.0535; 213.055;
 1137 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25;
 1138 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37;
 1139 213.50; 213.67; 213.69; 213.692; 213.73; 213.733; 213.74; and
 1140 213.757 apply to the collection of unemployment contributions
 1141 and reimbursements by the Department of Revenue unless
 1142 prohibited by federal law.

1143 Section 19. Subsections (1), (2), and (3) of section
 1144 443.141, Florida Statutes, are amended to read:

1145 443.141 Collection of contributions and reimbursements.—

1146 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,

1147 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

1148 (a) Interest.—Contributions or reimbursements unpaid on
 1149 the date due shall bear interest at the rate of 1 percent per
 1150 month from and after that date until payment plus accrued
 1151 interest is received by the tax collection service provider,
 1152 unless the service provider finds that the employing unit has or
 1153 had good reason for failure to pay the contributions or
 1154 reimbursements when due. Interest collected under this
 1155 subsection must be paid into the Special Employment Security
 1156 Administration Trust Fund.

1157 (b) Penalty for delinquent, erroneous, incomplete, or
 1158 insufficient reports.—

1159 1. An employing unit that fails to file any report
 1160 required by the Agency for Workforce Innovation or its tax
 1161 collection service provider, in accordance with rules for
 1162 administering this chapter, shall pay to the tax collection
 1163 service provider for each delinquent report the sum of \$25 for
 1164 each 30 days or fraction thereof that the employing unit is
 1165 delinquent, unless the agency or its service provider, whichever
 1166 required the report, finds that the employing unit has or had
 1167 good reason for failure to file the report. The agency or its
 1168 service provider may assess penalties only through the date of
 1169 the issuance of the final assessment notice. However, additional
 1170 penalties accrue if the delinquent report is subsequently filed.

1171 2.a. An employing unit that files an erroneous,
 1172 incomplete, or insufficient report with the Agency for Workforce
 1173 Innovation or its tax collection service provider shall pay a
 1174 penalty. The amount of the penalty is \$50 or 10 percent of any

1175 tax due, whichever is greater, but no more than \$300 per report.
 1176 The penalty shall be added to any tax, penalty, or interest
 1177 otherwise due.

1178 b. The agency or its tax collection service provider shall
 1179 waive the penalty if the employing unit files an accurate,
 1180 complete, and sufficient report within 30 days after a penalty
 1181 notice is issued to the employing unit. The penalty may not be
 1182 waived pursuant to this subparagraph more than one time during a
 1183 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
 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
 1206 agency providing unemployment tax collection services may adopt
 1207 rules 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
 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
 1242 15 days after the date the assessment is mailed unless the
 1243 employer files with the tax collection service provider within
 1244 the 15 days a written protest and petition for hearing
 1245 specifying the objections thereto. The tax collection service
 1246 provider shall promptly review each petition and may reconsider
 1247 its determination and assessment in order to resolve the
 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

CS/HB 7157

2010

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
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
1283 | before 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 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
 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 conducts or has conducted business. The notice of
 1310 lien must include the periods for which the contributions,
 1311 reimbursements, interest, or penalties are demanded and the
 1312 amounts due. A copy of the notice of lien must be mailed to the
 1313 employer at the employer's ~~her or his~~ last known address. The
 1314 notice of lien may not be filed ~~issued and recorded~~ until 15

CS/HB 7157

2010

1315 days after the date the assessment becomes final under
1316 subsection (2). Upon filing ~~presentation of the notice of lien,~~
1317 the clerk of the circuit court shall record the notice of lien
1318 ~~it~~ in a book maintained for that purpose, and the amount of the
1319 notice of lien, together with the cost of recording and interest
1320 accruing upon the amount of the contribution or reimbursement,
1321 becomes a lien upon the title to and interest, whether legal or
1322 equitable, in any real property, chattels real, or personal
1323 property of the employer against whom the notice of lien is
1324 issued, in the same manner as a judgment of the circuit court
1325 docketed in the office of the circuit court clerk, with
1326 execution issued to the sheriff for levy. This lien is prior,
1327 preferred, and superior to all mortgages or other liens filed,
1328 recorded, or acquired after the notice of lien is filed. Upon
1329 the payment of the amounts due, or upon determination by the tax
1330 collection service provider that the notice of lien was
1331 erroneously issued, the lien is satisfied when the service
1332 provider acknowledges in writing that the lien is fully
1333 satisfied. A lien's satisfaction does not need to be
1334 acknowledged before any notary or other public officer, and the
1335 signature of the director of the tax collection service provider
1336 or his or her designee is conclusive evidence of the
1337 satisfaction of the lien, which satisfaction shall be recorded
1338 by the clerk of the circuit court who receives the fees for
1339 those services.

1340 2. The tax collection service provider may subsequently
1341 issue a warrant directed to any sheriff in this state,
1342 commanding him or her to levy upon and sell any real or personal

CS/HB 7157

2010

1343 property of the employer liable for any amount under this
1344 chapter within his or her jurisdiction, for payment, with the
1345 added penalties and interest and the costs of executing the
1346 warrant, together with the costs of the clerk of the circuit
1347 court in recording and docketing the notice of lien, and to
1348 return the warrant to the service provider with payment. The
1349 warrant may only be issued and enforced for all amounts due to
1350 the tax collection service provider on the date the warrant is
1351 issued, together with interest accruing on the contribution or
1352 reimbursement due from the employer to the date of payment at
1353 the rate provided in this section. In the event of sale of any
1354 assets of the employer, however, priorities under the warrant
1355 shall be determined in accordance with the priority established
1356 by any notices of lien filed by the tax collection service
1357 provider and recorded by the clerk of the circuit court. The
1358 sheriff shall execute the warrant in the same manner prescribed
1359 by law for executions issued by the clerk of the circuit court
1360 for judgments of the circuit court. The sheriff is entitled to
1361 the same fees for executing the warrant as for a writ of
1362 execution out of the circuit court, and these fees must be
1363 collected in the same manner.

1364 3. The lien expires 10 years after the filing of a notice
1365 of lien with the clerk of court. An action to collect amounts
1366 due under this chapter may not be commenced after the expiration
1367 of the lien securing the payment of the amounts owed.

1368 (b) Injunctive procedures to contest warrants after
1369 issuance.—An injunction or restraining order to stay the
1370 execution of a warrant may not be issued until a motion is

CS/HB 7157

2010

1371 filed; reasonable notice of a hearing on the motion for the
1372 injunction is served on the tax collection service provider; and
1373 the party seeking the injunction either pays into the custody of
1374 the court the full amount of contributions, reimbursements,
1375 interests, costs, and penalties claimed in the warrant or enters
1376 into and files with the court a bond with two or more good and
1377 sufficient sureties approved by the court in a sum at least
1378 twice the amount of the contributions, reimbursements,
1379 interests, costs, and penalties, payable to the tax collection
1380 service provider. The bond must also be conditioned to pay the
1381 amount of the warrant, interest, and any damages resulting from
1382 the wrongful issuing of the injunction, if the injunction is
1383 dissolved, or the motion for the injunction is dismissed. Only
1384 one surety is required when the bond is executed by a lawfully
1385 authorized surety company.

1386 (c) Attachment and garnishment.—Upon the filing of notice
1387 of lien as provided in subparagraph (a)1., the tax collection
1388 service provider is entitled to remedy by attachment or
1389 garnishment as provided in chapters 76 and 77, as for a debt
1390 due. Upon application by the tax collection service provider,
1391 these writs shall be issued by the clerk of the circuit court as
1392 upon a judgment of the circuit court duly docketed and recorded.
1393 These writs shall be returnable to the circuit court. A bond may
1394 not be required of the tax collection service provider as a
1395 condition required for the issuance of these writs of attachment
1396 or garnishment. Issues raised under proceedings by attachment or
1397 garnishment shall be tried by the circuit court in the same
1398 manner as a judgment under chapters 76 and 77. Further, the

CS/HB 7157

2010

1399 notice of lien filed by the tax collection service provider is
1400 valid for purposes of all remedies under this chapter until
1401 satisfied under this chapter, and revival by scire facias or
1402 other proceedings are not necessary before pursuing any remedy
1403 authorized by law. Proceedings authorized upon a judgment of the
1404 circuit court do not make the lien a judgment of the circuit
1405 court upon a debt for any purpose other than as are specifically
1406 provided by law as procedural remedies.

1407 (d) Third-party claims.—Upon any levy made by the sheriff
1408 under a writ of attachment or garnishment as provided in
1409 paragraph (c), the circuit court shall try third-party claims to
1410 property involved as upon a judgment thereof and all proceedings
1411 authorized on third-party claims in ss. 56.16, 56.20, 76.21, and
1412 77.16 shall apply.

1413 (e) Proceedings supplementary to execution.—At any time
1414 after a warrant provided for in subparagraph (a)2. is returned
1415 unsatisfied by any sheriff of this state, the tax collection
1416 service provider may file an affidavit in the circuit court
1417 affirming the warrant was returned unsatisfied and remains valid
1418 and outstanding. The affidavit must also state the residence of
1419 the party or parties against whom the warrant is issued. The tax
1420 collection service provider is subsequently entitled to have
1421 other and further proceedings in the circuit court as upon a
1422 judgment thereof as provided in s. 56.29.

1423 (f) Reproductions.—In any proceedings in any court under
1424 this chapter, reproductions of the original records of the
1425 Agency for Workforce Innovation, its tax collection service
1426 provider, the former Department of Labor and Employment

1427 Security, or the commission, including, but not limited to,
1428 photocopies or microfilm, are primary evidence in lieu of the
1429 original records or of the documents that were transcribed into
1430 those records.

1431 (g) Jeopardy assessment and warrant.—If the tax collection
1432 service provider reasonably believes that the collection of
1433 contributions or reimbursements from an employer will be
1434 jeopardized by delay, the service provider may assess the
1435 contributions or reimbursements immediately, together with
1436 interest or penalties when due, regardless of whether the
1437 contributions or reimbursements accrued are due, and may
1438 immediately issue a notice of lien and jeopardy warrant upon
1439 which proceedings may be conducted as provided in this section
1440 for notice of lien and warrant of the service provider. Within
1441 15 days after mailing the notice of lien by registered mail, the
1442 employer may protest the issuance of the lien in the same manner
1443 provided in paragraph (2) (a). The protest does not operate as a
1444 supersedeas or stay of enforcement unless the employer files
1445 with the sheriff seeking to enforce the warrant a good and
1446 sufficient surety bond in twice the amount demanded by the
1447 notice of lien or warrant. The bond must be conditioned upon
1448 payment of the amount subsequently found to be due from the
1449 employer to the tax collection service provider in the final
1450 order of the Agency for Workforce Innovation upon protest of
1451 assessment. The jeopardy warrant and notice of lien are
1452 satisfied in the manner provided in this section upon payment of
1453 the amount finally determined to be due from the employer. If
1454 enforcement of the jeopardy warrant is not superseded as

1455 provided in this section, the employer is entitled to a refund
1456 from the fund of all amounts paid as contributions or
1457 reimbursements in excess of the amount finally determined to be
1458 due by the employer upon application being made as provided in
1459 this chapter.

1460 Section 20. Effective July 1, 2010, subsection (2) of
1461 section 443.163, Florida Statutes, is amended to read:

1462 443.163 Electronic reporting and remitting of
1463 contributions and reimbursements.—

1464 (2)(a) An employer who is required by law to file an
1465 Employers Quarterly Report (UCT-6) by approved electronic means,
1466 but who files the report by a means other than approved
1467 electronic means, is liable for a penalty of \$50 ~~\$10~~ for that
1468 report and \$1 for each employee. This penalty, ~~which~~ is in
1469 addition to any other ~~applicable~~ penalty provided by this
1470 chapter. However, unless the penalty does not apply if employer
1471 first obtains a waiver of this requirement from the tax
1472 collection service provider waives the electronic filing
1473 requirement in advance. An employer who fails to remit
1474 contributions or reimbursements by approved electronic means as
1475 required by law is liable for a penalty of \$50 ~~\$10~~ for each
1476 remittance submitted by a means other than approved electronic
1477 means. This penalty, ~~which~~ is in addition to any other
1478 applicable penalty provided by this chapter.

1479 (b) A person who prepared and reported for 100 or more
1480 employers in any quarter during the preceding state fiscal year,
1481 but who fails to file an Employers Quarterly Report (UCT-6) for
1482 each calendar quarter in the current calendar year by approved

CS/HB 7157

2010

1483 | electronic means ~~as required by law~~, is liable for a penalty of
 1484 | \$50 ~~\$10~~ for that report and \$1 for each employee. This penalty,
 1485 | ~~which~~ is in addition to any other ~~applicable~~ penalty provided by
 1486 | this chapter. However, unless the penalty does not apply if
 1487 | ~~person first obtains a waiver of this requirement from the tax~~
 1488 | ~~collection service provider~~ waives the electronic filing
 1489 | requirement in advance.

1490 | Section 21. Subsection (3) of section 443.163, Florida
 1491 | Statutes, is amended to read:

1492 | 443.163 Electronic reporting and remitting of
 1493 | contributions and reimbursements.—

1494 | (3) The tax collection service provider may waive the
 1495 | requirement to file an Employers Quarterly Report (UCT-6) by
 1496 | electronic means for employers that are unable to comply despite
 1497 | good faith efforts or due to circumstances beyond the employer's
 1498 | reasonable control.

1499 | (a) As prescribed by the Agency for Workforce Innovation
 1500 | or its tax collection service provider, grounds for approving
 1501 | the waiver include, but are not limited to, circumstances in
 1502 | which the employer does not:

1503 | 1. Currently file information or data electronically with
 1504 | any business or government agency; or

1505 | 2. Have a compatible computer that meets or exceeds the
 1506 | standards prescribed by the Agency for Workforce Innovation or
 1507 | its tax collection service provider.

1508 | (b) The tax collection service provider shall accept other
 1509 | reasons for requesting a waiver from the requirement to submit
 1510 | the Employers Quarterly Report (UCT-6) by electronic means,

CS/HB 7157

2010

1511 including, but not limited to:

1512 1. That the employer needs additional time to program his
1513 or her computer;

1514 2. That complying with this requirement causes the
1515 employer financial hardship; or

1516 3. That complying with this requirement conflicts with the
1517 employer's business procedures.

1518 (c) The Agency for Workforce Innovation or the state
1519 agency providing unemployment tax collection services may
1520 establish by rule the length of time a waiver is valid and may
1521 determine whether subsequent waivers will be authorized, based
1522 on this subsection; ~~however, the tax collection service provider~~
1523 ~~may only grant a waiver from electronic reporting if the~~
1524 ~~employer timely files the Employers Quarterly Report (UCT-6) by~~
1525 ~~tefile, unless the employer wage detail exceeds the service~~
1526 ~~provider's telefile system capabilities.~~

1527 Section 22. Section 213.692, Florida Statutes, is created
1528 to read:

1529 213.692 Integrated enforcement authority.-

1530 (1) If the department files a warrant, notice of lien, or
1531 judgment lien certificate against the property of a taxpayer,
1532 the department may also revoke all certificates of registration,
1533 permits, or licenses issued by the department to that taxpayer.

1534 (a) Before the department may revoke the certificates of
1535 registration, permits, or licenses, the department must schedule
1536 an informal conference that the taxpayer is required to attend.
1537 At the conference, the taxpayer may present evidence regarding
1538 the department's intended action or enter into a compliance

CS/HB 7157

2010

1539 agreement. The department must provide written notice to the
1540 taxpayer of the department's intended action and the time, date,
1541 and place of the conference. The department shall issue an
1542 administrative complaint to revoke the certificates of
1543 registration, permits, or licenses if the taxpayer does not
1544 attend the conference, enter into a compliance agreement, or
1545 comply with the compliance agreement.

1546 (b) The department may not issue a certificate of
1547 registration, permit, or license to a taxpayer whose certificate
1548 of registration, permit, or license has been revoked unless:

1549 1. The outstanding liabilities of the taxpayer have been
1550 satisfied; or

1551 2. The department enters into a written agreement with the
1552 taxpayer regarding any outstanding liabilities and, as part of
1553 such agreement, agrees to issue a certificate of registration,
1554 permit, or license.

1555 (c) The department shall require a cash deposit, bond, or
1556 other security as a condition of issuing a new certificate of
1557 registration pursuant to the requirements of s. 212.14(4).

1558 (2) If the department files a warrant or a judgment lien
1559 certificate in connection with a jeopardy assessment, the
1560 department must comply with the procedures in s. 213.732 before
1561 or in conjunction with those provided in this section.

1562 (3) The department may adopt rules to administer this
1563 section.

1564 Section 23. Effective July 1, 2010, the Department of
1565 Revenue is authorized to adopt emergency rules to administer s.
1566 213.692, Florida Statutes. The emergency rules shall remain in

CS/HB 7157

2010

1567 effect for 6 months after adoption and may be renewed during the
1568 pendency of procedures to adopt rules addressing the subject of
1569 the emergency rules.

1570 Section 24. Sections 195.095 and 213.054, Florida
1571 Statutes, are repealed.

1572 Section 25. Except as otherwise expressly provided in this
1573 act, this act shall take effect upon becoming a law.