

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. 212.08, F.S.; revising provisions excluding  
36 certain sales of tangible personal property to contractors  
37 from application of an exemption for sales made to  
38 governmental entities under certain circumstances;  
39 specifying additional requirements, procedures, and  
40 limitations; requiring the Department of Revenue to adopt  
41 rules for purposes of determining eligibility for the  
42 exemption and providing for a certificate of entitlement  
43 to the exemption; specifying certification requirements;  
44 authorizing the department to adopt emergency rules;  
45 providing for time of effect of emergency rules; amending  
46 s. 213.053, F.S.; authorizing the department to provide  
47 certain confidential taxpayer information to the Florida  
48 Energy and Climate Commission; providing for retroactive  
49 operation; providing that restrictions on disclosure of  
50 confidential taxpayer information do not prohibit the  
51 department from using certain methods of electronic  
52 communication for certain purposes; providing that the  
53 department may release confidential taxpayer information  
54 relating to a corporation having an outstanding tax  
55 warrant to the Department of Business and Professional  
56 Regulation; authorizing the department to share taxpayer

57 | names and identification numbers for purposes of  
58 | information-sharing agreements with financial  
59 | institutions; authorizing the department to share certain  
60 | information relating to the tax on sales, use, and other  
61 | transactions with the Department of Environmental  
62 | Protection; authorizing the department to publish a list  
63 | of taxpayers against whom it has filed a warrant or  
64 | judgment lien certificate; requiring the department to  
65 | update the list at least monthly; authorizing the  
66 | department to adopt rules; authorizing the department to  
67 | provide confidential taxpayer information relating to  
68 | collections from taxpayers against whom it has taken a  
69 | collection action; creating s. 213.0532, F.S.; defining  
70 | terms; requiring the department and certain financial  
71 | institutions to enter into information-sharing agreements  
72 | to enable the department to obtain the account balances  
73 | and personally identifying information of taxpayers;  
74 | authorizing the department and certain financial  
75 | institutions to enter into information-sharing agreements  
76 | to enable the department to obtain the account balances  
77 | and personally identifying information of taxpayers;  
78 | limiting the use of information gathered for the purpose  
79 | of enforcing the collection of certain taxes and fees;  
80 | requiring the department to pay a fee to the financial  
81 | institutions for their services; limiting the liability  
82 | for certain acts of financial institutions that enter into  
83 | an information-sharing agreement; authorizing the  
84 | department to adopt rules; amending s. 213.25, F.S.;

85 | authorizing the department to reduce a tax refund or  
86 | credit owing to a taxpayer to the extent of liability for  
87 | unemployment compensation taxes; amending s. 213.50, F.S.;  
88 | authorizing the Division of Hotels and Restaurants of the  
89 | Department of Business and Professional Regulation to  
90 | suspend or deny the renewal of a license for a hotel or  
91 | restaurant having an outstanding tax warrant for a certain  
92 | period of time; amending s. 213.67, F.S.; specifying  
93 | additional methods by which the department may give notice  
94 | of a tax delinquency for garnishment purposes; amending s.  
95 | 220.192, F.S.; providing for the administration of certain  
96 | portions of the renewable energy technologies tax credit  
97 | program by the Florida Energy and Climate Commission;  
98 | providing for retroactive application; amending s.  
99 | 336.021, F.S.; revising the distribution of the ninth-cent  
100 | fuel tax on motor fuel and diesel fuel; amending s.  
101 | 443.036, F.S.; providing for the treatment of a single-  
102 | member limited liability company as the employer for  
103 | purposes of unemployment compensation law; amending s.  
104 | 443.1215, F.S.; correcting a cross-reference; amending s.  
105 | 443.1316, F.S.; conforming cross-references; amending s.  
106 | 443.141, F.S.; providing penalties for erroneous,  
107 | incomplete, or insufficient reports; authorizing a waiver  
108 | of the penalty under certain circumstances; defining a  
109 | term; authorizing the Agency for Workforce Innovation and  
110 | the state agency providing unemployment compensation tax  
111 | collection services to adopt rules; providing an  
112 | expiration date for liens for contributions and

113 reimbursements; amending s. 443.163, F.S.; increasing  
114 penalties for failing to file Employers Quarterly Reports  
115 by means other than approved electronic means; revising  
116 waiver provisions; creating s. 213.692, F.S.; authorizing  
117 the Department of Revenue to revoke all certificates of  
118 registration, permits, or licenses issued to a taxpayer  
119 against whose property the department has filed a warrant  
120 or tax lien; requiring the scheduling of an informal  
121 conference before revocation of the certificates of  
122 registration, permits, or licenses; prohibiting the  
123 Department of Revenue from issuing a certificate of  
124 registration, permit, or license to a taxpayer whose  
125 certificate of registration, permit, or license has been  
126 revoked; providing exceptions; requiring security as a  
127 condition of issuing a new certificate of registration to  
128 a person whose certificate of registration, permit, or  
129 license has been revoked after the filing of a warrant or  
130 tax lien certificate; authorizing the department to adopt  
131 rules, including emergency rules; repealing s. 195.095,  
132 F.S., relating to the authority of the Department of  
133 Revenue to develop lists of bidders that are approved to  
134 contract with property appraisers, tax collectors, or  
135 county commissions for assessment or collection services;  
136 repealing s. 213.054, F.S., relating to monitoring and  
137 reporting on the use of a tax deduction claimed by  
138 international banking institutions; providing effective  
139 dates.

140

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

142  
 143 Section 1. Section 55.204, Florida Statutes, is amended to  
 144 read:

145 55.204 Duration and continuation of judgment lien;  
 146 destruction of records.—

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

150 (2) Liens securing the payment of child support or tax  
 151 obligations under ~~as set forth in~~ s. 95.091(1)(b) ~~shall not~~  
 152 lapse ~~until~~ 20 years after the date of the original filing of  
 153 the warrant or other document required by law to establish a  
 154 lien. Liens securing the payment of unemployment tax obligations  
 155 lapse 10 years after the date of the original filing of the  
 156 notice of lien. A ~~No~~ second lien based on the original filing  
 157 may not be obtained.

158 (3) At any time within 6 months before or 6 months after  
 159 the scheduled lapse of a judgment lien under subsection (1), the  
 160 judgment creditor may acquire a second judgment lien by filing a  
 161 new judgment lien certificate. The effective date of the second  
 162 judgment lien is the date and time on which the judgment lien  
 163 certificate is filed. The second judgment lien is a new judgment  
 164 lien and not a continuation of the original judgment lien. The  
 165 second judgment lien permanently lapses and becomes invalid 5  
 166 years after its filing date, and no additional liens based on  
 167 the original judgment or any judgment based on the original  
 168 judgment may be acquired.

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

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

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

177 (c) The property was located in the county in which the  
178 sheriff has jurisdiction at the time of delivery of the  
179 instruction for levy. Subsequent removal of the property does  
180 not defeat the lien. A court may order continuation of the lien  
181 beyond the 90-day period on a showing that extraordinary  
182 circumstances have prevented levy.

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

187 (6) If a ~~no~~ second judgment lien is not filed, the  
188 Department of State shall maintain each judgment lien file and  
189 all information contained therein for a minimum of 1 year after  
190 the judgment lien lapses in accordance with this section. If a  
191 second judgment lien is filed, the department shall maintain  
192 both files and all information contained in such files for a  
193 minimum of 1 year after the second judgment lien lapses.

194 (7) ~~Nothing in~~ This section does not ~~shall be construed to~~  
195 extend the life of a judgment lien beyond the time that the  
196 underlying judgment, order, decree, or warrant otherwise expires

197 or becomes invalid pursuant to law.

198 Section 2. Section 95.091, Florida Statutes, is amended to  
 199 read:

200 95.091 Limitation on actions to collect taxes.—

201 (1) (a) Except in the case of taxes for which certificates  
 202 have been sold, taxes enumerated in s. 72.011, or tax liens  
 203 issued under s. 196.161 or s. 443.141, any tax lien granted by  
 204 law to the state or any of its political subdivisions, any  
 205 municipality, any public corporation or body politic, or any  
 206 other entity having authority to levy and collect taxes shall  
 207 expire 5 years after the date the tax is assessed or becomes  
 208 delinquent, whichever is later. An ~~no~~ action ~~may be begun~~ to  
 209 collect any tax may not be commenced after the expiration of the  
 210 lien securing the payment of the tax.

211 (b) Any tax lien granted by law to the state or any of its  
 212 political subdivisions for any tax enumerated in s. 72.011 or  
 213 any tax lien imposed under s. 196.161 expires ~~shall expire~~ 20  
 214 years after the last date the tax may be assessed, after the tax  
 215 becomes delinquent, or after the filing of a tax warrant,  
 216 whichever is later. An action to collect any tax enumerated in  
 217 s. 72.011 may not be commenced after the expiration of the lien  
 218 securing the payment of the tax.

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

223 (3) (a) With the exception of taxes levied under chapter  
 224 198 and tax adjustments made pursuant to ss. 220.23 and



225 624.50921, the Department of Revenue may determine and assess  
 226 the amount of any tax, penalty, or interest due under any tax  
 227 enumerated in s. 72.011 which it has authority to administer and  
 228 the Department of Business and Professional Regulation may  
 229 determine and assess the amount of any tax, penalty, or interest  
 230 due under any tax enumerated in s. 72.011 which it has authority  
 231 to administer:

232 1.a. For taxes due before July 1, 1999, within 5 years  
 233 after the date the tax is due, any return with respect to the  
 234 tax is due, or such return is filed, whichever occurs later; and  
 235 for taxes due on or after July 1, 1999, within 3 years after the  
 236 date the tax is due, any return with respect to the tax is due,  
 237 or such return is filed, whichever occurs later;

238 b. Effective July 1, 2002, notwithstanding sub-  
 239 subparagraph a., within 3 years after the date the tax is due,  
 240 any return with respect to the tax is due, or such return is  
 241 filed, whichever occurs later;

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

245 3. At any time while the right to a refund or credit of  
 246 the tax is available to the taxpayer;

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

249 5. At any time after the taxpayer has failed to make any  
 250 required payment of the tax, has failed to file a required  
 251 return, or has filed a fraudulent return, except that for taxes  
 252 due on or after July 1, 1999, the limitation prescribed in

253 | subparagraph 1. applies if the taxpayer has disclosed in writing  
 254 | the tax liability to the department before the department has  
 255 | contacted the taxpayer; or

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

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

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

262 |  
 263 | or at any time after making such refund if it appears that any  
 264 | part of the refund was induced by fraud or the misrepresentation  
 265 | of a material fact.

266 |             (b) For the purpose of this paragraph, a tax return filed  
 267 | before the last day prescribed by law, including any extension  
 268 | thereof, shall be deemed to have been filed on such last day,  
 269 | and payments made prior to the last day prescribed by law shall  
 270 | be deemed to have been paid on such last day.

271 |             (4) If administrative or judicial proceedings for review  
 272 | of the tax assessment or collection are initiated by a taxpayer  
 273 | within the period of limitation prescribed in this section, the  
 274 | running of the period is ~~shall be~~ tolled during the pendency of  
 275 | the proceeding. Administrative proceedings shall include  
 276 | taxpayer protest proceedings initiated under s. 213.21 and  
 277 | department rules.

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

280 |             201.02 Tax on deeds and other instruments relating to real

281 property or interests in real property.-

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

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

291 (b) A mortgagee releases the real property from its  
 292 mortgage in exchange for a payment of less than the total of the  
 293 outstanding mortgage indebtedness owed to the releasing  
 294 mortgagee.

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

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

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

301 202.125 Sales of communications services; specified  
 302 exemptions.-

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

309 satellite service.

310 Section 5. Paragraph (i) of subsection (1) of section  
311 212.05, Florida Statutes, is amended to read:

312 212.05 Sales, storage, use tax.—It is hereby declared to  
313 be the legislative intent that every person is exercising a  
314 taxable privilege who engages in the business of selling  
315 tangible personal property at retail in this state, including  
316 the business of making mail order sales, or who rents or  
317 furnishes any of the things or services taxable under this  
318 chapter, or who stores for use or consumption in this state any  
319 item or article of tangible personal property as defined herein  
320 and who leases or rents such property within the state.

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

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

325 a. Detective, burglar protection, and other protection  
326 services (NAICS National Numbers 561611, 561612, 561613, and  
327 561621). Any law enforcement officer, as defined in s. 943.10,  
328 who is performing approved duties as determined by his or her  
329 local law enforcement agency in his or her capacity as a law  
330 enforcement officer, and who is subject to the direct and  
331 immediate command of his or her law enforcement agency, and in  
332 the law enforcement officer's uniform as authorized by his or  
333 her law enforcement agency, is performing law enforcement and  
334 public safety services and is not performing detective, burglar  
335 protection, or other protective services, if the law enforcement  
336 officer is performing his or her approved duties in a

337 geographical area in which the law enforcement officer has  
338 arrest jurisdiction. Such law enforcement and public safety  
339 services are not subject to tax irrespective of whether the duty  
340 is characterized as "extra duty," "off-duty," or "secondary  
341 employment," and irrespective of whether the officer is paid  
342 directly or through the officer's agency by an outside source.  
343 The term "law enforcement officer" includes full-time or part-  
344 time law enforcement officers, and any auxiliary law enforcement  
345 officer, when such auxiliary law enforcement officer is working  
346 under the direct supervision of a full-time or part-time law  
347 enforcement officer.

348 b. Nonresidential cleaning, excluding cleaning of the  
349 interiors of transportation equipment, and nonresidential  
350 building pest control services (NAICS National Numbers 561710  
351 and 561720).

352 2. As used in this paragraph, "NAICS" means those  
353 classifications contained in the North American Industry  
354 Classification System, as published in 2007 by the Office of  
355 Management and Budget, Executive Office of the President.

356 3. Charges for detective, burglar protection, and other  
357 protection security services performed in this state but used  
358 outside this state are exempt from taxation. Charges for  
359 detective, burglar protection, and other protection security  
360 services performed outside this state and used in this state are  
361 subject to tax.

362 4. If a transaction involves both the sale or use of a  
363 service taxable under this paragraph and the sale or use of a  
364 service or any other item not taxable under this chapter, the

365 consideration paid must be separately identified and stated with  
366 respect to the taxable and exempt portions of the transaction or  
367 the entire transaction shall be presumed taxable. The burden  
368 shall be on the seller of the service or the purchaser of the  
369 service, whichever applicable, to overcome this presumption by  
370 providing documentary evidence as to which portion of the  
371 transaction is exempt from tax. The department is authorized to  
372 adjust the amount of consideration identified as the taxable and  
373 exempt portions of the transaction; however, a determination  
374 that the taxable and exempt portions are inaccurately stated and  
375 that the adjustment is applicable must be supported by  
376 substantial competent evidence.

377 5. Each seller of services subject to sales tax pursuant  
378 to this paragraph shall maintain a monthly log showing each  
379 transaction for which sales tax was not collected because the  
380 services meet the requirements of subparagraph 3. for out-of-  
381 state use. The log must identify the purchaser's name, location  
382 and mailing address, and federal employer identification number,  
383 if a business, or the social security number, if an individual,  
384 the service sold, the price of the service, the date of sale,  
385 the reason for the exemption, and the sales invoice number. The  
386 monthly log shall be maintained pursuant to the same  
387 requirements and subject to the same penalties imposed for the  
388 keeping of similar records pursuant to this chapter.

389 Section 6. Paragraph (a) of subsection (3) of section  
390 212.0515, Florida Statutes, is amended to read:

391 212.0515 Sales from vending machines; sales to vending  
392 machine operators; special provisions; registration; penalties.-

393 (3) (a) An operator of a vending machine may not operate or  
394 cause to be operated in this state any vending machine until the  
395 operator has registered with the department, has obtained a  
396 separate registration certificate for each county in which such  
397 machines are located, and has affixed a notice to each vending  
398 machine selling food or beverages ~~which states the operator's~~  
399 ~~name, address, and Federal Employer Identification (FEI) number.~~  
400 ~~If the operator is not required to have an FEI number, the~~  
401 ~~notice shall include the operator's sales tax registration~~  
402 ~~number.~~ The notice must be conspicuously displayed on the  
403 vending machine when it is being operated in this state and  
404 shall contain the following language in conspicuous type: NOTICE  
405 TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON  
406 ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT ANY MACHINE  
407 WITHOUT A NOTICE TO (TOLL-FREE NUMBER). YOU MAY BE ELIGIBLE FOR  
408 A CASH REWARD. DO NOT USE THIS NUMBER TO REPORT PROBLEMS WITH  
409 THE VENDING MACHINE SUCH AS LOST MONEY OR OUT-OF-DATE PRODUCTS.

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

412 212.08 Sales, rental, use, consumption, distribution, and  
413 storage tax; specified exemptions.—The sale at retail, the  
414 rental, the use, the consumption, the distribution, and the  
415 storage to be used or consumed in this state of the following  
416 are hereby specifically exempt from the tax imposed by this  
417 chapter.

418 (1) EXEMPTIONS; GENERAL GROCERIES.—

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

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

426 1. Cereals and cereal products, baked goods,  
 427 oleomargarine, meat and meat products, fish and seafood  
 428 products, frozen foods and dinners, poultry, eggs and egg  
 429 products, vegetables and vegetable products, fruit and fruit  
 430 products, spices, salt, sugar and sugar products, milk and dairy  
 431 products, and products intended to be mixed with milk.

432 2. Natural fruit or vegetable juices or their concentrates  
 433 or reconstituted natural concentrated fruit or vegetable juices,  
 434 whether frozen or unfrozen, dehydrated, powdered, granulated,  
 435 sweetened or unsweetened, seasoned with salt or spice, or  
 436 unseasoned; coffee, coffee substitutes, or cocoa; and tea,  
 437 unless it is sold in a liquid form.

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

440 (c) The exemption provided by this subsection does not  
 441 apply to:

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

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



449           3. ~~When the~~ Food products ~~are~~ ordinarily sold for  
450 immediate consumption on the seller's premises or near a  
451 location at which parking facilities are provided primarily for  
452 the use of patrons in consuming the products purchased at the  
453 location, even though such products are sold on a "take out" or  
454 "to go" order and are actually packaged or wrapped and taken  
455 from the premises of the dealer.

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

458           5. ~~When the~~ Food products ~~are~~ sold ready for immediate  
459 consumption within a place, the entrance to which is subject to  
460 an admission charge.

461           6. ~~When the~~ Food products ~~are~~ sold as hot prepared food  
462 products.

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

468           8. ~~The~~ Ice cream, frozen yogurt, and similar frozen dairy  
469 or nondairy products in cones, small cups, or pints, popsicles,  
470 frozen fruit bars, or other novelty items, whether or not sold  
471 separately.

472           9. ~~The~~ Food that is prepared, whether on or off the  
473 premises, and sold for immediate consumption. This does not  
474 apply to food prepared off the premises and sold in the original  
475 sealed container, or the slicing of products into smaller  
476 portions.

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

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

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

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

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

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

492 2. "For consumption on the seller's premises" means that  
 493 the food or drink sold may be immediately consumed on the  
 494 premises where the dealer conducts his or her business. In  
 495 determining whether an item of food is sold for immediate  
 496 consumption, ~~there shall be considered~~ the customary consumption  
 497 practices prevailing at the selling facility shall be  
 498 considered.

499 3. "Premises" shall be construed broadly, and means, but  
 500 is not limited to, the lobby, aisle, or auditorium of a theater;  
 501 the seating, aisle, or parking area of an arena, rink, or  
 502 stadium; or the parking area of a drive-in or outdoor theater.  
 503 The premises of a caterer with respect to catered meals or  
 504 beverages shall be the place where such meals or beverages are

505 served.

506 4. "Hot prepared food products" means those products,  
507 items, or components which have been prepared for sale in a  
508 heated condition and which are sold at any temperature that is  
509 higher than the air temperature of the room or place where they  
510 are sold. "Hot prepared food products," for the purposes of this  
511 subsection, includes a combination of hot and cold food items or  
512 components where a single price has been established for the  
513 combination and the food products are sold in such combination,  
514 such as a hot meal, a hot specialty dish or serving, or a hot  
515 sandwich or hot pizza, including cold components or side items.

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

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

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

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

533 1. If the taxable items represent more than 25 percent of  
 534 the cost of the complete package and a single charge is made,  
 535 the entire sales price of the package is taxable. If the taxable  
 536 items are separately stated, the separate charge for the taxable  
 537 items is subject to tax.

538 2. If the taxable items represent 25 percent or less of  
 539 the cost of the complete package and a single charge is made,  
 540 the entire sales price of the package is exempt from tax. The  
 541 person preparing the package is liable for the tax on the cost  
 542 of the taxable items going into the complete package. If the  
 543 taxable items are separately stated, the separate charge is  
 544 subject to tax.

545 (5) EXEMPTIONS; ACCOUNT OF USE.—

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

548 1. Building materials used in the rehabilitation of real  
 549 property located in an enterprise zone are ~~shall be~~ exempt from  
 550 the tax imposed by this chapter upon an affirmative showing to  
 551 the satisfaction of the department that the items have been used  
 552 for the rehabilitation of real property located in an enterprise  
 553 zone. Except as provided in subparagraph 2., this exemption  
 554 inures to the owner, lessee, or lessor at the time of the  
 555 ~~rehabilitated~~ real property is rehabilitated, but located in an  
 556 ~~enterprise zone~~ only through a refund of previously paid taxes.  
 557 To receive a refund pursuant to this paragraph, the owner,  
 558 lessee, or lessor of the rehabilitated real property ~~located in~~  
 559 ~~an enterprise zone~~ must file an application under oath with the  
 560 governing body or enterprise zone development agency having

561 jurisdiction over the enterprise zone where the business is  
562 located, as applicable. A single application for a refund may be  
563 submitted for multiple, contiguous parcels that were part of a  
564 single parcel that was divided as part of the rehabilitation of  
565 the property. All other requirements of this paragraph apply to  
566 each parcel on an individual basis. The application must  
567 include, which includes:

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

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

572 c. A description of the improvements made to accomplish  
573 the rehabilitation of the real property.

574 d. A copy of a valid ~~the~~ building permit issued by the  
575 county or municipal building department for the rehabilitation  
576 of the real property.

577 e. A sworn statement, under ~~the~~ penalty of perjury, from  
578 the general contractor licensed in this state with whom the  
579 applicant contracted to make the improvements necessary to  
580 rehabilitate ~~accomplish the rehabilitation of~~ the real property,  
581 ~~which statement~~ lists the building materials used to  
582 rehabilitate ~~in the rehabilitation of~~ the real property, the  
583 actual cost of the building materials, and the amount of sales  
584 tax paid in this state on the building materials. If ~~In the~~  
585 ~~event that~~ a general contractor was ~~has not been~~ used, the  
586 applicant, not a general contractor, shall make the sworn  
587 statement required by this sub-subparagraph ~~shall provide this~~  
588 ~~information in a sworn statement, under the penalty of perjury.~~

589 Copies of the invoices that ~~which~~ evidence the purchase of the  
 590 building materials used in the ~~such~~ rehabilitation and the  
 591 payment of sales tax on the building materials must ~~shall~~ be  
 592 attached to the sworn statement provided by the general  
 593 contractor or by the applicant. Unless the actual cost of  
 594 building materials used in the rehabilitation of real property  
 595 and the payment of sales taxes ~~due thereon~~ is documented by a  
 596 general contractor or by the applicant in this manner, the cost  
 597 of the ~~such~~ building materials is deemed to ~~shall~~ be an amount  
 598 equal to 40 percent of the increase in assessed value for ad  
 599 valorem tax purposes.

600 f. The identifying number assigned pursuant to s. 290.0065  
 601 to the enterprise zone in which the rehabilitated real property  
 602 is located.

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

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

608 i. If applicable, the name and address of each permanent  
 609 employee of the business, including, for each employee who is a  
 610 resident of an enterprise zone, the identifying number assigned  
 611 pursuant to s. 290.0065 to the enterprise zone in which the  
 612 employee resides.

613 2. This exemption inures to a municipality ~~city~~, county,  
 614 other governmental unit or agency, or nonprofit community-based  
 615 organization through a refund of previously paid taxes if the  
 616 building materials used in the rehabilitation ~~of real property~~

617 ~~located in an enterprise zone~~ are paid for from the funds of a  
618 community development block grant, State Housing Initiatives  
619 Partnership Program, or similar grant or loan program. To  
620 receive a refund ~~pursuant to this paragraph~~, a municipality  
621 ~~city~~, county, other governmental unit or agency, or nonprofit  
622 community-based organization must file an application that ~~which~~  
623 includes the same information required ~~to be provided~~ in  
624 subparagraph 1. ~~by an owner, lessee, or lessor of rehabilitated~~  
625 ~~real property~~. In addition, the application must include a sworn  
626 statement signed by the chief executive officer of the  
627 municipality ~~city~~, county, other governmental unit or agency, or  
628 nonprofit community-based organization seeking a refund which  
629 states that the building materials for which a refund is sought  
630 were funded by ~~paid for from the funds of~~ a community  
631 development block grant, State Housing Initiatives Partnership  
632 Program, or similar grant or loan program.

633 3. Within 10 working days after receipt of an application,  
634 the governing body or enterprise zone development agency shall  
635 review the application to determine if it contains all the  
636 information required by ~~pursuant to~~ subparagraph 1. or  
637 subparagraph 2. and meets the criteria set out in this  
638 paragraph. The governing body or agency shall certify all  
639 applications that contain the required information ~~required~~  
640 ~~pursuant to subparagraph 1. or subparagraph 2.~~ and are ~~meet~~ the  
641 ~~criteria set out in this paragraph~~ as eligible to receive a  
642 refund. If applicable, the governing body or agency shall also  
643 certify if 20 percent of the employees of the business are  
644 residents of an enterprise zone, excluding temporary and part-

645 time employees. The certification must ~~shall~~ be in writing, and  
646 a copy of the certification shall be transmitted to the  
647 executive director of the Department of Revenue. The applicant  
648 is ~~shall be~~ responsible for forwarding a certified application  
649 to the department within the time specified in subparagraph 4.

650 4. An application for a refund ~~pursuant to this paragraph~~  
651 must be submitted to the department within 6 months after the  
652 rehabilitation of the property is deemed to be substantially  
653 completed by the local building code inspector or by November 1  
654 ~~September 1~~ after the rehabilitated property is first subject to  
655 assessment.

656 5. Only ~~Not more than~~ one exemption through a refund of  
657 previously paid taxes for the rehabilitation of real property is  
658 ~~shall be~~ permitted for any single parcel of property unless  
659 there is a change in ownership, a new lessor, or a new lessee of  
660 the real property. A ~~No~~ refund may not ~~shall~~ be granted ~~pursuant~~  
661 ~~to this paragraph~~ unless the amount to be refunded exceeds \$500.  
662 A ~~No~~ refund may not ~~granted pursuant to this paragraph shall~~  
663 exceed the lesser of 97 percent of the Florida sales or use tax  
664 paid on the cost of the building materials used in the  
665 rehabilitation of the real property as determined pursuant to  
666 sub-subparagraph 1.e. or \$5,000, or, if at least ~~no less than~~ 20  
667 percent of the employees of the business are residents of an  
668 enterprise zone, excluding temporary and part-time employees,  
669 the amount of refund may ~~granted pursuant to this paragraph~~  
670 ~~shall~~ not exceed the lesser of 97 percent of the sales tax paid  
671 on the cost of the ~~such~~ building materials or \$10,000. A refund  
672 ~~approved pursuant to this paragraph~~ shall be made within 30 days



673 after ~~of~~ formal approval by the department of the application  
 674 for the refund. ~~This subparagraph shall apply retroactively to~~  
 675 ~~July 1, 2005.~~

676 6. The department shall adopt rules governing the manner  
 677 and form of refund applications and may establish guidelines as  
 678 to the requisites for an affirmative showing of qualification  
 679 for exemption under this paragraph.

680 7. The department shall deduct an amount equal to 10  
 681 percent of each refund granted under the provisions of this  
 682 paragraph from the amount transferred into the Local Government  
 683 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20  
 684 for the county area in which the rehabilitated real property is  
 685 located and shall transfer that amount to the General Revenue  
 686 Fund.

687 8. For the purposes of the exemption provided in this  
 688 paragraph, the term:

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

691 b. "Real property" has the same meaning as provided in s.  
 692 192.001(12).

693 c. "Rehabilitation of real property" means the  
 694 reconstruction, renovation, restoration, rehabilitation,  
 695 construction, or expansion of improvements to real property.

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

698 9. This paragraph expires on the date specified in s.  
 699 290.016 for the expiration of the Florida Enterprise Zone Act.

700 Section 8. (1) Effective January 2, 2011, subsection (6)  
 701 of section 212.08, Florida Statutes, is amended to read:

702 212.08 Sales, rental, use, consumption, distribution, and  
 703 storage tax; specified exemptions.—The sale at retail, the  
 704 rental, the use, the consumption, the distribution, and the  
 705 storage to be used or consumed in this state of the following  
 706 are hereby specifically exempt from the tax imposed by this  
 707 chapter.

708 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—

709 (a) There are also exempt from the tax imposed by this  
 710 chapter sales made to the United States Government, a state, or  
 711 any county, municipality, or political subdivision of a state  
 712 when payment is made directly to the dealer by the governmental  
 713 entity. This exemption shall not inure to any transaction  
 714 otherwise taxable under this chapter when payment is made by a  
 715 government employee by any means, including, but not limited to,  
 716 cash, check, or credit card when that employee is subsequently  
 717 reimbursed by the governmental entity. ~~This exemption does not  
 718 include sales of tangible personal property made to contractors  
 719 employed either directly or as agents of any such government or  
 720 political subdivision thereof when such tangible personal  
 721 property goes into or becomes a part of public works owned by  
 722 such government or political subdivision. A determination  
 723 whether a particular transaction is properly characterized as an  
 724 exempt sale to a government entity or a taxable sale to a  
 725 contractor shall be based on the substance of the transaction  
 726 rather than the form in which the transaction is cast. The  
 727 department shall adopt rules that give special consideration to~~

728 ~~factors that govern the status of the tangible personal property~~  
729 ~~before its affixation to real property. In developing these~~  
730 ~~rules, assumption of the risk of damage or loss is of paramount~~  
731 ~~consideration in the determination.~~ This exemption does not  
732 include sales, rental, use, consumption, or storage for use in  
733 any political subdivision or municipality in this state of  
734 machines and equipment and parts and accessories therefor used  
735 in the generation, transmission, or distribution of electrical  
736 energy by systems owned and operated by a political subdivision  
737 in this state for transmission or distribution expansion.  
738 Likewise exempt are charges for services rendered by radio and  
739 television stations, including line charges, talent fees, or  
740 license fees and charges for films, videotapes, and  
741 transcriptions used in producing radio or television broadcasts.  
742 The exemption provided in this subsection does not include  
743 sales, rental, use, consumption, or storage for use in any  
744 political subdivision or municipality in this state of machines  
745 and equipment and parts and accessories therefor used in  
746 providing two-way telecommunications services to the public for  
747 hire by the use of a telecommunications facility, as defined in  
748 s. 364.02(15), and for which a certificate is required under  
749 chapter 364, which facility is owned and operated by any county,  
750 municipality, or other political subdivision of the state. Any  
751 immunity of any political subdivision of the state or other  
752 entity of local government from taxation of the property used to  
753 provide telecommunication services that is taxed as a result of  
754 this section is hereby waived. However, the exemption provided  
755 in this subsection includes transactions taxable under this

756 chapter which are for use by the operator of a public-use  
757 airport, as defined in s. 332.004, in providing such  
758 telecommunications services for the airport or its tenants,  
759 concessionaires, or licensees, or which are for use by a public  
760 hospital for the provision of such telecommunications services.

761 (b) The exemption provided under this subsection does not  
762 include sales of tangible personal property made to contractors  
763 employed directly to or as agents of any such government or  
764 political subdivision when such tangible personal property goes  
765 into or becomes a part of public works owned by such government  
766 or political subdivision. A determination of whether a  
767 particular transaction is properly characterized as an exempt  
768 sale to a government entity or a taxable sale to a contractor  
769 shall be based upon the substance of the transaction rather than  
770 the form in which the transaction is cast. However, for sales of  
771 tangible personal property that go into or become a part of  
772 public works owned by a governmental entity, other than the  
773 Federal Government, a governmental entity claiming the exemption  
774 provided under this subsection shall certify to the dealer and  
775 the contractor the entity's claim to the exemption by providing  
776 the dealer and the contractor a certificate of entitlement to  
777 the exemption for such sales. If the department later determines  
778 that such sales, in which the governmental entity provided the  
779 dealer and the contractor with a certificate of entitlement to  
780 the exemption, were not exempt sales to the governmental entity,  
781 the governmental entity shall be liable for any tax, penalty,  
782 and interest determined to be owed on such transactions.  
783 Possession by a dealer or contractor of a certificate of

784 entitlement to the exemption from the governmental entity  
 785 relieves the dealer from the responsibility of collecting tax on  
 786 the sale and the contractor for any liability for tax, penalty,  
 787 or interest related to the sale, and the department shall look  
 788 solely to the governmental entity for recovery of tax, penalty,  
 789 and interest if the department determines that the transaction  
 790 was not an exempt sale to the governmental entity. The  
 791 governmental entity may not transfer liability for such tax,  
 792 penalty, and interest to another party by contract or agreement.

793 (c) The department shall adopt rules for determining  
 794 whether a particular transaction is properly characterized as an  
 795 exempt sale to a governmental entity or a taxable sale to a  
 796 contractor which give special consideration to factors that  
 797 govern the status of the tangible personal property before being  
 798 affixed to real property. In developing such rules, assumption  
 799 of the risk of damage or loss is of paramount consideration in  
 800 the determination. The department shall also adopt, by rule, a  
 801 certificate of entitlement to exemption for use as provided in  
 802 paragraph (b). The certificate shall require the governmental  
 803 entity to affirm that it will comply with the requirements of  
 804 this subsection and the rules adopted under paragraph (b) in  
 805 order to qualify for the exemption and that it acknowledges its  
 806 liability for any tax, penalty, or interest later determined by  
 807 the department to be owed on such transactions.

808 (2) The Department of Revenue may, and all conditions are  
 809 deemed met to, adopt emergency rules under ss. 120.536(1) and  
 810 120.54(4), Florida Statutes, to implement the amendment to s.  
 811 212.08(6), Florida Statutes, made by this section. The emergency

812 | rules shall remain in effect for 6 months after adoption and may  
 813 | be renewed during the pendency of procedures to adopt rules  
 814 | addressing the subject of the emergency rules.

815 |       Section 9. Effective upon this act becoming a law and  
 816 | operating retroactively to July 1, 2008, paragraph (y) of  
 817 | subsection (8) of section 213.053, Florida Statutes, is amended  
 818 | to read:

819 |           213.053 Confidentiality and information sharing.—

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

822 |       (y) Information relative to ss. 212.08(7)(ccc) and 220.192  
 823 | to the Florida Energy and Climate Commission ~~Department of~~  
 824 | ~~Environmental Protection~~ for use in the conduct of its official  
 825 | business.

826 |  
 827 | Disclosure of information under this subsection shall be  
 828 | pursuant to a written agreement between the executive director  
 829 | and the agency. Such agencies, governmental or nongovernmental,  
 830 | shall be bound by the same requirements of confidentiality as  
 831 | the Department of Revenue. Breach of confidentiality is a  
 832 | misdemeanor of the first degree, punishable as provided by s.  
 833 | 775.082 or s. 775.083.

834 |       Section 10. Effective July 1, 2010, subsection (5) and  
 835 | paragraph (d) of subsection (8) of section 213.053, Florida  
 836 | Statutes, are amended, paragraphs (z) and (aa) are added to  
 837 | subsection (8), and subsections (20) and (21) are added to that  
 838 | section, to read:

839 |           213.053 Confidentiality and information sharing.—

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

842 (a) Publishing statistics so classified as to prevent the  
843 identification of particular accounts, reports, declarations, or  
844 returns; or

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

847 1. Distribute information relating to changes in law, tax  
848 rates, interest rates, or other information that is not specific  
849 to a particular taxpayer;

850 2. Remind taxpayers of due dates;

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

854 4. Notify taxpayers to contact the department ~~Disclosing~~  
855 ~~to the Chief Financial Officer the names and addresses of those~~  
856 ~~taxpayers who have claimed an exemption pursuant to former s.~~  
857 ~~199.185(1)(i) or a deduction pursuant to s. 220.63(5).~~

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

860 (d) Names, addresses, and sales tax registration  
861 information, and information relating to a hotel or restaurant  
862 having an outstanding tax warrant, notice of lien, or judgment  
863 lien certificate, to the Division of Hotels and Restaurants of  
864 the Department of Business and Professional Regulation in the  
865 conduct of its official duties.

866 (z) Taxpayer names and identification numbers for the  
867 purposes of information-sharing agreements with financial

868 institutions pursuant to s. 213.0532.

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

872  
873 Disclosure of information under this subsection shall be  
874 pursuant to a written agreement between the executive director  
875 and the agency. Such agencies, governmental or nongovernmental,  
876 shall be bound by the same requirements of confidentiality as  
877 the Department of Revenue. Breach of confidentiality is a  
878 misdemeanor of the first degree, punishable as provided by s.  
879 775.082 or s. 775.083.

880 (20)(a) The department may publish a list of taxpayers  
881 against whom the department has filed a warrant, notice of lien,  
882 or judgment lien certificate. The list may include the name and  
883 address of each taxpayer; the amounts and types of delinquent  
884 taxes, fees, surcharges, penalties, or interest; and the  
885 employer identification number or other taxpayer identification  
886 number.

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

890 (c) The department may adopt rules to administer this  
891 subsection.

892 (21) The department may disclose information relating to  
893 taxpayers against whom the department has filed a warrant,  
894 notice of lien, or judgment lien certificate. Such information  
895 may include the name and address of the taxpayer, the actions



896 taken, the amounts and types of liabilities, and the amount of  
 897 any collections made.

898 Section 11. Effective July 1, 2010, section 213.0532,  
 899 Florida Statutes, is created to read:

900 213.0532 Information-sharing agreements with financial  
 901 institutions.-

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

903 (a) "Account" means a demand deposit account, checking or  
 904 negotiable withdrawal order account, savings account, time  
 905 deposit account, or money-market mutual fund account.

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

907 (c) "Financial institution" means:

908 1. A depository institution as defined in 12 U.S.C. s.  
 909 1813(c);

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

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

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

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

920 (e) "Person" has the same meaning as provided in s.  
 921 212.02.

922 (2) The department shall request information and  
 923 assistance from a financial institution as necessary to enforce

924 the tax laws of this state. Pursuant to this subsection,  
925 financial institutions doing business in this state and having  
926 deposits of at least \$50 million shall enter into agreements  
927 with the department to develop and operate a data match system,  
928 using an automated data exchange to the maximum extent feasible,  
929 under which the financial institution shall provide, to the  
930 extent allowable by law, for each calendar quarter the name,  
931 record address, social security number or other taxpayer  
932 identification number, average daily account balance, and other  
933 identifying information for:

934 (a) Each obligor who maintains an account at the financial  
935 institution as identified to the institution by the department  
936 by name and social security number or other taxpayer  
937 identification number; or

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

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

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

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

950 (6) The department shall pay a reasonable fee to the  
951 financial institution for conducting the data match provided for

952 in this section, which may not exceed actual costs incurred by  
 953 the financial institution.

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

956 (a) Disclosing to the department any information required  
 957 under this section.

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

961 (c) Disclosing any information in connection with a data  
 962 match.

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

965 (8) Any financial records obtained pursuant to this  
 966 section may be disclosed only for the purpose of, and to the  
 967 extent necessary, to administer and enforce the tax laws of this  
 968 state.

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

972 Section 12. Effective July 1, 2010, section 213.25,  
 973 Florida Statutes, is amended to read:

974 213.25 Refunds; credits; right of setoff.—~~If in any~~  
 975 ~~instance that a taxpayer has a tax refund or tax credit is due~~  
 976 ~~to a taxpayer for an overpayment of taxes assessed under any of~~  
 977 ~~the chapters specified in s. 72.011(1), the department may~~  
 978 reduce the such refund or credit to the extent of any billings  
 979 not subject to protest under s. 213.21 or chapter 443 for ~~the~~

980 ~~same or any other~~ tax owed by the ~~same~~ taxpayer.

981 Section 13. Effective July 1, 2010, section 213.50,  
982 Florida Statutes, is amended to read:

983 213.50 Failure to comply; revocation of corporate charter  
984 or hotel or restaurant license; refusal to reinstate charter or  
985 license.-

986 (1) Any corporation of this state which has an outstanding  
987 tax warrant that has existed for more than 3 consecutive months  
988 is subject to the revocation of its charter as provided in s.  
989 607.1420.

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

994 (3) (a) The Division of Hotels and Restaurants of the  
995 Department of Business and Professional Regulation may suspend a  
996 license to operate a public lodging establishment or a public  
997 food service establishment if a tax warrant has been outstanding  
998 against the licenseholder for more than 3 months.

999 (b) The division may deny an application to renew a  
1000 license to operate a public lodging establishment or a public  
1001 food service establishment if a tax warrant has been outstanding  
1002 against the licenseholder for more than 3 months.

1003 Section 14. Effective July 1, 2010, subsection (1) of  
1004 section 213.67, Florida Statutes, is amended to read:

1005 213.67 Garnishment.-

1006 (1) If a person is delinquent in the payment of any taxes,  
1007 penalties, and interest owed to the department, the executive

1008 director or his or her designee may give notice of the amount of  
 1009 such delinquency by registered mail, personal service, or by  
 1010 electronic means, including, but not limited to, facsimile  
 1011 transmissions, electronic data interchange, or use of the  
 1012 Internet, to all persons having in their possession or under  
 1013 their control any credits or personal property, exclusive of  
 1014 wages, belonging to the delinquent taxpayer, or owing any debts  
 1015 to such delinquent taxpayer at the time of receipt by them of  
 1016 such notice. Thereafter, any person who has been notified may  
 1017 not transfer or make any other disposition of such credits,  
 1018 other personal property, or debts until the executive director  
 1019 or his or her designee consents to a transfer or disposition or  
 1020 until 60 days after the receipt of such notice. However, except  
 1021 ~~that~~ the credits, other personal property, or debts that ~~which~~  
 1022 exceed the delinquent amount stipulated in the notice are ~~shall~~  
 1023 not ~~be~~ subject to ~~the provisions of~~ this section, wherever held,  
 1024 if in any case in which the taxpayer does not have a prior  
 1025 history of tax delinquencies. If during the effective period of  
 1026 the notice to withhold, any person so notified makes any  
 1027 transfer or disposition of the property or debts required to be  
 1028 withheld under this section hereunder, he or she is liable to  
 1029 the state for any indebtedness owed to the department by the  
 1030 person with respect to whose obligation the notice was given to  
 1031 the extent of the value of the property or the amount of the  
 1032 debts thus transferred or paid if, solely by reason of such  
 1033 transfer or disposition, the state is unable to recover the  
 1034 indebtedness of the person with respect to whose obligation the  
 1035 notice was given. If the delinquent taxpayer contests the

1036 intended levy in circuit court or under chapter 120, the notice  
 1037 under this section remains effective until that final resolution  
 1038 of the contest. Any financial institution receiving such notice  
 1039 will maintain a right of setoff for any transaction involving a  
 1040 debit card occurring on or before the date of receipt of such  
 1041 notice.

1042 Section 15. Effective upon this act becoming a law and  
 1043 operating retroactively to July 1, 2008, subsections (4) and (5)  
 1044 of section 220.192, Florida Statutes, are amended to read:

1045 220.192 Renewable energy technologies investment tax  
 1046 credit.—

1047 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under  
 1048 this section, each taxpayer must apply to the Florida Energy and  
 1049 Climate Commission ~~Department of Environmental Protection~~ for an  
 1050 allocation of each type of annual credit by the date established  
 1051 by the Florida Energy and Climate Commission ~~Department of~~  
 1052 ~~Environmental Protection~~. The application form may be  
 1053 established by the Florida Energy and Climate Commission. The  
 1054 form must ~~Department of Environmental Protection and shall~~  
 1055 include an affidavit from each taxpayer certifying that all  
 1056 information contained in the application, including all records  
 1057 of eligible costs claimed as the basis for the tax credit, are  
 1058 true and correct. Approval of the credits under this section  
 1059 shall be accomplished on a first-come, first-served basis, based  
 1060 upon the date complete applications are received by the Florida  
 1061 Energy and Climate Commission ~~Department of Environmental~~  
 1062 ~~Protection~~. A taxpayer shall submit only one complete  
 1063 application based upon eligible costs incurred within a

1064 particular state fiscal year. Incomplete placeholder  
 1065 applications will not be accepted and will not secure a place in  
 1066 the first-come, first-served application line. If a taxpayer  
 1067 does not receive a tax credit allocation due to the exhaustion  
 1068 of the annual tax credit authorizations, then such taxpayer may  
 1069 reapply in the following year for those eligible costs and will  
 1070 have priority over other applicants for the allocation of  
 1071 credits.

1072 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF  
 1073 CREDITS.—

1074 (a) In addition to its existing audit and investigation  
 1075 authority, the Department of Revenue may perform any additional  
 1076 financial and technical audits and investigations, including  
 1077 examining the accounts, books, and records of the tax credit  
 1078 applicant, which ~~that~~ are necessary to verify the eligible costs  
 1079 included in the tax credit return and to ensure compliance with  
 1080 this section. The Florida Energy and Climate Commission  
 1081 ~~Department of Environmental Protection~~ shall provide technical  
 1082 assistance when requested by the Department of Revenue on any  
 1083 technical audits or examinations performed pursuant to this  
 1084 section.

1085 (b) It is grounds for forfeiture of previously claimed and  
 1086 received tax credits if the Department of Revenue determines, as  
 1087 a result of ~~either~~ an audit or examination or from information  
 1088 received from the Florida Energy and Climate Commission  
 1089 ~~Department of Environmental Protection~~, that a taxpayer received  
 1090 tax credits pursuant to this section to which the taxpayer was  
 1091 not entitled. The taxpayer is responsible for returning

1092 forfeited tax credits to the Department of Revenue, and such  
 1093 funds shall be paid into the General Revenue Fund of the state.

1094 (c) The Florida Energy and Climate Commission ~~Department~~  
 1095 ~~of Environmental Protection~~ may revoke or modify any written  
 1096 decision granting eligibility for tax credits under this section  
 1097 if it is discovered that the tax credit applicant submitted any  
 1098 false statement, representation, or certification in any  
 1099 application, record, report, plan, or other document filed in an  
 1100 attempt to receive tax credits under this section. The Florida  
 1101 Energy and Climate Commission ~~Department of Environmental~~  
 1102 ~~Protection~~ shall immediately notify the Department of Revenue of  
 1103 any revoked or modified orders affecting previously granted tax  
 1104 credits. Additionally, the taxpayer must notify the Department  
 1105 of Revenue of any change in its tax credit claimed.

1106 (d) The taxpayer shall file with the Department of Revenue  
 1107 an amended return or such other report as the Department of  
 1108 Revenue prescribes by rule and shall pay any required tax and  
 1109 interest within 60 days after the taxpayer receives notification  
 1110 from the Florida Energy and Climate Commission ~~Department of~~  
 1111 ~~Environmental Protection~~ that previously approved tax credits  
 1112 have been revoked or modified. If the revocation or modification  
 1113 order is contested, the taxpayer shall file an amended return or  
 1114 other report as provided in this paragraph within 60 days after  
 1115 a final order is issued after ~~following~~ proceedings.

1116 (e) A notice of deficiency may be issued by the Department  
 1117 of Revenue at any time within 3 years after the taxpayer  
 1118 receives formal notification from the Florida Energy and Climate  
 1119 Commission ~~Department of Environmental Protection~~ that



1120 | previously approved tax credits have been revoked or modified.  
 1121 | If a taxpayer fails to notify the Department of Revenue of any  
 1122 | changes to its tax credit claimed, a notice of deficiency may be  
 1123 | issued at any time.

1124 |         Section 16. Effective July 1, 2010, paragraph (c) of  
 1125 | subsection (1) of section 336.021, Florida Statutes, is amended  
 1126 | to read:

1127 |             336.021 County transportation system; levy of ninth-cent  
 1128 | fuel tax on motor fuel and diesel fuel.—

1129 |             (1)

1130 |             (c) Local option taxes collected on sales or use of diesel  
 1131 | fuel in this state shall be distributed in the following manner:

1132 |             1. The fiscal year of July 1, 1995, through June 30, 1996,  
 1133 | shall be the base year for all distributions.

1134 |             2. Each year the tax collected, less the service and  
 1135 | administrative charges enumerated in s. 215.20 and the  
 1136 | allowances allowed under s. 206.91, on the number of gallons  
 1137 | reported, up to the total number of gallons reported in the base  
 1138 | year, shall be distributed to each county using the distribution  
 1139 | percentage calculated for the base year.

1140 |             3. After the distribution of taxes pursuant to  
 1141 | subparagraph 4. ~~2.~~, additional taxes available for distribution  
 1142 | shall first be distributed pursuant to this subparagraph. A  
 1143 | distribution shall be made to each county in which a qualified  
 1144 | new retail station is located. A qualified new retail station is  
 1145 | a retail station that began operation after June 30, 1996, and  
 1146 | that has sales of diesel fuel exceeding 50 percent of the sales  
 1147 | of diesel fuel reported in the county in which it is located

1148 during the 1995-1996 state fiscal year. The determination of  
1149 whether a new retail station is qualified shall be based on the  
1150 total gallons of diesel fuel sold at the station during each  
1151 full month of operation during the 12-month period ending  
1152 January 31, divided by the number of full months of operation  
1153 during those 12 months, and the result multiplied by 12. The  
1154 amount distributed pursuant to this subparagraph to each county  
1155 in which a qualified new retail station is located shall equal  
1156 the local option taxes due on the gallons of diesel fuel sold by  
1157 the new retail station during the year ending January 31, less  
1158 the service charges enumerated in s. 215.20 and the dealer  
1159 allowance provided for by s. 206.91. Gallons of diesel fuel sold  
1160 at the qualified new retail station shall be certified to the  
1161 department by the county requesting the additional distribution  
1162 by June 15, 1997, and by March 1 in each subsequent year. The  
1163 certification shall include the beginning inventory, fuel  
1164 purchases and sales, and the ending inventory for the new retail  
1165 station for each month of operation during the year, the  
1166 original purchase invoices for the period, and any other  
1167 information the department deems reasonable and necessary to  
1168 establish the certified gallons. The department may review and  
1169 audit the retail dealer's records provided to a county to  
1170 establish the gallons sold by the new retail station.  
1171 Notwithstanding the provisions of this subparagraph, when more  
1172 than one county qualifies for a distribution pursuant to this  
1173 subparagraph and the requested distributions exceed the total  
1174 taxes available for distribution, each county shall receive a  
1175 prorated share of the moneys available for distribution.

1176 4. After the distribution of taxes pursuant to  
 1177 subparagraph 2. ~~3.~~, all additional taxes available for  
 1178 distribution, except the taxes described in subparagraph 3.,  
 1179 shall be distributed based on vehicular diesel fuel storage  
 1180 capacities in each county pursuant to this subparagraph. The  
 1181 total vehicular diesel fuel storage capacity shall be  
 1182 established for each fiscal year based on the registration of  
 1183 facilities with the Department of Environmental Protection as  
 1184 required by s. 376.303 for the following facility types: retail  
 1185 stations, fuel user/nonretail, state government, local  
 1186 government, and county government. Each county shall receive a  
 1187 share of the total taxes available for distribution pursuant to  
 1188 this subparagraph equal to a fraction, the numerator of which is  
 1189 the storage capacity located within the county for vehicular  
 1190 diesel fuel in the facility types listed in this subparagraph  
 1191 and the denominator of which is the total statewide storage  
 1192 capacity for vehicular diesel fuel in those facility types. The  
 1193 vehicular diesel fuel storage capacity for each county and  
 1194 facility type shall be that established by the Department of  
 1195 Environmental Protection by June 1, 1997, for the 1996-1997  
 1196 fiscal year, and by January 31 for each succeeding fiscal year.  
 1197 The storage capacities so established shall be final. The  
 1198 storage capacity for any new retail station for which a county  
 1199 receives a distribution pursuant to subparagraph 3. shall not be  
 1200 included in the calculations pursuant to this subparagraph.

1201 Section 17. Subsection (20) of section 443.036, Florida  
 1202 Statutes, is amended to read:

1203 443.036 Definitions.—As used in this chapter, the term:

1204 (20) "Employing unit" means an individual or type of  
 1205 organization, including a partnership, limited liability  
 1206 company, association, trust, estate, joint-stock company,  
 1207 insurance company, or corporation, whether domestic or foreign;  
 1208 the receiver, trustee in bankruptcy, trustee, or successor of  
 1209 any of the foregoing; or the legal representative of a deceased  
 1210 person, which has or had in its employ one or more individuals  
 1211 performing services for it within this state.

1212 (a) Each individual employed to perform or to assist in  
 1213 performing the work of any agent or employee of an employing  
 1214 unit is deemed to be employed by the employing unit for the  
 1215 purposes of this chapter, regardless of whether the individual  
 1216 was hired or paid directly by the employing unit or by an agent  
 1217 or employee of the employing unit, if the employing unit had  
 1218 actual or constructive knowledge of the work.

1219 (b) Each individual performing services in this state for  
 1220 an employing unit maintaining at least two separate  
 1221 establishments in this state is deemed to be performing services  
 1222 for a single employing unit for the purposes of this chapter.

1223 (c) A person who is an officer of a corporation, or a  
 1224 member of a limited liability company classified as a  
 1225 corporation for federal income tax purposes, and who performs  
 1226 services for the corporation or limited liability company in  
 1227 this state, regardless of whether those services are continuous,  
 1228 is deemed an employee of the corporation or the limited  
 1229 liability company during all of each week of his or her tenure  
 1230 of office, regardless of whether he or she is compensated for  
 1231 those services. Services are presumed to be rendered for the

1232 corporation in cases in which the officer is compensated by  
 1233 means other than dividends upon shares of stock of the  
 1234 corporation owned by him or her.

1235 (d) A limited liability company shall be treated as having  
 1236 the same status as it is classified for federal income tax  
 1237 purposes. However, a single-member limited liability company  
 1238 shall be treated as the employer.

1239 Section 18. Paragraph (b) of subsection (2) of section  
 1240 443.1215, Florida Statutes, is amended to read:

1241 443.1215 Employers.—

1242 (2)

1243 (b) In determining whether an employing unit for which  
 1244 service, other than agricultural labor, is also performed is an  
 1245 employer under paragraph (1)(a), paragraph (1)(b), paragraph  
 1246 (1)(c), or subparagraph (1)(d)2., the wages earned or the  
 1247 employment of an employee performing service in agricultural  
 1248 labor may not be taken into account. If an employing unit is  
 1249 determined to be an employer of agricultural labor, the  
 1250 employing unit is considered an employer for purposes of  
 1251 paragraph (1)(a) subsection (1).

1252 Section 19. Subsection (2) of section 443.1316, Florida  
 1253 Statutes, is amended to read:

1254 443.1316 Unemployment tax collection services; interagency  
 1255 agreement.—

1256 (2)(a) The Department of Revenue is considered to be  
 1257 administering a revenue law of this state when the department  
 1258 implements this chapter, or otherwise provides unemployment tax  
 1259 collection services, under contract with the Agency for

1260 Workforce Innovation through the interagency agreement.  
 1261 (b) Sections 213.015(1)-(3), (5)-(7), (9)-(19), and (21);  
 1262 213.018; 213.025; 213.051; 213.053; 213.0532; 213.0535; 213.055;  
 1263 213.071; 213.10; 213.21(4); 213.2201; 213.23; 213.24; 213.25;  
 1264 213.27; 213.28; 213.285; 213.34(1), (3), and (4); 213.37;  
 1265 213.50; 213.67; 213.69; 213.692; 213.73; 213.733; 213.74; and  
 1266 213.757 apply to the collection of unemployment contributions  
 1267 and reimbursements by the Department of Revenue unless  
 1268 prohibited by federal law.

1269 Section 20. Subsections (1), (2), and (3) of section  
 1270 443.141, Florida Statutes, are amended to read:

1271 443.141 Collection of contributions and reimbursements.—

1272 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
 1273 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

1274 (a) Interest.—Contributions or reimbursements unpaid on  
 1275 the date due shall bear interest at the rate of 1 percent per  
 1276 month from and after that date until payment plus accrued  
 1277 interest is received by the tax collection service provider,  
 1278 unless the service provider finds that the employing unit has or  
 1279 had good reason for failure to pay the contributions or  
 1280 reimbursements when due. Interest collected under this  
 1281 subsection must be paid into the Special Employment Security  
 1282 Administration Trust Fund.

1283 (b) Penalty for delinquent, erroneous, incomplete, or  
 1284 insufficient reports.—

1285 1. An employing unit that fails to file any report  
 1286 required by the Agency for Workforce Innovation or its tax  
 1287 collection service provider, in accordance with rules for

1288 administering this chapter, shall pay to the tax collection  
1289 service provider for each delinquent report the sum of \$25 for  
1290 each 30 days or fraction thereof that the employing unit is  
1291 delinquent, unless the agency or its service provider, whichever  
1292 required the report, finds that the employing unit has or had  
1293 good reason for failure to file the report. The agency or its  
1294 service provider may assess penalties only through the date of  
1295 the issuance of the final assessment notice. However, additional  
1296 penalties accrue if the delinquent report is subsequently filed.

1297 2.a. An employing unit that files an erroneous,  
1298 incomplete, or insufficient report with the Agency for Workforce  
1299 Innovation or its tax collection service provider shall pay a  
1300 penalty. The amount of the penalty is \$50 or 10 percent of any  
1301 tax due, whichever is greater, but no more than \$300 per report.  
1302 The penalty shall be added to any tax, penalty, or interest  
1303 otherwise due.

1304 b. The agency or its tax collection service provider shall  
1305 waive the penalty if the employing unit files an accurate,  
1306 complete, and sufficient report within 30 days after a penalty  
1307 notice is issued to the employing unit. The penalty may not be  
1308 waived pursuant to this subparagraph more than one time during a  
1309 12-month period.

1310 c. As used in this subsection, the term "erroneous,  
1311 incomplete, or insufficient report" means a report so lacking in  
1312 information, completeness, or arrangement that the report cannot  
1313 be readily understood, verified, or reviewed. Such reports  
1314 include, but are not limited to, reports having missing wage or  
1315 employee information, missing or incorrect social security

1316 numbers, or illegible entries; reports submitted in a format  
1317 that is not approved by the agency or its tax collection service  
1318 provider; and reports showing gross wages that do not equal the  
1319 total of the wages of each employee. However, the term does not  
1320 include a report that merely contains inaccurate data that was  
1321 supplied to the employer by the employee, if the employer was  
1322 unaware of the inaccuracy.

1323 ~~3.2. Sums collected as Penalties imposed pursuant to this~~  
1324 ~~paragraph shall under subparagraph 1. must~~ be deposited in the  
1325 Special Employment Security Administration Trust Fund.

1326 ~~4.3.~~ The penalty and interest for a delinquent, erroneous,  
1327 incomplete, or insufficient report may be waived if ~~when~~ the  
1328 penalty or interest is inequitable. The provisions of s.  
1329 213.24(1) apply to any penalty or interest that is imposed under  
1330 this section.

1331 5. The Agency for Workforce Innovation and the state  
1332 agency providing unemployment tax collection services may adopt  
1333 rules to administer this subsection.

1334 (c) Application of partial payments.—~~If~~ ~~When~~ a delinquency  
1335 exists in the employment record of an employer not in  
1336 bankruptcy, a partial payment less than the total delinquency  
1337 amount shall be applied to the employment record as the payor  
1338 directs. In the absence of specific direction, the partial  
1339 payment shall be applied to the payor's employment record as  
1340 prescribed in the rules of the Agency for Workforce Innovation  
1341 or the state agency providing tax collection services.

1342 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

1343 (a) Failure to make reports and pay contributions.—If an



1344 | employing unit determined by the tax collection service provider  
 1345 | to be an employer subject to this chapter fails to make and file  
 1346 | any report as and when required by this chapter or by any rule  
 1347 | of the Agency for Workforce Innovation or the state agency  
 1348 | providing tax collection services, for the purpose of  
 1349 | determining the amount of contributions due by the employer  
 1350 | under this chapter, or if any filed report is found by the  
 1351 | service provider to be incorrect or insufficient, and the  
 1352 | employer, after being notified in writing by the service  
 1353 | provider to file the report, or a corrected or sufficient  
 1354 | report, as applicable, fails to file the report within 15 days  
 1355 | after the date of the mailing of the notice, the tax collection  
 1356 | service provider may:

1357 |       1. Determine the amount of contributions due from the  
 1358 | employer based on the information readily available to it, which  
 1359 | determination is deemed to be prima facie correct;

1360 |       2. Assess the employer the amount of contributions  
 1361 | determined to be due; and

1362 |       3. Immediately notify the employer by mail of the  
 1363 | determination and assessment including penalties as provided in  
 1364 | this chapter, if any, added and assessed, and demand payment  
 1365 | together with interest on the amount of contributions from the  
 1366 | date that amount was due and payable.

1367 |       (b) Hearings.—The determination and assessment are final  
 1368 | 15 days after the date the assessment is mailed unless the  
 1369 | employer files with the tax collection service provider within  
 1370 | the 15 days a written protest and petition for hearing  
 1371 | specifying the objections thereto. The tax collection service

1372 provider shall promptly review each petition and may reconsider  
1373 its determination and assessment in order to resolve the  
1374 petitioner's objections. The tax collection service provider  
1375 shall forward each petition remaining unresolved to the Agency  
1376 for Workforce Innovation for a hearing on the objections. Upon  
1377 receipt of a petition, the Agency for Workforce Innovation shall  
1378 schedule a hearing and notify the petitioner of the time and  
1379 place of the hearing. The Agency for Workforce Innovation may  
1380 appoint special deputies to conduct hearings and to submit their  
1381 findings together with a transcript of the proceedings before  
1382 them and their recommendations to the agency for its final  
1383 order. Special deputies are subject to the prohibition against  
1384 ex parte communications in s. 120.66. At any hearing conducted  
1385 by the Agency for Workforce Innovation or its special deputy,  
1386 evidence may be offered to support the determination and  
1387 assessment or to prove it is incorrect. In order to prevail,  
1388 however, the petitioner must either prove that the determination  
1389 and assessment are incorrect or file full and complete corrected  
1390 reports. Evidence may also be submitted at the hearing to rebut  
1391 the determination by the tax collection service provider that  
1392 the petitioner is an employer under this chapter. Upon evidence  
1393 taken before it or upon the transcript submitted to it with the  
1394 findings and recommendation of its special deputy, the Agency  
1395 for Workforce Innovation shall either set aside the tax  
1396 collection service provider's determination that the petitioner  
1397 is an employer under this chapter or reaffirm the determination.  
1398 The amounts assessed under the final order, together with  
1399 interest and penalties, must be paid within 15 days after notice

1400 of the final order is mailed to the employer, unless judicial  
 1401 review is instituted in a case of status determination. Amounts  
 1402 due when the status of the employer is in dispute are payable  
 1403 within 15 days after the entry of an order by the court  
 1404 affirming the determination. However, any determination that an  
 1405 employing unit is not an employer under this chapter does not  
 1406 affect the benefit rights of any individual as determined by an  
 1407 appeals referee or the commission unless:

1408 1. The individual is made a party to the proceedings  
 1409 before the special deputy; or

1410 2. The decision of the appeals referee or the commission  
 1411 has not become final or the employing unit and the Agency for  
 1412 Workforce Innovation were not made parties to the proceedings  
 1413 before the appeals referee or the commission.

1414 (c) Appeals.—The Agency for Workforce Innovation and the  
 1415 state agency providing unemployment tax collection services  
 1416 shall adopt rules prescribing the procedures for an employing  
 1417 unit determined to be an employer to file an appeal and be  
 1418 afforded an opportunity for a hearing on the determination.  
 1419 Pending a hearing, the employing unit must file reports and pay  
 1420 contributions in accordance with s. 443.131.

1421 (3) COLLECTION PROCEEDINGS.—

1422 (a) Lien for payment of contributions or reimbursements.—

1423 1. ~~There is created~~ A lien exists in favor of the tax  
 1424 collection service provider upon all the property, both real and  
 1425 personal, of any employer liable for payment of any contribution  
 1426 or reimbursement levied and imposed under this chapter for the  
 1427 amount of the contributions or reimbursements due, together with

1428 interest, costs, and penalties. If any contribution or  
1429 reimbursement imposed under this chapter or any portion of that  
1430 contribution, reimbursement, interest, or penalty is not paid  
1431 within 60 days after becoming delinquent, the tax collection  
1432 service provider may file ~~subsequently issue~~ a notice of lien  
1433 ~~that may be filed~~ in the office of the clerk of the circuit  
1434 court of any county in which the delinquent employer owns  
1435 property or conducts or has conducted business. The notice of  
1436 lien must include the periods for which the contributions,  
1437 reimbursements, interest, or penalties are demanded and the  
1438 amounts due. A copy of the notice of lien must be mailed to the  
1439 employer at the employer's ~~her or his~~ last known address. The  
1440 notice of lien may not be filed ~~issued and recorded~~ until 15  
1441 days after the date the assessment becomes final under  
1442 subsection (2). Upon filing ~~presentation of the notice of lien,~~  
1443 the clerk of the circuit court shall record the notice of lien  
1444 ~~it~~ in a book maintained for that purpose, and the amount of the  
1445 notice of lien, together with the cost of recording and interest  
1446 accruing upon the amount of the contribution or reimbursement,  
1447 becomes a lien upon the title to and interest, whether legal or  
1448 equitable, in any real property, chattels real, or personal  
1449 property of the employer against whom the notice of lien is  
1450 issued, in the same manner as a judgment of the circuit court  
1451 docketed in the office of the circuit court clerk, with  
1452 execution issued to the sheriff for levy. This lien is prior,  
1453 preferred, and superior to all mortgages or other liens filed,  
1454 recorded, or acquired after the notice of lien is filed. Upon  
1455 the payment of the amounts due, or upon determination by the tax

1456 collection service provider that the notice of lien was  
1457 erroneously issued, the lien is satisfied when the service  
1458 provider acknowledges in writing that the lien is fully  
1459 satisfied. A lien's satisfaction does not need to be  
1460 acknowledged before any notary or other public officer, and the  
1461 signature of the director of the tax collection service provider  
1462 or his or her designee is conclusive evidence of the  
1463 satisfaction of the lien, which satisfaction shall be recorded  
1464 by the clerk of the circuit court who receives the fees for  
1465 those services.

1466 2. The tax collection service provider may subsequently  
1467 issue a warrant directed to any sheriff in this state,  
1468 commanding him or her to levy upon and sell any real or personal  
1469 property of the employer liable for any amount under this  
1470 chapter within his or her jurisdiction, for payment, with the  
1471 added penalties and interest and the costs of executing the  
1472 warrant, together with the costs of the clerk of the circuit  
1473 court in recording and docketing the notice of lien, and to  
1474 return the warrant to the service provider with payment. The  
1475 warrant may only be issued and enforced for all amounts due to  
1476 the tax collection service provider on the date the warrant is  
1477 issued, together with interest accruing on the contribution or  
1478 reimbursement due from the employer to the date of payment at  
1479 the rate provided in this section. In the event of sale of any  
1480 assets of the employer, however, priorities under the warrant  
1481 shall be determined in accordance with the priority established  
1482 by any notices of lien filed by the tax collection service  
1483 provider and recorded by the clerk of the circuit court. The

1484 sheriff shall execute the warrant in the same manner prescribed  
1485 by law for executions issued by the clerk of the circuit court  
1486 for judgments of the circuit court. The sheriff is entitled to  
1487 the same fees for executing the warrant as for a writ of  
1488 execution out of the circuit court, and these fees must be  
1489 collected in the same manner.

1490 3. The lien expires 10 years after the filing of a notice  
1491 of lien with the clerk of court. An action to collect amounts  
1492 due under this chapter may not be commenced after the expiration  
1493 of the lien securing the payment of the amounts owed.

1494 (b) Injunctive procedures to contest warrants after  
1495 issuance.—An injunction or restraining order to stay the  
1496 execution of a warrant may not be issued until a motion is  
1497 filed; reasonable notice of a hearing on the motion for the  
1498 injunction is served on the tax collection service provider; and  
1499 the party seeking the injunction either pays into the custody of  
1500 the court the full amount of contributions, reimbursements,  
1501 interests, costs, and penalties claimed in the warrant or enters  
1502 into and files with the court a bond with two or more good and  
1503 sufficient sureties approved by the court in a sum at least  
1504 twice the amount of the contributions, reimbursements,  
1505 interests, costs, and penalties, payable to the tax collection  
1506 service provider. The bond must also be conditioned to pay the  
1507 amount of the warrant, interest, and any damages resulting from  
1508 the wrongful issuing of the injunction, if the injunction is  
1509 dissolved, or the motion for the injunction is dismissed. Only  
1510 one surety is required when the bond is executed by a lawfully  
1511 authorized surety company.

1512 (c) Attachment and garnishment.—Upon the filing of notice  
1513 of lien as provided in subparagraph (a)1., the tax collection  
1514 service provider is entitled to remedy by attachment or  
1515 garnishment as provided in chapters 76 and 77, as for a debt  
1516 due. Upon application by the tax collection service provider,  
1517 these writs shall be issued by the clerk of the circuit court as  
1518 upon a judgment of the circuit court duly docketed and recorded.  
1519 These writs shall be returnable to the circuit court. A bond may  
1520 not be required of the tax collection service provider as a  
1521 condition required for the issuance of these writs of attachment  
1522 or garnishment. Issues raised under proceedings by attachment or  
1523 garnishment shall be tried by the circuit court in the same  
1524 manner as a judgment under chapters 76 and 77. Further, the  
1525 notice of lien filed by the tax collection service provider is  
1526 valid for purposes of all remedies under this chapter until  
1527 satisfied under this chapter, and revival by scire facias or  
1528 other proceedings are not necessary before pursuing any remedy  
1529 authorized by law. Proceedings authorized upon a judgment of the  
1530 circuit court do not make the lien a judgment of the circuit  
1531 court upon a debt for any purpose other than as are specifically  
1532 provided by law as procedural remedies.

1533 (d) Third-party claims.—Upon any levy made by the sheriff  
1534 under a writ of attachment or garnishment as provided in  
1535 paragraph (c), the circuit court shall try third-party claims to  
1536 property involved as upon a judgment thereof and all proceedings  
1537 authorized on third-party claims in ss. 56.16, 56.20, 76.21, and  
1538 77.16 shall apply.

1539 (e) Proceedings supplementary to execution.—At any time

1540 after a warrant provided for in subparagraph (a)2. is returned  
1541 unsatisfied by any sheriff of this state, the tax collection  
1542 service provider may file an affidavit in the circuit court  
1543 affirming the warrant was returned unsatisfied and remains valid  
1544 and outstanding. The affidavit must also state the residence of  
1545 the party or parties against whom the warrant is issued. The tax  
1546 collection service provider is subsequently entitled to have  
1547 other and further proceedings in the circuit court as upon a  
1548 judgment thereof as provided in s. 56.29.

1549 (f) Reproductions.—In any proceedings in any court under  
1550 this chapter, reproductions of the original records of the  
1551 Agency for Workforce Innovation, its tax collection service  
1552 provider, the former Department of Labor and Employment  
1553 Security, or the commission, including, but not limited to,  
1554 photocopies or microfilm, are primary evidence in lieu of the  
1555 original records or of the documents that were transcribed into  
1556 those records.

1557 (g) Jeopardy assessment and warrant.—If the tax collection  
1558 service provider reasonably believes that the collection of  
1559 contributions or reimbursements from an employer will be  
1560 jeopardized by delay, the service provider may assess the  
1561 contributions or reimbursements immediately, together with  
1562 interest or penalties when due, regardless of whether the  
1563 contributions or reimbursements accrued are due, and may  
1564 immediately issue a notice of lien and jeopardy warrant upon  
1565 which proceedings may be conducted as provided in this section  
1566 for notice of lien and warrant of the service provider. Within  
1567 15 days after mailing the notice of lien by registered mail, the



1568 employer may protest the issuance of the lien in the same manner  
 1569 provided in paragraph (2) (a). The protest does not operate as a  
 1570 supersedeas or stay of enforcement unless the employer files  
 1571 with the sheriff seeking to enforce the warrant a good and  
 1572 sufficient surety bond in twice the amount demanded by the  
 1573 notice of lien or warrant. The bond must be conditioned upon  
 1574 payment of the amount subsequently found to be due from the  
 1575 employer to the tax collection service provider in the final  
 1576 order of the Agency for Workforce Innovation upon protest of  
 1577 assessment. The jeopardy warrant and notice of lien are  
 1578 satisfied in the manner provided in this section upon payment of  
 1579 the amount finally determined to be due from the employer. If  
 1580 enforcement of the jeopardy warrant is not superseded as  
 1581 provided in this section, the employer is entitled to a refund  
 1582 from the fund of all amounts paid as contributions or  
 1583 reimbursements in excess of the amount finally determined to be  
 1584 due by the employer upon application being made as provided in  
 1585 this chapter.

1586 Section 21. Effective July 1, 2010, subsection (2) of  
 1587 section 443.163, Florida Statutes, is amended to read:

1588 443.163 Electronic reporting and remitting of  
 1589 contributions and reimbursements.—

1590 (2) (a) An employer who is required by law to file an  
 1591 Employers Quarterly Report (UCT-6) by approved electronic means,  
 1592 but who files the report by a means other than approved  
 1593 electronic means, is liable for a penalty of \$50 ~~\$10~~ for that  
 1594 report and \$1 for each employee. This penalty, ~~which~~ is in  
 1595 addition to any other ~~applicable~~ penalty provided by this

1596 chapter. However, unless the penalty does not apply if employer  
 1597 ~~first obtains a waiver of this requirement from the tax~~  
 1598 ~~collection service provider~~ waives the electronic filing  
 1599 requirement in advance. An employer who fails to remit  
 1600 contributions or reimbursements by approved electronic means as  
 1601 required by law is liable for a penalty of \$50 ~~\$10~~ for each  
 1602 remittance submitted by a means other than approved electronic  
 1603 means. This penalty, ~~which~~ is in addition to any other  
 1604 applicable penalty provided by this chapter.

1605 (b) A person who prepared and reported for 100 or more  
 1606 employers in any quarter during the preceding state fiscal year,  
 1607 but who fails to file an Employers Quarterly Report (UCT-6) for  
 1608 each calendar quarter in the current calendar year by approved  
 1609 electronic means ~~as required by law,~~ is liable for a penalty of  
 1610 \$50 ~~\$10~~ for that report and \$1 for each employee. This penalty,  
 1611 ~~which~~ is in addition to any other ~~applicable~~ penalty provided by  
 1612 this chapter. However, unless the penalty does not apply if  
 1613 ~~person first obtains a waiver of this requirement from the tax~~  
 1614 ~~collection service provider~~ waives the electronic filing  
 1615 requirement in advance.

1616 Section 22. Subsection (3) of section 443.163, Florida  
 1617 Statutes, is amended to read:

1618 443.163 Electronic reporting and remitting of  
 1619 contributions and reimbursements.—

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

1624 reasonable control.

1625 (a) As prescribed by the Agency for Workforce Innovation  
 1626 or its tax collection service provider, grounds for approving  
 1627 the waiver include, but are not limited to, circumstances in  
 1628 which the employer does not:

1629 1. Currently file information or data electronically with  
 1630 any business or government agency; or

1631 2. Have a compatible computer that meets or exceeds the  
 1632 standards prescribed by the Agency for Workforce Innovation or  
 1633 its tax collection service provider.

1634 (b) The tax collection service provider shall accept other  
 1635 reasons for requesting a waiver from the requirement to submit  
 1636 the Employers Quarterly Report (UCT-6) by electronic means,  
 1637 including, but not limited to:

1638 1. That the employer needs additional time to program his  
 1639 or her computer;

1640 2. That complying with this requirement causes the  
 1641 employer financial hardship; or

1642 3. That complying with this requirement conflicts with the  
 1643 employer's business procedures.

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

1652 ~~provider's telefile system capabilities.~~

1653 Section 23. Section 213.692, Florida Statutes, is created  
1654 to read:

1655 213.692 Integrated enforcement authority.-

1656 (1) If the department files a warrant, notice of lien, or  
1657 judgment lien certificate against the property of a taxpayer,  
1658 the department may also revoke all certificates of registration,  
1659 permits, or licenses issued by the department to that taxpayer.

1660 (a) Before the department may revoke the certificates of  
1661 registration, permits, or licenses, the department must schedule  
1662 an informal conference that the taxpayer is required to attend.  
1663 At the conference, the taxpayer may present evidence regarding  
1664 the department's intended action or enter into a compliance  
1665 agreement. The department must provide written notice to the  
1666 taxpayer of the department's intended action and the time, date,  
1667 and place of the conference. The department shall issue an  
1668 administrative complaint to revoke the certificates of  
1669 registration, permits, or licenses if the taxpayer does not  
1670 attend the conference, enter into a compliance agreement, or  
1671 comply with the compliance agreement.

1672 (b) The department may not issue a certificate of  
1673 registration, permit, or license to a taxpayer whose certificate  
1674 of registration, permit, or license has been revoked unless:

1675 1. The outstanding liabilities of the taxpayer have been  
1676 satisfied; or

1677 2. The department enters into a written agreement with the  
1678 taxpayer regarding any outstanding liabilities and, as part of

1679 such agreement, agrees to issue a certificate of registration,  
 1680 permit, or license.

1681 (c) The department shall require a cash deposit, bond, or  
 1682 other security as a condition of issuing a new certificate of  
 1683 registration pursuant to the requirements of s. 212.14(4).

1684 (2) If the department files a warrant or a judgment lien  
 1685 certificate in connection with a jeopardy assessment, the  
 1686 department must comply with the procedures in s. 213.732 before  
 1687 or in conjunction with those provided in this section.

1688 (3) The department may adopt rules to administer this  
 1689 section.

1690 Section 24. Effective July 1, 2010, the Department of  
 1691 Revenue is authorized to adopt emergency rules to administer s.  
 1692 213.692, Florida Statutes. The emergency rules shall remain in  
 1693 effect for 6 months after adoption and may be renewed during the  
 1694 pendency of procedures to adopt rules addressing the subject of  
 1695 the emergency rules.

1696 Section 25. Sections 195.095 and 213.054, Florida  
 1697 Statutes, are repealed.

1698 Section 26. Except as otherwise expressly provided in this  
 1699 act, this act shall take effect upon becoming a law.