

FOR CONSIDERATION By the Committee on Budget

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1 A bill to be entitled
2 An act relating to the Department of Revenue; amending
3 s. 192.091, F.S.; removing the department's authority
4 to approve the budget of the county property
5 appraiser; conforming provisions; amending s. 195.002,
6 F.S.; prohibiting the department from supervising or
7 having a role in any aspect of property tax
8 administration not specifically required by law;
9 repealing s. 195.087, F.S., relating to the
10 requirement that property appraisers and tax
11 collectors submit budgets to the department; amending
12 s. 195.096, F.S.; extending from once every 2 years to
13 once every 3 years the requirement that the department
14 conduct an in-depth review of the assessment roll of
15 each county; providing for a study of certain
16 classifications constituting 5 percent or more of the
17 total assessed value of real property on the previous
18 assessment roll; replacing assessed value with just
19 value of all real property that the department may
20 combine for purposes of assessment ration studies;
21 amending s. 197.122, F.S.; conforming provisions to
22 changes made by the act; removing a provision
23 requiring certain corrections to the tax rolls for
24 prior years; amending s. 197.182, F.S.; removing the
25 department's authority relating to refunds; requiring
26 the county tax collector to approve refunds in certain
27 circumstances; providing for direct payment of refunds
28 by the county tax collector; deleting a provision that
29 requires the tax collector to forward a claim for

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30 refund to the department in specified circumstances;
31 requiring the tax collector, instead of the
32 department, to approve or deny all refunds within a
33 specified period after a claim for refund; requiring
34 the tax collector to deny refunds in specified
35 circumstances; requiring the tax collector to make
36 refunds without the approval of taxing authorities;
37 amending ss. 197.2301, 197.323, and 197.4325, F.S.;
38 conforming provisions; removing a requirement that the
39 department provide certain approvals; amending s.
40 197.443, F.S.; removing the department's authority to
41 review erroneous tax certificates; amending s. 213.69,
42 F.S.; exempting the department from paying charges
43 imposed by the clerks of the court for recording tax
44 liens; providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Subsection (1) of section 192.091, Florida
49 Statutes, is amended to read:

50 192.091 Commissions of property appraisers and tax
51 collectors.-

52 (1) (a) The budget of the property appraiser's office, ~~as~~
53 ~~approved by the Department of Revenue,~~ shall be the basis upon
54 which the several tax authorities of each county, except
55 municipalities and the district school board, shall be billed by
56 the property appraiser for services rendered. Each such taxing
57 authority shall be billed an amount that bears the same
58 proportion to the total amount of the budget as its share of ad

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59 valorem taxes bore to the total levied for the preceding year.
60 All municipal and school district taxes shall be considered as
61 taxes levied by the county for purposes of this computation.

62 (b) Payments shall be made quarterly by each such taxing
63 authority. The property appraiser shall notify the various
64 taxing authorities of his or her estimated budget requirements
65 and billings ~~thereon at the same time as his or her budget~~
66 ~~request is submitted to the Department of Revenue pursuant to s.~~
67 ~~195.087 and at the time the property appraiser receives final~~
68 ~~approval of the budget by the department.~~

69 Section 2. Subsection (1) of section 195.002, Florida
70 Statutes, is amended to read:

71 195.002 Supervision by Department of Revenue.—

72 (1) The Department of Revenue shall have general
73 supervision of the assessment and valuation of property so that
74 all property will be placed on the tax rolls and shall be valued
75 according to its just valuation, as required by the
76 constitution. It shall also have supervision over tax collection
77 and ~~all other aspects of~~ the administration of such taxes. The
78 supervision of the department shall consist primarily of aiding
79 and assisting county officers in the assessing and collection
80 functions, with particular emphasis on the more technical
81 aspects. The department may not supervise or have a role in any
82 aspect of property tax administration not specifically required
83 by law, including, but not limited to, property appraiser or tax
84 collector budgets, refunds, and tax certificates. ~~In this~~
85 ~~regard,~~ The department shall conduct schools to upgrade
86 assessment skills of both state and local assessment personnel.

87 Section 3. Section 195.087, Florida Statutes, is repealed.

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88 Section 4. Subsection (2) and paragraph (a) of subsection
89 (3) of section 195.096, Florida Statutes, are amended to read:
90 195.096 Review of assessment rolls.—

91 (2) The department shall conduct, at least ~~no less~~
92 ~~frequently than~~ once every 3 ~~2~~ years, an in-depth review of the
93 assessment rolls of each county. The department need not
94 individually study every use-class of property set forth in s.
95 195.073, but shall at a minimum study the level of assessment in
96 relation to just value of each classification specified in
97 subsection (3) if the classification constitutes 5 percent or
98 more of the total assessed value of real property in a county on
99 the previous assessment roll. Such in-depth review may include
100 proceedings of the value adjustment board and the audit or
101 review of procedures used by the counties to appraise property.

102 (a) The department shall, at least 30 days before ~~prior to~~
103 the beginning of an in-depth review in any county, notify the
104 property appraiser in the county of the pending review. At the
105 request of the property appraiser, the department shall consult
106 with the property appraiser regarding the classifications and
107 strata to be studied, in order that the review will be useful to
108 the property appraiser in evaluating his or her procedures.

109 (b) Every property appraiser whose upcoming roll is subject
110 to an in-depth review shall, if requested by the department on
111 or before January 1, deliver upon completion of the assessment
112 roll a list of the parcel numbers of all parcels that did not
113 appear on the assessment roll of the previous year, indicating
114 the parcel number of the parent parcel from which each new
115 parcel was created or "cut out."

116 (c) In conducting assessment ratio studies, the department

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117 shall ~~must~~ use all practicable steps, including stratified
118 statistical and analytical reviews and sale-qualification
119 studies, to maximize the representativeness or statistical
120 reliability of samples of properties in tests of each
121 classification, stratum, or roll made the subject of a ratio
122 study published by it. The department shall document and retain
123 records of the measures of representativeness of the properties
124 studied in compliance with this section. Such documentation must
125 include a record of findings used as the basis for the approval
126 or disapproval of the tax roll in each county pursuant to s.
127 193.1142. In addition, to the greatest extent practicable, the
128 department shall study assessment roll strata by
129 subclassifications such as value groups and market areas for
130 each classification or stratum to be studied, to maximize the
131 representativeness of ratio study samples. For purposes of this
132 section, the department shall rely primarily on an assessment-
133 to-sales-ratio study in conducting assessment ratio studies in
134 those classifications of property specified in subsection (3)
135 for which there are adequate market sales. The department shall
136 compute the median and the value-weighted mean for each
137 classification or subclassification studied and for the roll as
138 a whole.

139 (d) In the conduct of these reviews, the department shall
140 adhere to all standards to which the property appraisers are
141 required to adhere.

142 (e) The department and each property appraiser shall
143 cooperate in the conduct of these reviews, and each shall make
144 available to the other all matters and records bearing on the
145 preparation and computation of the reviews. The property

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146 appraisers shall provide any and all data requested by the
147 department in the conduct of the studies, including electronic
148 data processing tapes. Any and all data and samples developed or
149 obtained by the department in the conduct of the studies shall
150 be confidential and exempt from the provisions of s. 119.07(1)
151 until a presentation of the findings of the study is made to the
152 property appraiser. After the presentation of the findings, the
153 department shall provide any and all data requested by a
154 property appraiser developed or obtained in the conduct of the
155 studies, including tapes. Direct reimbursable costs of providing
156 the data shall be borne by the party who requested it. Copies of
157 existing data or records, whether maintained or required
158 pursuant to law or rule, or data or records otherwise
159 maintained, shall be submitted within 30 days from the date
160 requested, in the case of written or printed information, and
161 within 14 days from the date requested, in the case of
162 computerized information.

163 (f) Within 120 days following the receipt of a county
164 assessment roll by the executive director of the department
165 pursuant to s. 193.1142(1), or within 10 days after approval of
166 the assessment roll, whichever is later, the department shall
167 complete the review for that county and forward its findings,
168 including a statement of the confidence interval for the median
169 and such other measures as may be appropriate for each
170 classification or subclassification studied and for the roll as
171 a whole, employing a 95-percent level of confidence, and related
172 statistical and analytical details to the Senate and the House
173 of Representatives committees with oversight responsibilities
174 for taxation, and the appropriate property appraiser. Upon

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175 releasing its findings, the department shall notify the
176 chairperson of the appropriate county commission or the
177 corresponding official under a consolidated charter that the
178 department's findings are available upon request. The department
179 shall, within 90 days after receiving a written request from the
180 chairperson of the appropriate county commission or the
181 corresponding official under a consolidated charter, forward a
182 copy of its findings, including the confidence interval for the
183 median and such other measures of each classification or
184 subclassification studied and for all the roll as a whole, and
185 related statistical and analytical details, to the requesting
186 party.

187 (3) (a) Upon completion of review pursuant to paragraph
188 (2) (f), the department shall publish the results of reviews
189 conducted under this section. The results must include all
190 statistical and analytical measures computed under this section
191 for the real property assessment roll as a whole, the personal
192 property assessment roll as a whole, and independently for the
193 following real property classes whenever the classes constituted
194 5 percent or more of the total assessed value of real property
195 in a county on the previous tax roll:

196 1. Residential property that consists of one primary living
197 unit, including, but not limited to, single-family residences,
198 condominiums, cooperatives, and mobile homes.

199 2. Residential property that consists of two or more
200 primary living units.

201 3. Agricultural, high-water recharge, historic property
202 used for commercial or certain nonprofit purposes, and other
203 use-valued property.

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- 204 4. Vacant lots.
205 5. Nonagricultural acreage and other undeveloped parcels.
206 6. Improved commercial and industrial property.
207 7. Taxable institutional or governmental, utility, locally
208 assessed railroad, oil, gas and mineral land, subsurface rights,
209 and other real property.

210
211 When one of the above classes constituted less than 5 percent of
212 the total just assessed value of all real property in a county
213 on the previous assessment roll, the department may combine it
214 with one or more other classes of real property for purposes of
215 assessment ratio studies or use the weighted average of the
216 other classes for purposes of calculating the level of
217 assessment for all real property in a county. The department
218 shall also publish such results for any subclassifications of
219 the classes or assessment rolls it may have chosen to study.

220 Section 5. Paragraph (b) of subsection (3) of section
221 197.122, Florida Statutes, is amended to read:

222 197.122 Lien of taxes; dates; application.-

223 (3) A property appraiser may also correct a material
224 mistake of fact relating to an essential condition of the
225 subject property to reduce an assessment if to do so requires
226 only the exercise of judgment as to the effect on assessed or
227 taxable value of that mistake of fact.

228 (b) The material mistake of fact may be corrected by the
229 property appraiser, in like manner as provided by law for
230 performing the act in the first place only within 1 year after
231 the approval of the tax roll pursuant to s. 193.1142, and, when
232 so corrected, the act becomes valid ab initio and in no way

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233 affects any process by law for the enforcement of the collection
234 of any tax. If such a correction results in a refund of taxes
235 paid on the basis of an erroneous assessment contained on the
236 current year's tax roll for years beginning January 1, 1999, or
237 later, the property appraiser shall, ~~at his or her option, may~~
238 ~~request that the department pass upon the refund request~~
239 ~~pursuant to s. 197.182 or may~~ submit the correction and refund
240 order directly to the tax collector for action in accordance
241 with the notice provisions of s. 197.182(2). ~~Corrections to tax~~
242 ~~rolls for prior years which would result in refunds must be made~~
243 ~~pursuant to s. 197.182.~~

244 Section 6. Section 197.182, Florida Statutes, is amended to
245 read:

246 197.182 Refunds ~~Department of Revenue to pass upon and~~
247 ~~order refunds.-~~

248 (1) (a) The tax collector shall approve ~~Except as provided~~
249 ~~in paragraph (b), the department shall pass upon and order~~
250 refunds when payment of taxes assessed on the county tax rolls
251 has been made voluntarily or involuntarily under any of the
252 following circumstances:

253 1. When an overpayment has been made.

254 2. When a payment has been made when no tax was due.

255 3. When a bona fide controversy exists between the tax
256 collector and the taxpayer as to the liability of the taxpayer
257 for the payment of the tax claimed to be due, the taxpayer pays
258 the amount claimed by the tax collector to be due, and it is
259 finally adjudged by a court of competent jurisdiction that the
260 taxpayer was not liable for the payment of the tax or any part
261 thereof.

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262 4. When a payment has been made in error by a taxpayer to
263 the tax collector, if, within 24 months of the date of the
264 erroneous payment and prior to any transfer of the assessed
265 property to a third party for consideration, the party seeking a
266 refund makes demand for reimbursement of the erroneous payment
267 upon the owner of the property on which the taxes were
268 erroneously paid and reimbursement of the erroneous payment is
269 not received within 45 days after such demand. The demand for
270 reimbursement shall be sent by certified mail, return receipt
271 requested, and a copy thereof shall be sent to the tax
272 collector. If the payment was made in error by the taxpayer
273 because of an error in the tax notice sent to the taxpayer,
274 refund must be made as provided in subparagraph (b)2.

275 5. When any payment has been made for tax certificates that
276 are subsequently corrected or are subsequently determined to be
277 void under s. 197.443.

278 (b)1. ~~Those Refunds that have been ordered by a court and~~
279 ~~those refunds that do not result from changes made in the~~
280 ~~assessed value on a tax roll certified to the tax collector~~
281 shall be made directly by the tax collector ~~without order from~~
282 ~~the department and shall be made~~ from undistributed funds
283 without approval of the various taxing authorities. Overpayments
284 in the amount of \$5 or less may be retained by the tax collector
285 unless a written claim for a refund is received from the
286 taxpayer. Overpayments over \$5 resulting from taxpayer error, if
287 determined within the 4-year period of limitation, are to be
288 automatically refunded to the taxpayer. Such refunds do not
289 require approval from the department.

290 2. When a payment has been made in error by a taxpayer to

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291 the tax collector because of an error in the tax notice sent to
292 the taxpayer, ~~refund must be made directly by~~ the tax collector
293 shall refund the amount paid in error and does not require
294 ~~approval from the department~~. At the request of the taxpayer,
295 the amount paid in error may be applied by the tax collector to
296 the taxes for which the taxpayer is actually liable.

297 (c) Claims for refunds shall be made in accordance with the
298 rules of the department. No refund shall be granted unless claim
299 is made therefor within 4 years of January 1 of the tax year for
300 which the taxes were paid.

301 ~~(d) Upon receipt of the department's written denial of the~~
302 ~~refund, the tax collector shall issue the denial in writing to~~
303 ~~the taxpayer.~~

304 (d)(e) If funds are available from current receipts and,
305 subject to subsection (3), if a refund is approved, the taxpayer
306 is entitled to receive a refund within 100 days after a claim
307 for refund is made, unless the tax collector or, property
308 appraiser, ~~or department~~ states good cause for remitting the
309 refund after that date. The times stated in this paragraph and
310 paragraphs (e)-(h) ~~(f) through (j)~~ are directory and may be
311 extended by a maximum of an additional 60 days if good cause is
312 stated.

313 (e)(f) If the taxpayer contacts the property appraiser
314 first, the property appraiser shall refer the taxpayer to the
315 tax collector.

316 (f)(g) If a correction to the roll by the property
317 appraiser is required as a condition for the refund, the tax
318 collector shall, within 30 days, advise the property appraiser
319 of the taxpayer's application for a refund and forward the

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320 application to the property appraiser.

321 (g)~~(h)~~ The property appraiser has 30 days after receipt of
322 the form from the tax collector to correct the roll if a
323 correction is permissible by law. After the 30 days, the
324 property appraiser shall immediately advise the tax collector in
325 writing whether or not the roll has been corrected, stating the
326 reasons why the roll was corrected or not corrected.

327 ~~(i) If the refund is not one that can be directly acted
328 upon by the tax collector, for which an order from the
329 department is required, the tax collector shall forward the
330 claim for refund to the department upon receipt of the
331 correction from the property appraiser or 30 days after the
332 claim for refund, whichever occurs first. This provision does
333 not apply to corrections resulting in refunds of less than \$400,
334 which the tax collector shall make directly, without order from
335 the department, and from undistributed funds, and may make
336 without approval of the various taxing authorities.~~

337 (h)~~(j)~~ The tax collector department shall approve or deny
338 all refunds within 30 days after receiving ~~from the tax~~
339 ~~collector the claim for refund, unless good cause is stated for~~
340 ~~delaying the approval or denial beyond that date. If the~~
341 property appraiser is required to make a correction to the roll
342 as a condition for the refund and if the tax collector does not
343 receive the correction within 30 days after a claim for refund,
344 the tax collector shall deny the refund. The tax collector shall
345 make these refunds from undistributed funds without the approval
346 of the various taxing authorities.

347 (i)~~(k)~~ Subject to and after meeting the requirements of s.
348 194.171 and this section, an action to contest a denial of

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349 refund may not be brought later than 60 days after the date the
350 tax collector issues the denial to the taxpayer, which notice
351 must be sent by certified mail, or 4 years after January 1 of
352 the year for which the taxes were paid, whichever is later.

353 (j)~~(l)~~ In computing any time period under this section,
354 when the last day of the period is a Saturday, Sunday, or legal
355 holiday, the period is to be extended to the next working day.

356 (2) (a) When ~~the department orders a refund, it shall~~
357 ~~forward a copy of its order to~~ the tax collector approves a
358 refund, he or she shall ~~who shall then determine and~~ certify to
359 the county, the district school board, each municipality, and
360 the governing body of each taxing district, their pro rata
361 shares of such refund, the reason for the refund, and the date
362 the refund was approved by the tax collector ~~ordered by the~~
363 ~~department.~~

364 (b) The board of county commissioners, the district school
365 board, each municipality, and the governing body of each taxing
366 district shall ~~comply with the order of the department in the~~
367 ~~following manner:~~

368 1. Authorize the tax collector to make refund from
369 undistributed funds held for that taxing authority by the tax
370 collector;

371 2. Authorize the tax collector to make refund and forward
372 to the tax collector its pro rata share of the refund from
373 currently budgeted funds, if available; or

374 3. Notify the tax collector that the taxing authority does
375 not have funds currently available and provide in its budget for
376 the ensuing year funds for the payment of the refund.

377 (3) A refund approved ~~ordered by the department~~ pursuant to

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378 this section shall be made by the tax collector in one aggregate
379 amount composed of all the pro rata shares of the several taxing
380 authorities concerned, except that a partial refund is allowed
381 when one or more of the taxing authorities concerned do not have
382 funds currently available to pay their pro rata shares of the
383 refund and this would cause an unreasonable delay in the total
384 refund. A statement by the tax collector explaining the refund
385 shall accompany the refund payment. When taxes become delinquent
386 as a result of a refund pursuant to subparagraph (1)(a)4. or
387 subparagraph (1)(b)2., the tax collector shall notify the
388 property owner that the taxes have become delinquent and that a
389 tax certificate will be sold if the taxes are not paid within 30
390 days after the date of delinquency.

391 (4) ~~Nothing contained in~~ This section does not ~~shall be~~
392 ~~construed to~~ authorize any taxing authority to make any tax levy
393 in excess of the maximum authorized by the constitution or the
394 laws of this state.

395 Section 7. Paragraph (b) of subsection (9) of section
396 197.2301, Florida Statutes, is amended to read:

397 197.2301 Payment of taxes prior to certified roll
398 procedure.—

399 (9) After the discount has been applied to the estimated
400 taxes paid and it is determined that an underpayment or
401 overpayment has occurred, the following shall apply:

402 (b) If the amount of overpayment is more than \$5, the tax
403 collector shall immediately refund to the person who paid the
404 estimated tax the amount of overpayment. ~~Department of Revenue~~
405 ~~approval shall not be required for the refund of overpayment~~
406 ~~made pursuant to this subsection.~~

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407 Section 8. Subsection (1) of section 197.323, Florida
408 Statutes, is amended to read:

409 197.323 Extension of roll during adjustment board
410 hearings.—

411 (1) Notwithstanding the provisions of s. 193.122, the board
412 of county commissioners may, upon request by the tax collector
413 and by majority vote, order the roll to be extended prior to
414 completion of value adjustment board hearings, if completion
415 thereof would otherwise be the only cause for a delay in the
416 issuance of tax notices beyond November 1. For any parcel for
417 which tax liability is subsequently altered as a result of board
418 action, the tax collector shall resolve the matter by following
419 the same procedures used for correction of errors. ~~However,~~
420 ~~approval by the department is not required for refund of~~
421 ~~overpayment made pursuant to this section.~~

422 Section 9. Paragraph (a) of subsection (2) of section
423 197.4325, Florida Statutes, is amended to read:

424 197.4325 Procedure when checks received for payment of
425 taxes or tax certificates are dishonored.—

426 (2) (a) When a check received by the tax collector for the
427 purchase of a tax certificate is dishonored and the certificate
428 has not been delivered to the bidder, the tax collector shall
429 retain the deposit and resell the tax certificate. If the
430 certificate has been delivered to the bidder, ~~the tax collector~~
431 ~~shall notify the department, and, upon approval by the~~
432 ~~department,~~ the certificate shall be canceled and resold.

433 Section 10. Subsection (1) of section 197.443, Florida
434 Statutes, is amended to read:

435 197.443 Cancellation of void tax certificates; correction

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436 of tax certificates; procedure.—

437 (1) When a tax certificate on lands has been sold for
438 unpaid taxes and:

439 (a) The tax certificate evidencing the sale is void because
440 the taxes on the lands have been paid;

441 (b) The lands were not subject to taxation at the time of
442 the assessment on which they were sold;

443 (c) The description of the property in the tax certificate
444 is void or has been corrected;

445 (d) An error of commission or omission has occurred which
446 invalidates the sale;

447 (e) The circuit court has voided the tax certificate by a
448 suit to cancel the tax certificate by the holder;

449 (f) The tax certificate is void for any other reason; or

450 (g) An error has occurred for which the tax certificate may
451 be corrected,

452

453 the tax collector shall enter ~~forward a certificate of such~~
454 ~~error to the department and enter upon the list of certificates~~

455 ~~sold for taxes~~ a memorandum of such error on the list of
456 certificates sold for taxes and shall cancel or correct the

457 certificate. ~~The department, upon receipt of such certificate,~~
458 ~~if satisfied of the correctness of the certificate of error or~~

459 ~~upon receipt of a court order, shall notify the tax collector,~~
460 ~~who shall cancel or correct the certificate.~~

461 Section 11. Section 213.69, Florida Statutes, is amended to
462 read:

463 213.69 Authority to issue warrants.—

464 (1) Upon a final determination of unpaid taxes, interest,

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465 or penalties due under the revenue laws of this state, the
466 department may issue warrants for those taxes listed in s.
467 213.05 or placed under the control of the department by law.
468 Such warrants may direct:

469 (a)~~(1)~~ The sheriff of any county within the state to levy
470 upon and sell the goods of such person which are found within
471 the sheriff's jurisdiction for the payment of the amount of the
472 delinquency, plus the penalties, interest, and cost of executing
473 the warrant and conducting the sale, and to return the warrant
474 and the money collected to the department. However, any surplus
475 resulting from the sale after the costs, penalties, and
476 delinquent taxes have been accounted for must be returned to the
477 person in default; or

478 (b)~~(2)~~ A deputy, agent, or employee of the department or of
479 the Department of Law Enforcement, after receiving written
480 designation by the executive director, to execute that warrant
481 in the same manner as a sheriff.

482 (2) The Department of Revenue is not required to pay any
483 charge imposed by s. 28.24 in connection with recording any
484 warrant, lien, or notice of lien issued by the department
485 pertaining to any tax enumerated in s. 72.011, s. 213.05, or
486 chapter 443, or any modification, amendment, satisfaction, or
487 cancelation thereof.

488 Section 12. This act shall take effect July 1, 2011.