



716500

LEGISLATIVE ACTION

Senate

House

.  
. .  
. .  
. .  
. .  
. .

Floor: 1/R/2R

03/09/2012 06:48 PM

---

Senator Norman moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Effective July 1, 2012, and applicative to  
returns due on or after that date, subsection (1) of section  
212.12, Florida Statutes, is amended to read:

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

(1) (a)1. Notwithstanding any other ~~provision of~~ law and for  
the purpose of compensating persons granting licenses for and



716500

14 the lessors of real and personal property taxed hereunder, for  
15 the purpose of compensating dealers in tangible personal  
16 property, for the purpose of compensating dealers providing  
17 communication services and taxable services, for the purpose of  
18 compensating owners of places where admissions are collected,  
19 and for the purpose of compensating remitters of any taxes or  
20 fees reported on the same documents utilized for the sales and  
21 use tax, as compensation for the keeping of prescribed records,  
22 filing timely tax returns, and the proper accounting and  
23 remitting of taxes by them, such seller, person, lessor, dealer,  
24 owner, and remitter (except dealers who make mail order sales)  
25 who files the return required pursuant to s. 212.11 only by  
26 electronic means and who pays the amount due on such return only  
27 by electronic means shall be allowed 2.5 percent of the amount  
28 of the tax due, ~~and~~ accounted for, and remitted to the  
29 department, ~~in the form of a deduction in submitting his or her~~  
30 ~~report and paying the amount due by him or her; the department~~  
31 ~~shall allow such deduction of 2.5 percent of the amount of the~~  
32 ~~tax to the person paying the same for remitting the tax and~~  
33 ~~making of tax returns in the manner herein provided, for paying~~  
34 ~~the amount due to be paid by him or her, and as further~~  
35 ~~compensation to dealers in tangible personal property for the~~  
36 ~~keeping of prescribed records and for collection of taxes and~~  
37 ~~remitting the same.~~ However, if the amount of the tax due and  
38 remitted to the department by electronic means for the reporting  
39 period exceeds \$1,200, an ~~no~~ allowance is not ~~shall be~~ allowed  
40 for all amounts in excess of \$1,200. For purposes of this  
41 subparagraph, the term "electronic means" has the same meaning  
42 as provided in s. 213.755(2)(c).



716500

43           2. The executive director of the department is authorized  
44 to negotiate a collection allowance, pursuant to rules  
45 promulgated by the department, with a dealer who makes mail  
46 order sales. The rules of the department shall provide  
47 guidelines for establishing the collection allowance based upon  
48 the dealer's estimated costs of collecting the tax, the volume  
49 and value of the dealer's mail order sales to purchasers in this  
50 state, and the administrative and legal costs and likelihood of  
51 achieving collection of the tax absent the cooperation of the  
52 dealer. However, in no event shall the collection allowance  
53 negotiated by the executive director exceed 10 percent of the  
54 tax remitted for a reporting period.

55           **(b)**~~(a)~~ The Department of Revenue may deny the collection  
56 allowance if a taxpayer files an incomplete return or if the  
57 required tax return or tax is delinquent at the time of payment.

58           1. An "incomplete return" is, for purposes of this chapter,  
59 a return which is lacking such uniformity, completeness, and  
60 arrangement that the physical handling, verification, review of  
61 the return, or determination of other taxes and fees reported on  
62 the return may not be readily accomplished.

63           2. The department shall adopt rules requiring such  
64 information as it may deem necessary to ensure that the tax  
65 levied hereunder is properly collected, reviewed, compiled,  
66 reported, and enforced, including, but not limited to: the  
67 amount of gross sales; the amount of taxable sales; the amount  
68 of tax collected or due; the amount of lawful refunds,  
69 deductions, or credits claimed; the amount claimed as the  
70 dealer's collection allowance; the amount of penalty and  
71 interest; the amount due with the return; and such other



716500

72 information as the Department of Revenue may specify. The  
73 department shall require that transient rentals and agricultural  
74 equipment transactions be separately shown. Sales made through  
75 vending machines as defined in s. 212.0515 must be separately  
76 shown on the return. Sales made through coin-operated amusement  
77 machines as defined by s. 212.02 and the number of machines  
78 operated must be separately shown on the return or on a form  
79 prescribed by the department. If a separate form is required,  
80 the same penalties for late filing, incomplete filing, or  
81 failure to file as provided for the sales tax return shall apply  
82 to the ~~said~~ form.

83 (c) ~~(b)~~ The collection allowance and other credits or  
84 deductions provided in this chapter shall be applied  
85 proportionally to any taxes or fees reported on the same  
86 documents used for the sales and use tax.

87 (d) ~~(e)~~ 1. A dealer entitled to the collection allowance  
88 provided in this section may elect to forego the collection  
89 allowance and direct that the ~~said~~ amount be transferred into  
90 the Educational Enhancement Trust Fund. Such an election must be  
91 made with the timely filing of a return and may not be rescinded  
92 once made. If a dealer who makes such an election files a  
93 delinquent return, underpays the tax, or files an incomplete  
94 return, the amount transferred into the Educational Enhancement  
95 Trust Fund shall be the amount of the collection allowance  
96 remaining after resolution of liability for all of the tax,  
97 interest, and penalty due on that return or underpayment of tax.  
98 The Department of Education shall distribute the remaining  
99 amount from the trust fund to the school districts that have  
100 adopted resolutions stating that those funds will be used to



716500

101 ensure that up-to-date technology is purchased for the  
102 classrooms in the district and that teachers are trained in the  
103 use of that technology. Revenues collected in districts that do  
104 not adopt such a resolution shall be equally distributed to  
105 districts that have adopted such resolutions.

106 2. This paragraph applies to all taxes, surtaxes, and any  
107 local option taxes administered under this chapter and remitted  
108 directly to the department. This paragraph does not apply to a  
109 ~~any~~ locally imposed and self-administered convention development  
110 tax, tourist development tax, or tourist impact tax administered  
111 under this chapter.

112 3. Revenues from the dealer-collection allowances shall be  
113 transferred quarterly from the General Revenue Fund to the  
114 Educational Enhancement Trust Fund. The Department of Revenue  
115 shall provide to the Department of Education quarterly  
116 information about such revenues by county to which the  
117 collection allowance was attributed.

118  
119 Notwithstanding any provision of chapter 120 to the contrary,  
120 the Department of Revenue may adopt rules to carry out the  
121 amendment made by chapter 2006-52, Laws of Florida, to this  
122 section.

123 Section 2. Effective upon this act becoming a law and  
124 operating retroactively to January 1, 2012, paragraph (n) of  
125 subsection (1) and subsection (2) of section 220.03, Florida  
126 Statutes, are amended to read:

127 220.03 Definitions.—

128 (1) SPECIFIC TERMS.—When used in this code, and when not  
129 otherwise distinctly expressed or manifestly incompatible with



716500

130 the intent thereof, the following terms shall have the following  
131 meanings:

132 (n) "Internal Revenue Code" means the United States  
133 Internal Revenue Code of 1986, as amended and in effect on  
134 January 1, 2012 ~~2011~~, except as provided in subsection (3).

135 (2) DEFINITIONAL RULES.—When used in this code and neither  
136 otherwise distinctly expressed nor manifestly incompatible with  
137 the intent thereof:

138 (a) The word "corporation" or "taxpayer" shall be deemed to  
139 include the words "and its successors and assigns" as if these  
140 words, or words of similar import, were expressed;

141 (b) Any term used in any section of this code with respect  
142 to the application of, or in connection with, the provisions of  
143 any other section of this code shall have the same meaning as in  
144 such other section; and

145 (c) Any term used in this code shall have the same meaning  
146 as when used in a comparable context in the Internal Revenue  
147 Code and other statutes of the United States relating to federal  
148 income taxes, as such code and statutes are in effect on January  
149 1, 2012 ~~2011~~. However, if subsection (3) is implemented, the  
150 meaning of any term shall be taken at the time the term is  
151 applied under this code.

152 Section 3. Present subsection (7) of section 220.33,  
153 Florida Statutes, is renumbered as subsection (8), and a new  
154 subsection (7) is added to that section, to read:

155 220.33 Payments of estimated tax.—A taxpayer required to  
156 file a declaration of estimated tax pursuant to s. 220.24 shall  
157 pay such estimated tax as follows:

158 (7) Notwithstanding any administrative rule or



716500

159 determination of the department which allows estimated payments  
160 otherwise due on a Saturday, Sunday, or legal holiday to be paid  
161 on the next succeeding day that is not a Saturday, Sunday, or  
162 legal holiday, any estimated tax payment required under this  
163 section which would otherwise be due no later than Sunday, June  
164 30, 2013, shall be paid on or before June 28, 2013. This  
165 subsection expires July 1, 2014.

166 Section 4. (1) The executive director of the Department of  
167 Revenue is authorized to adopt emergency rules pursuant to ss.  
168 120.536(1) and 120.54(4), Florida Statutes, for the purpose of  
169 implementing section 3 of this act.

170 (2) Notwithstanding any other law, the emergency rules  
171 adopted pursuant to this section shall remain in effect for 6  
172 months after adoption and may be renewed during the pendency of  
173 procedures to adopt permanent rules addressing the subject of  
174 the emergency rules.

175 Section 5. For the purpose of incorporating the amendments  
176 made by this act to section 212.12, Florida Statutes, in a  
177 reference thereto, section 723.008, Florida Statutes, is  
178 reenacted to read:

179 723.008 Applicability of chapter 212 to fees, penalties,  
180 and fines under this chapter.—The same duties and privileges  
181 imposed by chapter 212 upon dealers in tangible property  
182 respecting the collection and remission of tax; the making of  
183 returns; the keeping of books, records, and accounts; and the  
184 compliance with the rules of the enforcing agency in the  
185 administration of that chapter apply to and are binding upon all  
186 persons who are subject to the fee, penalty, and fine provisions  
187 of this chapter. However, the provisions of s. 212.12(1) do not



716500

188 apply to this chapter.

189       Section 6. The Department of Revenue shall provide adequate  
190 notice to affected taxpayers of the earlier due date for making  
191 an estimated payment established by this act. The department may  
192 satisfy this requirement by revising its corporate income tax  
193 return forms, creating a Tax Information Publication, and  
194 revising the due dates provided on its electronic filing  
195 calendar.

196       Section 7. Except as otherwise expressly provided in this  
197 act and except for this section, which shall take effect upon  
198 this act becoming a law, this act shall take effect July 1,  
199 2012.

200  
201 ===== T I T L E   A M E N D M E N T =====

202 And the title is amended as follows:

203       Delete everything before the enacting clause  
204 and insert:

205                               A bill to be entitled  
206       An act relating to taxation; amending s. 212.12, F.S.;  
207       providing for the collection of allowances of the  
208       amount of tax due by persons who file returns only by  
209       electronic means and pay the amount due on such  
210       returns only by electronic means; deleting provisions  
211       that provide for the collection of such allowances by  
212       persons who file paper returns; defining the term  
213       "electronic means" for purposes of collecting  
214       allowances of the amount of tax due by persons who  
215       file sales and use tax returns; providing for  
216       applicability; amending s. 220.03, F.S.; adopting the





716500

217 2012 version of the Internal Revenue Code for purposes  
218 of ch. 220, F.S.; providing for retroactive operation;  
219 amending s. 220.33, F.S.; changing the filing date for  
220 estimated tax under certain circumstances; providing  
221 for future expiration; authorizing the Department of  
222 Revenue to adopt emergency rules; reenacting s.  
223 723.008, F.S., relating to certain fees, penalties,  
224 and fines applicable to the "Florida Mobile Home Act,"  
225 to incorporate the amendment made to s. 212.12, F.S.,  
226 in a reference thereto; requiring the Department of  
227 Revenue to provide adequate notice to affected  
228 taxpayers relating to earlier due dates for making an  
229 estimated payment; providing effective dates.