

FOR CONSIDERATION By the Committee on Appropriations

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1                   A bill to be entitled  
2       An act relating to tax administration; amending s.  
3       195.096, F.S.; removing the requirement that the  
4       department review the level of assessment of use-  
5       valued properties in its reviews of county assessment  
6       rolls; amending s. 212.07, F.S.; conforming a cross-  
7       reference to changes made by the act; providing  
8       monetary and criminal penalties for a dealer's willful  
9       failure to collect certain taxes or fees after  
10      receiving notice of such duty to collect from the  
11      Department of Revenue; amending s. 212.12, F.S.;  
12      deleting provisions relating to the imposition of  
13      criminal penalties after Department of Revenue notice  
14      of requirements to register as a dealer or to collect  
15      taxes; making technical and grammatical changes to  
16      provisions specifying penalties for making a false or  
17      fraudulent return with the intent to evade payment of  
18      a tax or fee; amending s. 212.14, F.S.; modifying the  
19      definition of the term "person"; authorizing the  
20      department to adopt rules relating to requirements for  
21      a person to deposit cash, a bond, or other security  
22      with the department in order to ensure compliance with  
23      sales tax laws; making technical and grammatical  
24      changes; amending s. 212.18, F.S.; providing criminal  
25      penalties for a person who willfully fails to register  
26      as a dealer after receiving notice of such duty by the  
27      department; making technical and grammatical changes;  
28      reenacting s. 212.20, F.S., relating to the  
29      disposition of funds collected, to incorporate changes

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30 made by the act; amending s. 213.13, F.S.; revising  
31 the date for transmitting funds collected by the  
32 clerks of court to the department; amending s. 213.21,  
33 F.S.; increasing the compromise authority for closing  
34 agreements with taxpayers which can be delegated to  
35 and approved by the executive director; creating s.  
36 213.295, F.S., relating to automated sales suppression  
37 devices; defining terms; subjecting a person to  
38 criminal penalties and monetary penalties for  
39 knowingly selling or engaging in certain other actions  
40 involving a sales suppression device or phantom-ware;  
41 providing that sales suppression devices and phantom-  
42 ware are contraband articles under the Florida  
43 Contraband Forfeiture Act; amending s. 443.131, F.S.;  
44 imposing a requirement on employers to produce records  
45 for the Department of Economic Opportunity or its tax  
46 collection service provider as a prerequisite for a  
47 reduction in the rate of reemployment tax; amending s.  
48 443.141, F.S.; providing a method to calculate the  
49 interest rate for past due employer contributions and  
50 reimbursements, and delinquent, erroneous, incomplete,  
51 or insufficient reports; increasing the number of days  
52 for an employer to protest an assessment; providing  
53 effective dates.

54  
55 Be It Enacted by the Legislature of the State of Florida:  
56

57 Section 1. Paragraph (a) of subsection (3) of section  
58 195.096, Florida Statutes, is amended to read:

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59 195.096 Review of assessment rolls.—

60 (3) (a) Upon completing the reviews ~~completion of review~~  
61 pursuant to paragraph (2) (f), the department shall publish the  
62 results of reviews conducted under this section. The results  
63 must include all statistical and analytical measures computed  
64 under this section for the real property assessment roll as a  
65 whole, the personal property assessment roll as a whole, and  
66 independently for the following real property classes if the  
67 classes constituted 5 percent or more of the total assessed  
68 value of real property in a county on the previous tax roll:

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

72 2. Residential property that consists of two or more  
73 primary living units.

74 ~~3. Agricultural, high-water recharge, historic property~~  
75 ~~used for commercial or certain nonprofit purposes, and other~~  
76 ~~use-valued property.~~

77 ~~3.4.~~ Vacant lots.

78 ~~4.5.~~ Nonagricultural acreage and other undeveloped parcels.

79 ~~5.6.~~ Improved commercial and industrial property.

80 ~~6.7.~~ Taxable institutional or governmental, utility,  
81 locally assessed railroad, oil, gas and mineral land, subsurface  
82 rights, and other real property.

83

84 If one of the above classes constituted less than 5 percent of  
85 the total assessed value of all real property in a county on the  
86 previous assessment roll, the department may combine it with one  
87 or more other classes of real property for purposes of

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88 assessment ratio studies or use the weighted average of the  
89 other classes for purposes of calculating the level of  
90 assessment for all real property in a county. The department  
91 shall also publish such results for any subclassifications of  
92 the classes or assessment rolls it may have chosen to study.

93 Section 2. Effective July 1, 2014, paragraph (b) of  
94 subsection (1) and subsection (3) of section 212.07, Florida  
95 Statutes, are amended to read:

96 212.07 Sales, storage, use tax; tax added to purchase  
97 price; dealer not to absorb; liability of purchasers who cannot  
98 prove payment of the tax; penalties; general exemptions.-

99 (1)

100 (b) A resale must be in strict compliance with s. 212.18  
101 and the rules and regulations, and any dealer who makes a sale  
102 for resale which is not in strict compliance is with s. 212.18  
103 ~~and the rules and regulations shall himself or herself be liable~~  
104 for and must pay the tax. Any dealer who makes a sale for resale  
105 shall document the exempt nature of the transaction, as  
106 established by rules adopted ~~promulgated~~ by the department, by  
107 retaining a copy of the purchaser's resale certificate. In lieu  
108 of maintaining a copy of the certificate, a dealer may document,  
109 before ~~prior to~~ the time of sale, an authorization number  
110 provided telephonically or electronically by the department, or  
111 by such other means established by rule of the department. The  
112 dealer may rely on a resale certificate issued pursuant to s.  
113 212.18(3)(d) ~~s. 212.18(3)(e)~~, valid at the time of receipt from  
114 the purchaser, without seeking annual verification of the resale  
115 certificate if the dealer makes recurring sales to a purchaser  
116 in the normal course of business on a continual basis. For

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117 purposes of this paragraph, "recurring sales to a purchaser in  
118 the normal course of business" refers to a sale in which the  
119 dealer extends credit to the purchaser and records the debt as  
120 an account receivable, or in which the dealer sells to a  
121 purchaser who has an established cash or C.O.D. account, similar  
122 to an open credit account. For purposes of this paragraph,  
123 purchases are made from a selling dealer on a continual basis if  
124 the selling dealer makes, in the normal course of business,  
125 sales to the purchaser at least ~~no less frequently than~~ once in  
126 every 12-month period. A dealer may, through the informal  
127 protest provided for in s. 213.21 and the rules of the  
128 department ~~of Revenue~~, provide the department with evidence of  
129 the exempt status of a sale. Consumer certificates of exemption  
130 executed by those exempt entities that were registered with the  
131 department at the time of sale, resale certificates provided by  
132 purchasers who were active dealers at the time of sale, and  
133 verification by the department of a purchaser's active dealer  
134 status at the time of sale in lieu of a resale certificate shall  
135 be accepted by the department when submitted during the protest  
136 period, but may not be accepted in any proceeding under chapter  
137 120 or any circuit court action instituted under chapter 72.

138 (3) (a) ~~A~~ Any dealer who fails, neglects, or refuses to  
139 collect the tax or fees imposed under this chapter herein  
140 ~~provided, either~~ by himself or herself or through the dealer's  
141 agents or employees, ~~is,~~ in addition to the penalty of being  
142 liable for ~~and~~ paying the tax or fee ~~himself or herself~~, commits  
143 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
144 provided in s. 775.082 or s. 775.083.

145 (b) A dealer who willfully fails to collect a tax or fee

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146 after the department provides notice of the duty to collect the  
147 tax or fee is liable for a specific penalty of 100 percent of  
148 the uncollected tax or fee. This penalty is in addition to any  
149 other penalty that may be imposed by law. A dealer who willfully  
150 fails to collect taxes or fees totaling:

151 1. Less than \$300:

152 a. For a first offense, commits a misdemeanor of the second  
153 degree, punishable as provided in s. 775.082 or s. 775.083.

154 b. For a second offense, commits a misdemeanor of the first  
155 degree, punishable as provided in s. 775.082 or s. 775.083.

156 c. For a third or subsequent offense, commits a felony of  
157 the third degree, punishable as provided in s. 775.082, s.  
158 775.083, or s. 775.084.

159 2. An amount equal to \$300 or more, but less than \$20,000,  
160 commits a felony of the third degree, punishable as provided in  
161 s. 775.082, s. 775.083, or s. 775.084.

162 3. An amount equal to \$20,000 or more, but less than  
163 \$100,000, commits a felony of the second degree, punishable as  
164 provided in s. 775.082, s. 775.083, or s. 775.084.

165 4. An amount equal to \$100,000 or more, commits a felony of  
166 the first degree, punishable as provided in s. 775.082, s.  
167 775.083, or s. 775.084.

168 (c) The department shall give written notice of the duty to  
169 collect taxes or fees to the dealer by personal service, by  
170 sending notice to the dealer's last known address by registered  
171 mail, or both.

172 Section 3. effective July 1, 2014, paragraph (d) of  
173 subsection (2) of section 212.12, Florida Statutes, is amended  
174 to read:

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175 212.12 Dealer's credit for collecting tax; penalties for  
176 noncompliance; powers of Department of Revenue in dealing with  
177 delinquents; brackets applicable to taxable transactions;  
178 records required.-

179 (2)

180 (d) A Any person who makes a false or fraudulent return and  
181 who has with a willful intent to evade payment of any tax or fee  
182 imposed under this chapter is; ~~any person who, after the~~  
183 ~~department's delivery of a written notice to the person's last~~  
184 ~~known address specifically alerting the person of the~~  
185 ~~requirement to register the person's business as a dealer,~~  
186 ~~intentionally fails to register the business; and any person~~  
187 ~~who, after the department's delivery of a written notice to the~~  
188 ~~person's last known address specifically alerting the person of~~  
189 ~~the requirement to collect tax on specific transactions,~~  
190 ~~intentionally fails to collect such tax, shall, in addition to~~  
191 ~~the other penalties provided by law, be liable for a specific~~  
192 ~~penalty of 100 percent of any unreported or any uncollected tax~~  
193 ~~or fee. This penalty is in addition to any other penalty~~  
194 provided by law. A person who makes a false or fraudulent return  
195 with a willful intent to evade payment of taxes or fees  
196 totaling:

197 1. Less than \$300:

198 a. For a first offense, commits a misdemeanor of the second  
199 degree, punishable as provided in s. 775.082 or s. 775.083.

200 b. For a second offense, commits a misdemeanor of the first  
201 degree, punishable as provided in s. 775.082 or s. 775.083.

202 c. For a third or subsequent offense, commits a felony of  
203 the third degree, punishable as provided in s. 775.082, s.

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204 775.083, or s. 775.084.

205 2. An amount equal to \$300 or more, but less than \$20,000,  
206 commits a felony of the third degree, punishable as provided in  
207 s. 775.082, s. 775.083, or s. 775.084.

208 3. An amount equal to \$20,000 or more, but less than  
209 \$100,000, commits a felony of the second degree, punishable as  
210 provided in s. 775.082, s. 775.083, or s. 775.084.

211 4. An amount equal to \$100,000 or more, commits a felony of  
212 the first degree, punishable and, upon conviction, for fine and  
213 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.  
214 ~~Delivery of written notice may be made by certified mail, or by~~  
215 ~~the use of such other method as is documented as being necessary~~  
216 ~~and reasonable under the circumstances. The civil and criminal~~  
217 ~~penalties imposed herein for failure to comply with a written~~  
218 ~~notice alerting the person of the requirement to register the~~  
219 ~~person's business as a dealer or to collect tax on specific~~  
220 ~~transactions shall not apply if the person timely files a~~  
221 ~~written challenge to such notice in accordance with procedures~~  
222 ~~established by the department by rule or the notice fails to~~  
223 ~~clearly advise that failure to comply with or timely challenge~~  
224 ~~the notice will result in the imposition of the civil and~~  
225 ~~criminal penalties imposed herein.~~

226 ~~1. If the total amount of unreported or uncollected taxes~~  
227 ~~or fees is less than \$300, the first offense resulting in~~  
228 ~~conviction is a misdemeanor of the second degree, the second~~  
229 ~~offense resulting in conviction is a misdemeanor of the first~~  
230 ~~degree, and the third and all subsequent offenses resulting in~~  
231 ~~conviction is a misdemeanor of the first degree, and the third~~  
232 ~~and all subsequent offenses resulting in conviction are felonies~~



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233 ~~of the third degree.~~

234 ~~2. If the total amount of unreported or uncollected taxes~~  
235 ~~or fees is \$300 or more but less than \$20,000, the offense is a~~  
236 ~~felony of the third degree.~~

237 ~~3. If the total amount of unreported or uncollected taxes~~  
238 ~~or fees is \$20,000 or more but less than \$100,000, the offense~~  
239 ~~is a felony of the second degree.~~

240 ~~4. If the total amount of unreported or uncollected taxes~~  
241 ~~or fees is \$100,000 or more, the offense is a felony of the~~  
242 ~~first degree.~~

243 Section 4. Effective July 1, 2014, subsection (4) of  
244 section 212.14, Florida Statutes, is amended to read:

245 212.14 Departmental powers; hearings; distress warrants;  
246 bonds; subpoenas and subpoenas duces tecum.-

247 (4) In all cases where it is necessary to ensure compliance  
248 with ~~the provisions of~~ this chapter, the department shall  
249 require a cash deposit, bond, or other security as a condition  
250 to a person obtaining or retaining a dealer's certificate of  
251 registration under this chapter. Such bond must ~~shall~~ be in the  
252 form and ~~such~~ amount ~~as~~ the department deems appropriate under  
253 the particular circumstances. A ~~Every~~ person failing to produce  
254 such cash deposit, bond, or other security is ~~as provided for~~  
255 ~~herein shall~~ not be entitled to obtain or retain a dealer's  
256 certificate of registration under this chapter, and the  
257 Department of Legal Affairs is hereby authorized to proceed by  
258 injunction, if ~~when so~~ requested by the Department of Revenue,  
259 to prevent such person from doing business subject to ~~the~~  
260 ~~provisions of~~ this chapter until such cash deposit, bond, or  
261 other security is posted with the department, and any temporary

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262 injunction for this purpose may be granted by any judge or  
263 chancellor authorized by law to grant injunctions. Any security  
264 required to be deposited may be sold by the department at public  
265 sale if ~~it becomes necessary so to do~~ in order to recover any  
266 tax, interest, or penalty due. Notice of such sale may be served  
267 personally or by mail upon the person who deposited ~~the such~~  
268 security. If by mail, notice sent to the last known address as  
269 ~~it the same~~ appears on the records of the department ~~is shall be~~  
270 sufficient for the purpose of this requirement. Upon such sale,  
271 the surplus, if any, above the amount due under this chapter  
272 shall be returned to the person who deposited the security. The  
273 department may adopt rules necessary to administer this  
274 subsection. For the purpose of the cash deposit, bond, or other  
275 security required by this subsection, the term "person" includes  
276 those entities defined in s. 212.02(12), as well as:

277 (a) An individual or entity owning a controlling interest  
278 in a business;

279 (b) An individual or entity that acquired an ownership  
280 interest or a controlling interest in a business that would  
281 otherwise be liable for posting a cash deposit, bond, or other  
282 security, unless the department has determined that the  
283 individual or entity is not liable for the taxes, interest, or  
284 penalties described in s. 213.758; or

285 (c) An individual or entity seeking to obtain a dealer's  
286 certificate of registration for a business that will be operated  
287 at the same location as a previous business that would otherwise  
288 have been liable for posting a cash deposit, bond, or other  
289 security, if the individual or entity fails to provide evidence  
290 that the business was acquired for consideration in an arms-

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291 length transaction.

292 Section 5. Effective July 1, 2014, subsection (3) of  
293 section 212.18, Florida Statutes, is amended to read:

294 212.18 Administration of law; registration of dealers;  
295 rules.—

296 (3) (a) A ~~Every~~ person desiring to engage in or conduct  
297 business in this state as a dealer, ~~as defined in this chapter,~~  
298 or to lease, rent, or let or grant licenses in living quarters  
299 or sleeping or housekeeping accommodations in hotels, apartment  
300 houses, roominghouses, or tourist or trailer camps that are  
301 subject to tax under s. 212.03, or to lease, rent, or let or  
302 grant licenses in real property, ~~as defined in this chapter,~~ and  
303 a every person who sells or receives anything of value by way of  
304 admissions, must file with the department an application for a  
305 certificate of registration for each place of business. The  
306 application must include, ~~showing~~ the names of the persons who  
307 have interests in such business and their residences, the  
308 address of the business, and ~~such~~ other data reasonably required  
309 by ~~as~~ the department ~~may reasonably require~~. However, owners and  
310 operators of vending machines or newspaper rack machines are  
311 required to obtain only one certificate of registration for each  
312 county in which such machines are located. The department, by  
313 rule, may authorize a dealer that uses independent sellers to  
314 sell its merchandise to remit tax on the retail sales price  
315 charged to the ultimate consumer in lieu of having the  
316 independent seller register as a dealer and remit the tax. The  
317 department may appoint the county tax collector as the  
318 department's agent to accept applications for registrations. The  
319 application must be submitted ~~made~~ to the department before the

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320 person, firm, copartnership, or corporation may engage in such  
321 business, and it must be accompanied by a registration fee of  
322 \$5. However, a registration fee is not required to accompany an  
323 application to engage in or conduct business to make mail order  
324 sales. The department may waive the registration fee for  
325 applications submitted through the department's Internet  
326 registration process.

327 (b) The department, upon receipt of such application, shall  
328 ~~will~~ grant to the applicant a separate certificate of  
329 registration for each place of business, which certificate may  
330 be canceled by the department or its designated assistants for  
331 any failure by the certificateholder to comply with ~~any of the~~  
332 ~~provisions of~~ this chapter. The certificate is not assignable  
333 and is valid only for the person, firm, copartnership, or  
334 corporation to which issued. The certificate must be placed in a  
335 conspicuous place in the business or businesses for which it is  
336 issued and must be displayed at all times. Except as provided in  
337 this subsection, a no person may not shall engage in business as  
338 a dealer or in leasing, renting, or letting of or granting  
339 licenses in living quarters or sleeping or housekeeping  
340 accommodations in hotels, apartment houses, roominghouses,  
341 tourist or trailer camps, or real property, or as hereinbefore  
342 ~~defined, nor shall any person~~ sell or receive anything of value  
343 by way of admissions, without a valid first having obtained such  
344 a certificate. ~~A or after such certificate has been canceled; no~~  
345 ~~person may not shall~~ receive a any license from any authority  
346 within the state to engage in any such business without a valid  
347 certificate first having obtained such a certificate or after  
348 ~~such certificate has been canceled.~~ A person may not engage The

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349 ~~engaging~~ in the business of selling or leasing tangible personal  
350 property or services ~~or~~ as a dealer; engage, ~~as defined in this~~  
351 ~~chapter, or the engaging~~ in leasing, renting, or letting of or  
352 granting licenses in living quarters or sleeping or housekeeping  
353 accommodations in hotels, apartment houses, roominghouses, or  
354 tourist or trailer camps that are taxable under this chapter, or  
355 real property; ~~or engage the engaging~~ in the business of  
356 selling or receiving anything of value by way of admissions, ~~or~~  
357 without a valid such certificate first being obtained ~~or after~~  
358 ~~such certificate has been canceled by the department, is~~  
359 ~~prohibited.~~

360 (c)1. A ~~The failure or refusal of any person who engages in~~  
361 acts requiring a certificate of registration under this  
362 subsection and who fails or refuses to register commits, firm,  
363 copartnership, or corporation to so qualify when required  
364 ~~hereunder is~~ a misdemeanor of the first degree, punishable as  
365 provided in s. 775.082 or s. 775.083. Such acts are, or subject  
366 to injunctive proceedings as provided by law. A person who  
367 engages in acts requiring a certificate of registration and who  
368 fails or refuses to register is also subject ~~Such failure or~~  
369 ~~refusal also subjects the offender~~ to a \$100 initial  
370 registration fee in lieu of the \$5 registration fee required by  
371 ~~authorized in~~ paragraph (a). However, the department may waive  
372 the increase in the registration fee if it finds is determined  
373 ~~by the department~~ that the failure to register was due to  
374 reasonable cause and not to willful negligence, willful neglect,  
375 or fraud.

376 2.a. A person who willfully fails to register after the  
377 department provides notice of the duty to register as a dealer

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378 commits a felony of the third degree, punishable as provided in  
379 s. 775.082, s. 775.083, or s. 775.084.

380 b. The department shall provide written notice of the duty  
381 to register to the person by personal service, by sending notice  
382 by registered mail to the person's last known address, or both.

383 (d)~~(e)~~ In addition to the certificate of registration, the  
384 department shall provide to each newly registered dealer an  
385 initial resale certificate that will be valid for the remainder  
386 of the period of issuance. The department shall provide each  
387 active dealer with an annual resale certificate. For purposes of  
388 this section, the term "active dealer" means a person who is  
389 currently registered with the department and who is required to  
390 file at least once during each applicable reporting period.

391 (e)~~(d)~~ The department may revoke a ~~any~~ dealer's certificate  
392 of registration if ~~when~~ the dealer fails to comply with this  
393 chapter. Before ~~Prior to~~ revocation of a dealer's certificate of  
394 registration, the department must schedule an informal  
395 conference at which the dealer may present evidence regarding  
396 the department's intended revocation or enter into a compliance  
397 agreement with the department. The department must notify the  
398 dealer of its intended action and the time, place, and date of  
399 the scheduled informal conference by written notification sent  
400 by United States mail to the dealer's last known address of  
401 record furnished by the dealer on a form prescribed by the  
402 department. The dealer is required to attend the informal  
403 conference and present evidence refuting the department's  
404 intended revocation or enter into a compliance agreement with  
405 the department which resolves the dealer's failure to comply  
406 with this chapter. The department shall issue an administrative

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407 complaint under s. 120.60 if the dealer fails to attend the  
408 department's informal conference, fails to enter into a  
409 compliance agreement with the department resolving the dealer's  
410 noncompliance with this chapter, or fails to comply with the  
411 executed compliance agreement.

412 (f)~~(e)~~ As used in this paragraph, the term "exhibitor"  
413 means a person who enters into an agreement authorizing the  
414 display of tangible personal property or services at a  
415 convention or a trade show. The following provisions apply to  
416 the registration of exhibitors as dealers under this chapter:

417 1. An exhibitor whose agreement prohibits the sale of  
418 tangible personal property or services subject to the tax  
419 imposed in this chapter is not required to register as a dealer.

420 2. An exhibitor whose agreement provides for the sale at  
421 wholesale only of tangible personal property or services subject  
422 to the tax imposed under ~~in~~ this chapter must obtain a resale  
423 certificate from the purchasing dealer but is not required to  
424 register as a dealer.

425 3. An exhibitor whose agreement authorizes the retail sale  
426 of tangible personal property or services subject to the tax  
427 imposed under ~~in~~ this chapter must register as a dealer and  
428 collect the tax ~~imposed under this chapter~~ on such sales.

429 4. An ~~Any~~ exhibitor who makes a mail order sale pursuant to  
430 s. 212.0596 must register as a dealer.

431  
432 A ~~Any~~ person who conducts a convention or a trade show must make  
433 his or her ~~their~~ exhibitor's agreements available to the  
434 department for inspection and copying.

435 Section 6. Effective July 1, 2014, for the purpose of

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436 incorporating the amendment made by this act to subsection (3)  
437 of section 212.18, Florida Statutes, in a reference thereto,  
438 paragraph (c) of subsection (6) of section 212.20, Florida  
439 Statutes, is reenacted to read:

440 212.20 Funds collected, disposition; additional powers of  
441 department; operational expense; refund of taxes adjudicated  
442 unconstitutionally collected.—

443 (6) Distribution of all proceeds under this chapter and s.  
444 202.18(1)(b) and (2)(b) shall be as follows:

445 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.  
446 and 212.18(3) shall remain with the General Revenue Fund.

447 Section 7. Subsection (5) of section 213.13, Florida  
448 Statutes, is amended to read:

449 213.13 Electronic remittance and distribution of funds  
450 collected by clerks of the court.—

451 (5) All court-related collections, including fees, fines,  
452 reimbursements, court costs, and other court-related funds that  
453 the clerks must remit to the state pursuant to law, must be  
454 transmitted electronically by the 10th ~~20th~~ day of the month  
455 immediately following the month in which the funds are  
456 collected.

457 Section 8. Paragraph (a) of subsection (2) of section  
458 213.21, Florida Statutes, is amended to read:

459 213.21 Informal conferences; compromises.—

460 (2)(a) The executive director of the department or his or  
461 her designee is authorized to enter into closing agreements with  
462 any taxpayer settling or compromising the taxpayer's liability  
463 for any tax, interest, or penalty assessed under any of the  
464 chapters specified in s. 72.011(1). Such agreements must ~~shall~~



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465 be in writing ~~if when~~ the amount of tax, penalty, or interest  
466 compromised exceeds \$30,000, or for lesser amounts, if when the  
467 department deems it appropriate or ~~if when~~ requested by the  
468 taxpayer. When a written closing agreement has been approved by  
469 the department and signed by the executive director or his or  
470 her designee and the taxpayer, it shall be final and conclusive;  
471 and, except upon a showing of fraud or misrepresentation of  
472 material fact or except as to adjustments pursuant to ss. 198.16  
473 and 220.23, no additional assessment may be made by the  
474 department against the taxpayer for the tax, interest, or  
475 penalty specified in the closing agreement for the time period  
476 specified in the closing agreement, and the taxpayer is shall  
477 ~~be~~ entitled to institute any judicial or administrative  
478 proceeding to recover any tax, interest, or penalty paid  
479 pursuant to the closing agreement. The department is authorized  
480 to delegate to the executive director the authority to approve  
481 any such closing agreement resulting in a tax reduction of  
482 \$500,000 ~~\$250,000~~ or less.

483 Section 9. Effective July 1, 2014, section 213.295, Florida  
484 Statutes, is created to read:

485 213.295 Automated sales suppression devices.-

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

487 (a) "Automated sales suppression device" or "zapper" means  
488 a software program that falsifies the electronic records of  
489 electronic cash registers or other point-of-sale systems,  
490 including, but not limited to, transaction data and transaction  
491 reports. The term includes the software program, any device that  
492 carries the software program, or an Internet link to the  
493 software program.

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494 (b) "Electronic cash register" means a device that keeps a  
495 register or supporting documents through the use of an  
496 electronic device or computer system designed to record  
497 transaction data for the purpose of computing, compiling, or  
498 processing retail sales transaction data in whatever manner.

499 (c) "Phantom-ware" means a hidden programming option  
500 embedded in the operating system of an electronic cash register  
501 or hardwired into the electronic cash register which may be used  
502 to create a second set of records or eliminate or manipulate  
503 transaction records, which may or may not be preserved in  
504 digital formats, to represent the true or manipulated record of  
505 transactions in the electronic cash register.

506 (d) "Transaction data" includes the identification of items  
507 purchased by a customer; the price for each item; a taxability  
508 determination for each item; a segregated tax amount for each of  
509 the taxed items; the amount of cash or credit tendered; the net  
510 amount returned to the customer in change; the date and time of  
511 the purchase; the name, address, and identification number of  
512 the vendor; and the receipt or invoice number of the  
513 transaction.

514 (e) "Transaction report" means a report that documents, but  
515 is not limited to documenting, the sales, taxes, or fees  
516 collected, media totals, and discount voids at an electronic  
517 cash register and is printed on a cash register tape at the end  
518 of a day or a shift, or a report that documents every action at  
519 an electronic cash register and is stored electronically.

520 (2) A person may not knowingly sell, purchase, install,  
521 transfer, possess, use, or access an automated sales suppression  
522 device, a zapper, or phantom-ware.

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- 523       (3) A person who violates this section:
- 524       (a) Commits a felony of the third degree, punishable as
- 525 provided in s. 775.082, s. 775.083, or s. 775.084.
- 526       (b) Is liable for all taxes, fees, penalties, and interest
- 527 due the state which result from the use of an automated sales
- 528 suppression device, a zapper, or phantom-ware and shall forfeit
- 529 to the state as an additional penalty all profits associated
- 530 with the sale or use of an automated sales suppression device, a
- 531 zapper, or phantom-ware.
- 532       (4) An automated sales suppression device, a zapper,
- 533 phantom-ware, or any device containing such device or software
- 534 is a contraband article under ss. 932.701-932.706, the Florida
- 535 Contraband Forfeiture Act.

536       Section 10. Paragraph (h) of subsection (3) of section

537 443.131, Florida Statutes, is amended to read:

538       443.131 Contributions.—

539       (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT

540 EXPERIENCE.—

541       (h) *Additional conditions for variation from the standard*

542 *rate.—An employer's contribution rate may not be reduced below*

543 *the standard rate under this section unless:*

544       1. All contributions, reimbursements, interest, and

545 penalties incurred by the employer for wages paid by him or her

546 in all previous calendar quarters, except the 4 calendar

547 quarters immediately preceding the calendar quarter or calendar

548 year for which the benefit ratio is computed, are paid; ~~and~~

549       2. The employer has produced for inspection and copying all

550 work records in his or her possession, custody, or control which

551 were requested by the Department of Economic Opportunity or its

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552 tax collection service provider pursuant to s. 443.171(5). An  
553 employer shall have at least 60 days to provide the requested  
554 work records before the employer is assigned the standard rate;  
555 and

556 3.2- The employer entitled to a rate reduction must have at  
557 least one annual payroll as defined in subparagraph (b)1. unless  
558 the employer is eligible for additional credit under the Federal  
559 Unemployment Tax Act. If the Federal Unemployment Tax Act is  
560 amended or repealed in a manner affecting credit under the  
561 federal act, this section applies only to the extent that  
562 additional credit is allowed against the payment of the tax  
563 imposed by the ~~Federal Unemployment Tax~~ act.

564  
565 The tax collection service provider shall assign an earned  
566 contribution rate to an employer for ~~under subparagraph 1.~~ the  
567 quarter immediately after the quarter in which all  
568 contributions, reimbursements, interest, and penalties are paid  
569 in full and all work records requested pursuant to s. 443.171(5)  
570 have been produced for inspection and copying by the Department  
571 of Economic Opportunity or the tax collection service provider.

572 Section 11. Effective January 1, 2015, paragraph (a) of  
573 subsection (1) and paragraph (b) of subsection (2) of section  
574 443.141, Florida Statutes, are amended to read:

575 443.141 Collection of contributions and reimbursements.—

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

578 (a) *Interest.*—Contributions or reimbursements unpaid on the  
579 date due bear interest at the rate of 1 percent per month  
580 through December 31, 2014. Beginning January 1, 2015, the

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581 interest rate shall be calculated in accordance with s. 213.235,  
582 except that the rate of interest may not exceed 1 percent per  
583 month from and after ~~the that~~ date due until payment plus  
584 accrued interest is received by the tax collection service  
585 provider, unless the service provider finds that the employing  
586 unit has good reason for failing to pay the contributions or  
587 reimbursements when due. Interest collected under this  
588 subsection must be paid into the Special Employment Security  
589 Administration Trust Fund.

590 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

591 (b) *Hearings.*—The determination and assessment are final 20  
592 ~~15~~ days after the date the assessment is mailed unless the  
593 employer files with the tax collection service provider within  
594 the 20 ~~15~~ days a written protest and petition for hearing  
595 specifying the objections ~~thereto~~. The tax collection service  
596 provider shall promptly review each petition and may reconsider  
597 its determination and assessment in order to resolve the  
598 petitioner's objections. The tax collection service provider  
599 shall forward each unresolved petition ~~remaining unresolved~~ to  
600 the department for a hearing on the objections. Upon receipt of  
601 a petition, the department shall schedule a hearing and notify  
602 the petitioner of the time and place of the hearing. The  
603 department may appoint special deputies to conduct hearings who  
604 shall ~~and to~~ submit their findings together with a transcript of  
605 the proceedings before them and their recommendations to the  
606 department for its final order. Special deputies are subject to  
607 the prohibition against ex parte communications in s. 120.66. At  
608 any hearing conducted by the department or its special deputy,  
609 evidence may be offered to support the determination and

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610 assessment or to prove it is incorrect. In order to prevail,  
611 however, the petitioner must ~~either~~ prove that the determination  
612 and assessment are incorrect or file full and complete corrected  
613 reports. Evidence may also be submitted ~~at the hearing~~ to rebut  
614 the determination by the tax collection service provider that  
615 the petitioner is an employer under this chapter. Upon evidence  
616 taken before it or upon the transcript submitted to it with the  
617 findings and recommendation of its special deputy, the  
618 department shall ~~either~~ set aside the tax collection service  
619 provider's determination that the petitioner is an employer  
620 under this chapter or reaffirm the determination. The amounts  
621 assessed under the final order, together with interest and  
622 penalties, must be paid within 15 days after notice of the final  
623 order is mailed to the employer, unless judicial review is  
624 instituted in a case of status determination. Amounts due when  
625 the status of the employer is in dispute are payable within 15  
626 days after the entry of an order by the court affirming the  
627 determination. However, a any determination that an employing  
628 unit is not an employer under this chapter does not affect the  
629 benefit rights of an any individual as determined by an appeals  
630 referee or the commission unless:

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

633 2. The decision of the appeals referee or the commission  
634 has not become final or the employing unit and the department  
635 were not made parties to the proceedings before the appeals  
636 referee or the commission.

637 Section 12. Except as otherwise expressly provided in this  
638 act, this act shall take effect upon becoming a law.