

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Raulerson offered the following:

2
3 **Substitute Amendment for Amendment (297305) (with title**
4 **amendment)**

5 Remove lines 484-544 and insert:

6 Section 8. Paragraph (m) of subsection (8) of section
7 213.053, Florida Statutes, is amended to read:

8 213.053 Confidentiality and information sharing.—

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

11 (m) Information contained in returns, reports, accounts,
12 or declarations to the Board of Accountancy in connection with a
13 disciplinary proceeding conducted pursuant to chapter 473 when
14 related to a certified public accountant participating in the

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15 certified audit program audits project, or to the court in
16 connection with a civil proceeding brought by the department
17 relating to a claim for recovery of taxes due to negligence on
18 the part of a certified public accountant participating in the
19 certified audit program audits project. In a any judicial
20 proceeding brought by the department, upon motion for protective
21 order, the court shall limit disclosure of tax information when
22 necessary to effectuate the purposes of this section.

23
24 Disclosure of information under this subsection shall be
25 pursuant to a written agreement between the executive director
26 and the agency. Such agencies, governmental or nongovernmental,
27 shall be bound by the same requirements of confidentiality as
28 the Department of Revenue. Breach of confidentiality is a
29 misdemeanor of the first degree, punishable as provided by s.
30 775.082 or s. 775.083.

31
32 Section 9. Subsection (5) of section 213.0535, Florida
33 Statutes, is amended to read:

34 213.0535 Registration Information Sharing and Exchange
35 Program.—

36 (5) A Any provision of law imposing confidentiality upon
37 data shared under this section, including, but not limited to, a
38 any provision imposing penalties for disclosure, applies to
39 recipients of this data and their employees. Data exchanged
40 under this section may not be provided to a any person or entity

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41 other than a person or entity administering the tax or licensing
42 provisions of those provisions of law enumerated in paragraph
43 (4) (a), and such data may not be used for any purpose other than
44 for enforcing those tax or licensing provisions. This section
45 does not prevent a level-two participant from publishing
46 statistics classified so as to prevent the identification of
47 particular accounts, reports, declarations, or returns. However,
48 statistics may not be published if they contain data pertaining
49 to fewer than three taxpayers or if the statistics are prepared
50 for geographic areas below the county level and contain data
51 pertaining to fewer than 10 taxpayers. Statistics published
52 under this subsection must relate only to tourist development
53 taxes imposed under s. 125.0104, the tourist impact tax imposed
54 under s. 125.0108, convention development taxes imposed under s.
55 212.0305, or the municipal resort tax authorized under chapter
56 67-930, Laws of Florida.

57 Section 10. Subsection (5) of section 213.13, Florida
58 Statutes, is amended to read:

59 213.13 Electronic remittance and distribution of funds
60 collected by clerks of the court.-

61 (5) All court-related collections, including fees, fines,
62 reimbursements, court costs, and other court-related funds that
63 the clerks must remit to the state pursuant to law, must be
64 transmitted electronically by the 10th ~~20th~~ day of the month
65 immediately following the month in which the funds are
66 collected.

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67 Section 11. Paragraph (a) of subsection (2) and subsection
68 (8) of section 213.21, Florida Statutes, is amended to read:

69 213.21 Informal conferences; compromises.—

70 (2) (a) The executive director of the department or his or
71 her designee is authorized to enter into closing agreements with
72 any taxpayer settling or compromising the taxpayer's liability
73 for any tax, interest, or penalty assessed under any of the
74 chapters specified in s. 72.011(1). Such agreements must ~~shall~~
75 be in writing if ~~when~~ the amount of tax, penalty, or interest
76 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the
77 department deems it appropriate or if ~~when~~ requested by the
78 taxpayer. When a written closing agreement has been approved by
79 the department and signed by the executive director or his or
80 her designee and the taxpayer, it shall be final and conclusive;
81 and, except upon a showing of fraud or misrepresentation of
82 material fact or except as to adjustments pursuant to ss. 198.16
83 and 220.23, no additional assessment may be made by the
84 department against the taxpayer for the tax, interest, or
85 penalty specified in the closing agreement for the time period
86 specified in the closing agreement, and the taxpayer is ~~shall~~
87 not ~~be~~ entitled to institute any judicial or administrative
88 proceeding to recover any tax, interest, or penalty paid
89 pursuant to the closing agreement. The department is authorized
90 to delegate to the executive director the authority to approve
91 any such closing agreement resulting in a tax reduction of
92 \$500,000 ~~\$250,000~~ or less.

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93 (8) In order to determine whether certified audits are an
94 effective tool in the overall state tax collection effort, the
95 executive director of the department or the executive director's
96 designee shall settle or compromise penalty liabilities of any
97 taxpayer taxpayers who participates participate in the certified
98 audit program before the department issues the taxpayer a
99 written notice of intent to conduct an audit audits project. As
100 further incentive for participating in the program, the
101 department shall abate the first \$50,000 \$25,000 of any interest
102 liability and 50 25 percent of any interest due in excess of the
103 first \$50,000 \$25,000 for any taxpayer who requested to
104 participate in the certified audit program before the department
105 issued the taxpayer a written notice of intent to conduct an
106 audit. A settlement or compromise of penalties or interest
107 pursuant to this subsection is shall not be subject to the
108 provisions of paragraph (3) (a), except for the requirement
109 relating to confidentiality of records. The department may
110 consider an additional compromise of tax or interest pursuant to
111 the provisions of paragraph (3) (a). This subsection does not
112 apply to any liability related to taxes collected but not
113 remitted to the department.

114 Section 12. Section 213.285, Florida Statutes, is amended
115 to read:

116 213.285 Certified audits.—

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

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118 (a) "Certification program" means an instructional
119 curriculum, examination, and process for certification,
120 recertification, and revocation of certification of certified
121 public accountants which is administered by an independent
122 provider and ~~which~~ is officially approved by the department to
123 ensure that a certified public accountant possesses the
124 necessary skills and abilities to successfully perform an
125 attestation engagement for tax compliance review in the a
126 certified audit program audits project.

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

128 (c) "Participating taxpayer" means any person subject to
129 the revenue laws administered by the department who enters into
130 an engagement with a qualified practitioner for tax compliance
131 review and who is approved by the department under the certified
132 audit program audits project.

133 (d) "Qualified practitioner" means a certified public
134 accountant who is licensed to practice in this state Florida and
135 who has completed the certification program.

136 (2) (a) The department may ~~is authorized to~~ initiate a
137 certified audit program for sales and use taxes imposed under
138 chapter 212 and local option taxes imposed under ss. 125.0104
139 and 125.0108 and administered by the department audits project
140 to further enhance tax compliance reviews performed by qualified
141 practitioners and to encourage taxpayers to hire qualified
142 practitioners at their own expense to review and report on their
143 tax compliance. The nature of certified audit work performed by

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144 qualified practitioners shall be agreed-upon procedures in which
145 the department is the specified user of the resulting report.

146 (b) As an incentive for taxpayers to incur the costs of a
147 certified audit, the department shall compromise penalties and
148 abate interest due on ~~any~~ tax liabilities revealed by the a
149 certified audit for any taxpayer who requests to participate in
150 the certified audit program before the department issues the
151 taxpayer a written notice of intent to conduct an audit, as
152 provided in s. 213.21(8) ~~213.21~~. The ~~This~~ authority to
153 compromise penalties or abate interest under this paragraph does
154 ~~shall~~ not apply to ~~any~~ liability for taxes ~~that were~~ collected
155 by the participating taxpayer but ~~that were~~ not remitted to the
156 department.

157 (3) A ~~Any~~ practitioner responsible for planning,
158 directing, or conducting a certified audit or reporting on a
159 participating taxpayer's tax compliance with ~~in~~ a certified
160 audit must be a qualified practitioner. For the purposes of this
161 subsection, a practitioner is considered responsible for:

162 (a) "Planning" in a certified audit when performing work
163 that involves determining the objectives, scope, and methodology
164 of the certified audit, ~~when~~ establishing criteria to evaluate
165 matters subject to the review as part of the certified audit,
166 ~~when~~ gathering information used in planning the certified audit,
167 or ~~when~~ coordinating the certified audit with the department.

168 (b) "Directing" in a certified audit when the work
169 involves supervising the efforts of others who are involved or

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170 ~~when~~ reviewing the work to determine whether it is properly
171 accomplished and complete.

172 (c) "Conducting" a certified audit when performing tests
173 and procedures or field audit work necessary to accomplish the
174 audit objectives in accordance with applicable standards.

175 (d) "Reporting" on a participating taxpayer's tax
176 compliance in a certified audit when determining report contents
177 and substance or reviewing reports for technical content and
178 substance before ~~prior to~~ issuance.

179 (4) (a) A ~~The~~ qualified practitioner shall notify the
180 department of an engagement to perform a certified audit and
181 ~~shall~~ provide the department with the information the department
182 deems necessary to identify the taxpayer, to confirm whether
183 ~~that~~ the taxpayer is ~~not~~ already under audit by the department,
184 and to establish the basic nature of the taxpayer's business and
185 the taxpayer's potential exposure to the Florida revenue laws
186 administered by the department. Once the department has issued a
187 written notice of intent to conduct an audit to a taxpayer, and
188 if the taxpayer requests to participate in the certified audit
189 program, the qualified practitioner or the taxpayer must notify
190 the department of the engagement to perform the certified audit
191 within 30 days after the notice of intent to conduct the audit
192 was issued to the taxpayer.

193 (b) The information provided in the notification must
194 ~~shall~~ include the taxpayer's name, federal employer
195 identification number or social security number, state tax

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196 account number, mailing address, and business location, and the
197 specific taxes and period proposed to be covered by the
198 engagement for the certified audit. In addition, the notice must
199 ~~shall~~ include the name, address, identification number, contact
200 person, e-mail address, and telephone number of the engaged
201 firm.

202 ~~(c)-(b)~~ Upon the department's receipt of the engagement ~~if~~
203 ~~the taxpayer has not been issued a written notice of intent to~~
204 ~~conduct an audit~~, the taxpayer becomes ~~shall be~~ a participating
205 taxpayer and the department shall so advise the qualified
206 practitioner in writing within 10 days after receipt of the
207 engagement notice. However, the department may exclude a
208 taxpayer from a certified audit or may limit the taxes or
209 periods subject to the certified audit if ~~on the basis that~~ the
210 department has previously conducted an audit, ~~that it~~ is in the
211 process of conducting an investigation or other examination of
212 the taxpayer's records, or for just cause determined solely by
213 the department.

214 ~~(d)-(e)~~ Notice of the qualification of a taxpayer for a
215 certified audit tolls ~~shall toll~~ the statute of limitations
216 provided in s. 95.091 with respect to the taxpayer for the tax
217 and periods covered by the engagement.

218 ~~(e)-(d)~~ ~~Within 30 days after receipt of the notice of~~
219 ~~qualification from the department~~, The qualified practitioner
220 shall contact the department and, within the following periods,

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221 shall submit a proposed audit plan and procedures for review and
222 agreement by the department;

223 1. For a taxpayer who requests to participate in the
224 certified audit program before the department issues the
225 taxpayer a written notice of intent to conduct an audit, within
226 30 days after receipt of the notice of qualification from the
227 department; or

228 2. For a taxpayer who requests to participate in the
229 certified audit program after the department has issued the
230 taxpayer a written notice of intent to conduct an audit, within
231 60 days after the department issued the taxpayer the notice of
232 intent to conduct the audit.

233

234 The department may extend the time for submission of the plan
235 and procedures for reasonable cause. The qualified practitioner
236 shall initiate action to advise the department that amendment or
237 modification of the plan and procedures is necessary if ~~in the~~
238 ~~event that~~ the qualified practitioner's inspection reveals that
239 the taxpayer's circumstances or exposure to the revenue laws is
240 substantially different than as described in the engagement
241 notice.

242 (f) If the taxpayer has been issued a written notice of
243 intent to conduct an audit but submits a proposed audit plan and
244 procedures in accordance with subparagraph (e)2. within 90 days
245 after the notice of intent was issued to the taxpayer, the

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246 department shall designate the agreed-upon procedures to be
247 followed by the qualified practitioner in the certified audit.

248 (5) Upon the department's designation of the agreed-upon
249 procedures to be followed by the practitioner in the certified
250 audit, the qualified practitioner shall perform the engagement
251 and ~~shall~~ timely submit a completed report to the department.
252 The report must ~~shall~~ affirm completion of the agreed-upon
253 procedures and ~~shall~~ provide ~~any~~ required disclosures. For a
254 certified audit completed pursuant to agreed-upon procedures
255 designated by the department under paragraph (4) (f), the
256 completed report is considered timely only if submitted to the
257 department within 285 days after the notice of intent to conduct
258 the audit was issued to the taxpayer.

259 (6) The department shall review the report of the
260 certified audit and shall accept it when it is determined to be
261 complete. Once the report is accepted by the department, the
262 department shall issue a notice of proposed assessment
263 reflecting the determination of any additional liability
264 reflected in the report and shall provide the taxpayer with all
265 the normal payment, protest, and appeal rights with respect to
266 the liability. In cases where the report indicates an
267 overpayment has been made, the taxpayer shall submit a properly
268 executed application for refund to the department. Otherwise,
269 the certified audit report is a final and conclusive
270 determination with respect to the tax and period covered. An ~~No~~
271 additional assessment may not be made by the department for the

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272 specific taxes and period referenced in the report, except upon
273 a showing of fraud or misrepresentation of material facts and
274 except for adjustments made under s. 198.16 or s. 220.23. This
275 determination does ~~shall~~ not prevent the department from
276 collecting liabilities not covered by the report or from
277 conducting an audit or investigation and making an assessment
278 for additional tax, penalty, or interest for any tax or period
279 not covered by the report.

280 (7) To administer ~~implement~~ the certified audit program
281 ~~audits project~~, the department may ~~shall have authority to~~ adopt
282 rules relating to:

283 (a) The availability of the certification program required
284 for participation in the certified audit program ~~project~~;

285 (b) The requirements and basis for establishing just cause
286 for approval or rejection of participation by taxpayers;

287 (c) Procedures for assessment, collection, and payment of
288 liabilities or refund of overpayments and provisions for
289 taxpayers to obtain informal and formal review of certified
290 audit results;

291 (d) The nature, frequency, and basis for the department's
292 review of certified audits conducted by qualified practitioners,
293 including the requirements for documentation, work-paper
294 retention and access, and reporting; ~~and~~

295 (e) Requirements for conducting certified audits and for
296 review of agreed-upon procedures; and

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297 (f) The circumstances under which a qualified practitioner
 298 who conducts a certified audit for a taxpayer after the
 299 department has issued the taxpayer a written notice of intent to
 300 conduct the audit is prohibited from representing the taxpayer
 301 in informal conference procedures established pursuant to s.
 302 213.21.

304 -----
 305 **T I T L E A M E N D M E N T**

306 Remove lines 29-37 and insert:
 307 reference thereto; amending s. 213.053, F.S.;

308 conforming terminology; amending s. 213.0535, F.S.;

309 providing that certain tax data may be published as

310 statistics under certain circumstances; amending s.

311 213.13, F.S.; revising the date for transmitting

312 certain funds collected by the clerks of court to the

313 department; amending s. 213.21 F.S.; authorizing the

314 department to delegate to the executive director of

315 the department greater compromise authority for

316 closing agreements; revising the amount of interest

317 liability that the department may abate for certain

318 taxpayers who participate in the certified audit

319 program; amending s. 213.285, F.S.; conforming

320 provisions; authorizing the department to initiate a

321 certified audit program for specified taxes; requiring

322 the department to compromise penalties and abate

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323 interest due on tax liabilities revealed by certain
324 certified audits; revising procedures, deadlines, and
325 notice requirements for certified audits; authorizing
326 the department to adopt rules; creating

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