

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Raulerson offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 484-544 and insert:

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

7 213.053 Confidentiality and information sharing.—

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

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

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

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

22
23 Disclosure of information under this subsection shall be
24 pursuant to a written agreement between the executive director
25 and the agency. Such agencies, governmental or nongovernmental,
26 shall be bound by the same requirements of confidentiality as
27 the Department of Revenue. Breach of confidentiality is a
28 misdemeanor of the first degree, punishable as provided by s.
29 775.082 or s. 775.083.

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

32 213.0535 Registration Information Sharing and Exchange
33 Program.—

34 (5) A ~~Any~~ provision of law imposing confidentiality upon
35 data shared under this section, including, but not limited to, a
36 ~~any~~ provision imposing penalties for disclosure, applies to
37 recipients of this data and their employees. Data exchanged
38 under this section may not be provided to a ~~any~~ person or entity
39 other than a person or entity administering the tax or licensing
40 provisions of those provisions of law enumerated in paragraph

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

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

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

57 213.13 Electronic remittance and distribution of funds
58 collected by clerks of the court.—

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

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

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

67 213.21 Informal conferences; compromises.-
68 (2) (a) The executive director of the department or his or
69 her designee is authorized to enter into closing agreements with
70 any taxpayer settling or compromising the taxpayer's liability
71 for any tax, interest, or penalty assessed under any of the
72 chapters specified in s. 72.011(1). Such agreements must ~~shall~~
73 be in writing if ~~when~~ the amount of tax, penalty, or interest
74 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the
75 department deems it appropriate or if ~~when~~ requested by the
76 taxpayer. When a written closing agreement has been approved by
77 the department and signed by the executive director or his or
78 her designee and the taxpayer, it shall be final and conclusive;
79 and, except upon a showing of fraud or misrepresentation of
80 material fact or except as to adjustments pursuant to ss. 198.16
81 and 220.23, no additional assessment may be made by the
82 department against the taxpayer for the tax, interest, or
83 penalty specified in the closing agreement for the time period
84 specified in the closing agreement, and the taxpayer is ~~shall~~
85 not ~~be~~ entitled to institute any judicial or administrative
86 proceeding to recover any tax, interest, or penalty paid
87 pursuant to the closing agreement. The department is authorized
88 to delegate to the executive director the authority to approve
89 any such closing agreement resulting in a tax reduction of
90 \$500,000 ~~\$250,000~~ or less.

91 (8) In order to determine whether certified audits are an
92 effective tool in the overall state tax collection effort, the

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

93 executive director of the department or the executive director's
94 designee shall settle or compromise penalty liabilities of
95 taxpayers who participate in the certified audit program ~~audits~~
96 ~~project~~. As further incentive for participating in the program,
97 the department shall abate the first \$50,000 ~~\$25,000~~ of any
98 interest liability and 50 ~~25~~ percent of any interest due in
99 excess of the first \$50,000 ~~\$25,000~~. A settlement or compromise
100 of penalties or interest pursuant to this subsection is ~~shall~~
101 ~~be~~ subject to ~~the provisions of~~ paragraph (3)(a), except for
102 the requirement relating to confidentiality of records. The
103 department may consider an additional compromise of tax or
104 interest pursuant to ~~the provisions of~~ paragraph (3)(a). This
105 subsection does not apply to ~~any~~ liability related to taxes
106 collected but not remitted to the department.

107 Section 12. Section 213.285, Florida Statutes, is amended
108 to read:

109 213.285 Certified audits.—

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

111 (a) "Certification program" means an instructional
112 curriculum, examination, and process for certification,
113 recertification, and revocation of certification of certified
114 public accountants which is administered by an independent
115 provider and ~~which~~ is officially approved by the department to
116 ensure that a certified public accountant possesses the
117 necessary skills and abilities to successfully perform an

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

118 attestation engagement for tax compliance review in the a
119 certified audit program audits project.

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

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

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

129 (2) (a) The department may is authorized to initiate a
130 certified audit program for sales and use taxes imposed under
131 chapter 212 and local option taxes imposed under ss. 125.0104
132 and 125.0108 and administered by the department audits project
133 to further enhance tax compliance reviews performed by qualified
134 practitioners and to encourage taxpayers to hire qualified
135 practitioners at their own expense to review and report on their
136 tax compliance. The nature of certified audit work performed by
137 qualified practitioners shall be agreed-upon procedures in which
138 the department is the specified user of the resulting report.

139 (b) As an incentive for taxpayers to incur the costs of a
140 certified audit, the department shall compromise penalties and
141 abate interest due on ~~any~~ tax liabilities revealed by the a
142 certified audit for any taxpayer who requests to participate in
143 the certified audit program before the department issues the

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

144 taxpayer a written notice of intent to conduct an audit, as
145 provided in s. 213.21(8) 213.21. The ~~This~~ authority to
146 compromise penalties or abate interest under this paragraph does
147 ~~shall~~ not apply to ~~any~~ liability for taxes ~~that were~~ collected
148 by the participating taxpayer but ~~that were~~ not remitted to the
149 department.

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

155 (a) "Planning" in a certified audit when performing work
156 that involves determining the objectives, scope, and methodology
157 of the certified audit, ~~when~~ establishing criteria to evaluate
158 matters subject to the review as part of the certified audit,
159 ~~when~~ gathering information used in planning the certified audit,
160 or ~~when~~ coordinating the certified audit with the department.

161 (b) "Directing" in a certified audit when the work
162 involves supervising the efforts of others who are involved or
163 ~~when~~ reviewing the work to determine whether it is properly
164 accomplished and complete.

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

168 (d) "Reporting" on a participating taxpayer's tax
169 compliance in a certified audit when determining report contents

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

170 and substance or reviewing reports for technical content and
171 substance before ~~prior to~~ issuance.

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

186 (b) The information provided in the notification must
187 ~~shall~~ include the taxpayer's name, federal employer
188 identification number or social security number, state tax
189 account number, mailing address, and business location, and the
190 specific taxes and period proposed to be covered by the
191 engagement for the certified audit. In addition, the notice must
192 ~~shall~~ include the name, address, identification number, contact
193 person, e-mail address, and telephone number of the engaged
194 firm.

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

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

207 (d) (e) Notice of the qualification of a taxpayer for a
208 certified audit tolls ~~shall toll~~ the statute of limitations
209 provided in s. 95.091 with respect to the taxpayer for the tax
210 and periods covered by the engagement.

211 (e) (d) ~~Within 30 days after receipt of the notice of~~
212 ~~qualification from the department,~~ The qualified practitioner
213 shall contact the department and, within the following periods,
214 shall submit a proposed audit plan and procedures for review and
215 agreement by the department:

216 1. For a taxpayer who requests to participate in the
217 certified audit program before the department issues the
218 taxpayer a written notice of intent to conduct an audit, within
219 30 days after receipt of the notice of qualification from the
220 department; or

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

221 2. For a taxpayer who requests to participate in the
222 certified audit program after the department has issued the
223 taxpayer a written notice of intent to conduct an audit, within
224 60 days after the department issued the taxpayer the notice of
225 intent to conduct the audit.

226
227 The department may extend the time for submission of the plan
228 and procedures for reasonable cause. The qualified practitioner
229 shall initiate action to advise the department that amendment or
230 modification of the plan and procedures is necessary if in the
231 event that the qualified practitioner's inspection reveals that
232 the taxpayer's circumstances or exposure to the revenue laws is
233 substantially different than as described in the engagement
234 notice.

235 (f) If the taxpayer has been issued a written notice of
236 intent to conduct an audit but submits a proposed audit plan and
237 procedures in accordance with subparagraph (e)2. within 90 days
238 after the notice of intent was issued to the taxpayer, the
239 department shall designate the agreed-upon procedures to be
240 followed by the qualified practitioner in the certified audit.

241 (5) Upon the department's designation of the agreed-upon
242 procedures to be followed by the practitioner in the certified
243 audit, the qualified practitioner shall perform the engagement
244 and ~~shall~~ timely submit a completed report to the department.
245 The report must ~~shall~~ affirm completion of the agreed-upon
246 procedures and ~~shall~~ provide any required disclosures. For a

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

247 certified audit completed pursuant to agreed-upon procedures
248 designated by the department under paragraph (4) (f), the
249 completed report is considered timely only if submitted to the
250 department within 285 days after the notice of intent to conduct
251 the audit was issued to the taxpayer.

252 (6) The department shall review the report of the
253 certified audit and shall accept it when it is determined to be
254 complete. Once the report is accepted by the department, the
255 department shall issue a notice of proposed assessment
256 reflecting the determination of any additional liability
257 reflected in the report and shall provide the taxpayer with all
258 the normal payment, protest, and appeal rights with respect to
259 the liability. In cases where the report indicates an
260 overpayment has been made, the taxpayer shall submit a properly
261 executed application for refund to the department. Otherwise,
262 the certified audit report is a final and conclusive
263 determination with respect to the tax and period covered. An ~~No~~
264 additional assessment may not be made by the department for the
265 specific taxes and period referenced in the report, except upon
266 a showing of fraud or misrepresentation of material facts and
267 except for adjustments made under s. 198.16 or s. 220.23. This
268 determination does ~~shall~~ not prevent the department from
269 collecting liabilities not covered by the report or from
270 conducting an audit or investigation and making an assessment
271 for additional tax, penalty, or interest for any tax or period
272 not covered by the report.

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

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

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

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

280 (c) Procedures for assessment, collection, and payment of
281 liabilities or refund of overpayments and provisions for
282 taxpayers to obtain informal and formal review of certified
283 audit results;

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

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

290 (f) The circumstances under which a qualified practitioner
291 who conducts a certified audit for a taxpayer after the
292 department has issued the taxpayer a written notice of intent to
293 conduct the audit is prohibited from representing the taxpayer
294 in informal conference procedures established pursuant to s.
295 213.21.

296
297
298 **T I T L E A M E N D M E N T**

297305

Approved For Filing: 4/8/2014 12:23:36 PM

Amendment No.

299 Remove lines 29-37 and insert:
300 reference thereto; amending s. 213.053, F.S.;
301 conforming terminology; amending s. 213.0535, F.S.;
302 providing that certain confidential tax data may be
303 published as statistics under certain circumstances;
304 amending s. 213.13, F.S.; revising the date for
305 transmitting certain funds collected by the clerks of
306 court to the department; amending s. 213.21 F.S.;
307 authorizing the department to delegate to the
308 executive director of the department greater
309 compromise authority for closing agreements; revising
310 the amount of interest liability that the department
311 may abate for taxpayers who participate in the
312 certified audit program; amending s. 213.285, F.S.;
313 conforming provisions; authorizing the department to
314 initiate a certified audit program for specified
315 taxes; requiring the department to compromise
316 penalties and abate interest due on tax liabilities
317 revealed by certain certified audits; revising
318 procedures, deadlines, and notice requirements for
319 certified audits; authorizing the department to adopt
320 rules; creating

297305

Approved For Filing: 4/8/2014 12:23:36 PM