

By Senator Margolis

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1                                   A bill to be entitled  
2           An act relating to the Streamlined Sales and Use Tax  
3           Agreement; amending s. 212.02, F.S.; revising  
4           definitions; amending s. 212.03, F.S.; specifying the  
5           facilities that are exempt from the transient rentals  
6           tax; amending ss. 212.0306 and 212.04, F.S.; deleting  
7           the application of brackets for the calculation of  
8           sales and use taxes; amending s. 212.05, F.S.;  
9           deleting criteria establishing circumstances under  
10          which taxes on the lease or rental of a motor vehicle  
11          are due; revising criteria establishing circumstances  
12          under which taxes on the sale of a prepaid calling  
13          arrangement are due; deleting the application of  
14          brackets for the calculation of sales and use taxes;  
15          amending s. 212.0506, F.S.; deleting the application  
16          of brackets for the calculation of sales and use  
17          taxes; amending s. 212.054, F.S.; limiting the \$5,000  
18          cap on discretionary sales surtax to the sale of motor  
19          vehicles, aircraft, boats, manufactured homes, modular  
20          homes, and mobile homes; specifying the time at which  
21          changes in surtaxes may take effect; providing  
22          criteria to determine the situs of certain sales;  
23          providing for databases to identify taxing  
24          jurisdictions; providing criteria to hold purchasers  
25          harmless for failure to pay the correct amount of tax;  
26          holding sellers harmless for failing to collect a tax  
27          at a new rate under certain circumstances; amending s.  
28          212.06, F.S.; defining terms; deleting provisions  
29          relating to mail-order sales to conform; requiring

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30 purchasers of direct mail to use direct-mail forms;  
31 providing criteria for determining the location of  
32 transactions involving tangible personal property,  
33 digital goods, or services and for the lease or rental  
34 of tangible personal property; amending s. 212.07,  
35 F.S.; conforming a cross-reference; providing for the  
36 creation of a taxability matrix; providing immunity  
37 from liability for acts in reliance of the taxability  
38 matrix; amending s. 212.08, F.S.; revising exemptions  
39 from sales and use tax for food and medical products;  
40 conforming cross-references; creating s. 212.094,  
41 F.S.; providing a procedure for a purchaser to obtain  
42 a refund of or credit against tax collected by a  
43 dealer; amending s. 212.12, F.S.; authorizing  
44 collection allowances for certified service providers  
45 and voluntary sellers in accordance with the  
46 Streamlined Sales and Use Tax Agreement; providing for  
47 the computation of taxes due based on rounding instead  
48 of brackets; amending s. 212.17, F.S.; providing  
49 additional criteria for a dealer to claim a credit for  
50 or obtain a refund of taxes paid relating to worthless  
51 accounts; amending s. 212.18, F.S.; authorizing the  
52 Department of Revenue to waive the dealer registration  
53 fee for applications submitted through the central  
54 electronic registration system provided by member  
55 states of the Streamlined Sales and Use Tax Agreement;  
56 deleting provisions relating to mail-order sales to  
57 conform; amending s. 212.20, F.S.; deleting procedures  
58 for refunds of tax paid on mail-order sales to

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59 conform; creating s. 213.052, F.S.; providing for  
60 notice of state sales or use tax rate changes;  
61 creating s. 213.0521, F.S.; providing the effective  
62 date for state sales and use tax rate changes;  
63 creating s. 213.215, F.S.; providing amnesty for  
64 uncollected or unpaid sales and use taxes for sellers  
65 who register under the Streamlined Sales and Use Tax  
66 Agreement; providing exceptions to the amnesty;  
67 amending s. 213.256, F.S.; providing and revising  
68 definitions; providing for entry into agreements with  
69 other states to simplify and facilitate compliance  
70 with sales tax laws; providing for certification of  
71 compliance with agreements; creating s. 213.2562,  
72 F.S.; providing for the department to review software  
73 submitted to the governing board for certification as  
74 a certified automated system; creating s. 213.2567,  
75 F.S.; providing for the registration of sellers, the  
76 certification of a person as a certified service  
77 provider, and the certification of a software program  
78 as a certified automated system by the governing board  
79 under the Streamlined Sales and Use Tax Agreement;  
80 declaring legislative intent; providing for the  
81 adoption of emergency rules; amending ss. 11.45,  
82 196.012, 202.18, 203.01, 212.031, 212.052, 212.055,  
83 212.13, 212.15, 213.015, 218.245, 218.65, 288.1045,  
84 288.11621, 288.1169, 551.102, and 790.0655, F.S.;  
85 conforming cross-references; repealing s. 212.0596,  
86 F.S., relating to provisions pertaining to the  
87 taxation of mail-order sales; providing an effective

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88 date.

89

90 Be It Enacted by the Legislature of the State of Florida:

91

92 Section 1. Section 212.02, Florida Statutes, is amended to  
93 read:94 212.02 Definitions.—As used ~~The following terms and phrases~~  
95 ~~when used in this chapter have the meanings ascribed to them in~~  
96 ~~this section,~~ except where the context clearly indicates a  
97 different meaning, the term:98 (1) ~~The term~~ "Admissions" means and includes the net sum of  
99 money, after the deduction of ~~any~~ federal taxes, for admitting a  
100 person or vehicle ~~or persons~~ to a any place of amusement, sport,  
101 or recreation or for the privilege of entering or staying in a  
102 ~~any~~ place of amusement, sport, or recreation, including, ~~but not~~  
103 ~~limited to,~~ theaters, outdoor theaters, shows, exhibitions,  
104 games, races, or any place where charge is made by way of the  
105 sale of tickets, gate charges, seat charges, box charges, season  
106 pass charges, cover charges, greens fees, participation fees,  
107 entrance fees, or other fees or receipts of anything of value  
108 measured on an admission or entrance or length of stay or seat  
109 box accommodations in a any place where there is an any  
110 exhibition, amusement, sport, or recreation, and all dues and  
111 fees paid to private clubs and membership clubs providing  
112 recreational or physical fitness facilities, including, but not  
113 limited to, golf, tennis, swimming, yachting, boating, athletic,  
114 exercise, and fitness facilities, except physical fitness  
115 facilities owned or operated by a any hospital licensed under  
116 chapter 395.

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117       (2) "Agricultural commodity" means horticultural products,  
118 aquacultural products, poultry and farm products, and livestock  
119 and livestock products.

120       (3) "Agricultural production" means the production of  
121 plants and animals useful to humans, including the preparation,  
122 planting, cultivating, or harvesting of these products or other  
123 practices necessary to accomplish production through the harvest  
124 phase including aquaculture, horticulture, floriculture,  
125 viticulture, forestry, dairy, livestock, poultry, bees, and all  
126 other forms of farm products and farm production.

127       (4) "Bundled transaction" means the retail sale of two or  
128 more products, except real property and services to real  
129 property, in which the products are otherwise distinct and  
130 identifiable and the products are sold for one nonitemized  
131 price. The term does not include the sale of products in which  
132 the price varies or is negotiable based on the selection of  
133 products by the purchaser.

134       (a) A transaction that otherwise satisfies this definition  
135 is not a bundled transaction if it is:

136       1. The retail sale of tangible personal property and a  
137 service in which the tangible personal property is essential to  
138 the use of the service, is provided exclusively in connection  
139 with the service, and the true object of the transaction is the  
140 service;

141       2. The retail sale of services in which one service is  
142 provided which is essential to the use or receipt of a second  
143 service, the first service is provided exclusively in connection  
144 with the second service, and the true object of the transaction  
145 is the second service;

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146 3. A transaction that includes taxable products and  
147 nontaxable products and the purchase price or sales price of the  
148 taxable products is de minimis; or

149 4. The retail sale of exempt tangible personal property and  
150 taxable personal property in which:

151 a. The transaction includes food and food ingredients,  
152 drugs, durable medical equipment, mobility-enhancing equipment,  
153 over-the-counter drugs, prosthetic devices, or medical supplies;  
154 and

155 b. The seller's purchase price or sales price of the  
156 taxable tangible personal property is 50 percent or less of the  
157 total purchase price or sales price of the bundled tangible  
158 personal property. Sellers may not use a combination of the  
159 purchase price and sales price of the tangible personal property  
160 to determine whether it is a bundled transaction.

161 (b) As used in this subsection, the term:

162 1. "De minimis" means that the seller's purchase price or  
163 sales price of the taxable products is 10 percent or less of the  
164 total purchase price or sales price of the bundled products.

165 a. Sellers shall use the purchase price or sales price of  
166 the products to determine whether the taxable products are de  
167 minimis; sellers may not use a combination of the purchase price  
168 and sales price of the products to determine whether the taxable  
169 products are de minimis.

170 b. Sellers shall use the full term of a service contract to  
171 determine if the taxable products are de minimis.

172 2. "Distinct and identifiable," when used to describe a  
173 product, does not include:

174 a. Packaging such as containers, boxes, sacks, bags, and

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175 bottles or other materials, such as wrapping, labels, tags, and  
176 instruction guides, which accompany the retail sale of the  
177 products and are incidental or immaterial to the retail sale of  
178 the products. Examples of packaging that is incidental or  
179 immaterial include grocery sacks, shoeboxes, dry cleaning  
180 garment bags, and express delivery envelopes and boxes.

181 b. A product provided free of charge with the required  
182 purchase of another product. A product is provided free of  
183 charge if the sales price of the product purchased does not vary  
184 depending on the inclusion of the product provided free of  
185 charge.

186 3. "One nonitemized price" does not include a price that is  
187 separately identified by product on binding sales or other  
188 supporting sales-related documentation made available to the  
189 customer in paper or electronic form, including, but not limited  
190 to, an invoice, bill of sale, receipt, contract, service  
191 agreement, lease agreement, periodic notice of rates and  
192 services, rate card, or price list.

193 (5)(2) "Business" means an ~~any~~ activity engaged in by a ~~any~~  
194 person, or caused to be engaged in by him or her, with the  
195 direct or indirect object of private or public gain, benefit, or  
196 advantage, ~~either direct or indirect~~. Except for the sales of an  
197 ~~any~~ aircraft, boat, mobile home, or motor vehicle, the term does  
198 ~~"business" shall not be construed in this chapter to include~~  
199 occasional or isolated sales or transactions involving tangible  
200 personal property or services by a person who does not hold  
201 himself or herself out as engaged in business or sales of  
202 unclaimed tangible personal property under s. 717.122, but does  
203 include ~~includes~~ other charges for the sale or rental of

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204 tangible personal property;; sales of services taxable under  
205 this chapter;; sales of or charges of admission;; communication  
206 services;; all rentals and leases of living quarters, other than  
207 low-rent housing operated under chapter 421;; sleeping or  
208 housekeeping accommodations in hotels, apartment houses,  
209 roominghouses, tourist or trailer camps;; ~~and~~ all rentals of or  
210 licenses in real property, other than low-rent housing operated  
211 under chapter 421; and ~~and~~ all leases or rentals of or licenses in  
212 parking lots or garages for motor vehicles, docking or storage  
213 spaces for boats in boat docks or marinas ~~as defined in this~~  
214 ~~chapter~~ and made subject to a tax imposed by this chapter. The  
215 term does ~~"business"~~ ~~shall not be construed in this chapter to~~  
216 include the leasing, subleasing, or licensing of real property  
217 by one corporation to another if all of the stock of both such  
218 corporations is owned, directly or through one or more wholly  
219 owned subsidiaries, by a common parent corporation; the property  
220 was in use before ~~prior to~~ July 1, 1989, title to the property  
221 was transferred after July 1, 1988, and before July 1, 1989,  
222 between members of an affiliated group, as defined in s. 1504(a)  
223 of the Internal Revenue Code of 1986, which ~~group~~ included both  
224 such corporations and there is no substantial change in the use  
225 of the property following the transfer of title; the leasing,  
226 subleasing, or licensing of the property was required by an  
227 unrelated lender as a condition of providing financing to one or  
228 more members of the affiliated group; and the corporation to  
229 which the property is leased, subleased, or licensed had sales  
230 subject to the tax imposed by this chapter of at least ~~not less~~  
231 ~~than~~ \$667 million during the most recent 12-month period ending  
232 ~~ended~~ June 30. A ~~Any~~ tax on such sales, charges, rentals,



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233 admissions, or other transactions made subject to the tax  
 234 imposed by this chapter shall be collected by the state, county,  
 235 municipality, a ~~any~~ political subdivision, agency, bureau, or  
 236 department, or other state or local governmental instrumentality  
 237 in the same manner as other dealers, unless specifically  
 238 exempted by this chapter.

239 (6) "Certified service provider" has the same meaning as  
 240 provided in s. 213.256.

241 (7) ~~(3)~~ ~~The terms~~ "Cigarettes," "tobacco," or "tobacco  
 242 products" ~~referred to in this chapter~~ include all such products  
 243 as are defined or may be hereafter defined by the laws of this  
 244 ~~the~~ state.

245 (8) "Coin-operated amusement machine" means a machine  
 246 operated by coin, slug, token, coupon, or similar device for the  
 247 purposes of entertainment or amusement. The term includes coin-  
 248 operated pinball machines, music machines, juke boxes,  
 249 mechanical games, video games, arcade games, billiard tables,  
 250 moving picture viewers, shooting galleries, and similar  
 251 amusement devices.

252 (9) "Computer" means an electronic device that accepts  
 253 information in digital or similar form and manipulates such  
 254 information for a result based on a sequence of instructions.

255 (10) "Computer software" means a set of coded instructions  
 256 designed to cause a computer or automatic data processing  
 257 equipment to perform a task.

258 (11) ~~(4)~~ "Cost price" means the actual cost of articles of  
 259 tangible personal property without ~~any~~ deductions for ~~therefrom~~  
 260 ~~on account of~~ the cost of materials used, labor or service  
 261 costs, transportation charges, or other ~~any~~ expenses ~~whatsoever~~.

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262 (12) "Delivery charges" means charges by the seller of  
263 personal property or services for preparation and delivery to a  
264 location designated by the purchaser of such property or  
265 services, including, but not limited to, transportation,  
266 shipping, postage, handling, crating, and packing.

267 Notwithstanding any other provision of this section, the term  
268 does not include charges for delivery of direct mail,  
269 transportation, shipping, postage, handling, crating, and  
270 packing or similar charges if those charges are separately  
271 stated on an invoice or similar billing document given to the  
272 purchaser and invoiced at cost with no markup.

273 (a) The exclusion of delivery charges for direct mail  
274 applies to a sale involving the delivery or mailing of direct  
275 mail, printed material that would otherwise be direct mail which  
276 results from a transaction that this state considers the sale of  
277 a service, or printed material delivered or mailed to a mass  
278 audience when the cost of the printed material is not billed  
279 directly to the recipients and is the result of a transaction  
280 that includes the development of billing information or the  
281 provision of data processing services.

282 (b) If a shipment includes exempt property and taxable  
283 property, the seller shall tax only the percentage of the  
284 delivery charge allocated to the taxable property. The seller  
285 may allocate the delivery charge by using:

286 1. A percentage based on the total sales price of the  
287 taxable property compared to the sales price of all property in  
288 the shipment; or

289 2. A percentage based on the total weight of the taxable  
290 property compared to the total weight of all property in the

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291 shipment.

292 (13)~~(5)~~ The term "Department" means the Department of  
293 Revenue.

294 (14) "Diesel fuel" means a liquid product, gas product, or  
295 a combination thereof, which is used in an internal combustion  
296 engine or motor to propel any form of vehicle, machine, or  
297 mechanical contrivance. The term includes, but is not limited  
298 to, all forms of fuel commonly or commercially known or sold as  
299 diesel fuel or kerosene. The term does not include butane gas,  
300 propane gas, or other forms of liquefied petroleum gas or  
301 compressed natural gas.

302 (15) "Direct mail" means printed material delivered or  
303 distributed by the United States Postal Service or other  
304 delivery service to a mass audience or to addressees on a  
305 mailing list provided by the purchaser or at the direction of  
306 the purchaser when the cost of the items are not billed directly  
307 to the recipients. The term includes tangible personal property  
308 supplied directly or indirectly by the purchaser to the direct  
309 mail seller for inclusion in the package containing the printed  
310 material. The term does not include multiple items of printed  
311 material delivered to a single address.

312 (16) "Electronic" means relating to technology having  
313 electrical, digital, magnetic, wireless, optical,  
314 electromagnetic, or similar capabilities.

315 (17)~~(6)~~ "Enterprise zone" means an area of the state  
316 designated pursuant to s. 290.0065. This subsection expires on  
317 the date specified in s. 290.016 for the expiration of the  
318 Florida Enterprise Zone Act.

319 (18)~~(7)~~ "Factory-built building" means a structure

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320 manufactured in a manufacturing facility for installation or  
321 erection as a finished building. The term; ~~"factory-built~~  
322 ~~building"~~ includes, but is not limited to, residential,  
323 commercial, institutional, storage, and industrial structures.

324 (19) "Farmer" means a person who is directly engaged in the  
325 business of producing crops, livestock, or other agricultural  
326 commodities. The term includes, but is not limited to, horse  
327 breeders, nurserymen, dairy farmers, poultry farmers, cattle  
328 ranchers, apiarists, and persons raising fish.

329 (20) "Forest" means the land stocked by trees used in the  
330 production of forest products, or formerly having such tree  
331 cover, and not currently developed for nonforest use.

332 (21) "Fractional aircraft ownership program" means a  
333 program that meets the requirements of 14 C.F.R. part 91,  
334 subpart K, relating to fractional ownership operations, except  
335 that the program must include a minimum of 25 aircraft owned or  
336 leased by the program manager and used in the program.

337 (22) "Gross sales" means the sum total of all sales of  
338 tangible personal property without any deduction except as  
339 provided under this chapter.

340 (23)~~(8)~~ "In this state" or "in the state" means within the  
341 state boundaries of Florida as defined in s. 1, Art. II of the  
342 State Constitution and includes all territory within these  
343 limits owned by or ceded to the United States.

344 (24)~~(9)~~ ~~The term~~ "Intoxicating beverages" or "alcoholic  
345 beverages" ~~referred to in this chapter~~ includes all such  
346 beverages as are so defined or may be hereafter defined by the  
347 laws of this ~~the~~ state.

348 (25)~~(10)~~ "Lease," "let," or "rental" means leasing or

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349 renting of living quarters or sleeping or housekeeping  
350 accommodations in hotels, apartment houses, roominghouses,  
351 tourist or trailer camps, and real property.

352 (a) Hotels, apartment houses, roominghouses, tourist or  
353 trailer camps, and real property include, ~~the same being defined~~  
354 ~~as follows:~~

355 ~~(a)~~ every building or other structure kept, used,  
356 maintained, or advertised as, or held out to the public to be, a  
357 place where sleeping accommodations are supplied for pay to  
358 transient or permanent guests or tenants, in which 10 or more  
359 rooms are furnished for the accommodation of such guests, and  
360 having one or more dining rooms or cafes where meals or lunches  
361 are served to such transient or permanent guests. ~~;~~ ~~such~~

362 1. A "hotel" is a building where sleeping accommodations  
363 and dining rooms or cafes are being conducted in the same  
364 building or buildings in connection therewith, ~~shall, for the~~  
365 ~~purpose of this chapter, be deemed a hotel.~~

366 2. (b) An "apartment house" is a ~~Any~~ building, or part  
367 thereof, where separate accommodations for two or more families  
368 living independently of each other are supplied to transient or  
369 permanent guests or tenants ~~shall for the purpose of this~~  
370 ~~chapter be deemed an apartment house.~~

371 3. (c) A "roominghouse" is a ~~Every~~ house, boat, vehicle,  
372 motor court, trailer court, or other structure or a ~~any~~ place or  
373 location kept, used, maintained, or advertised as, or held out  
374 to the public to be, a place where living quarters or sleeping  
375 or housekeeping accommodations are supplied for pay to transient  
376 or permanent guests or tenants, whether in one or adjoining  
377 buildings, ~~shall for the purpose of this chapter be deemed a~~

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378 roominghouse.

379 4.(d) A "room" in all hotels, apartment houses, and  
380 roominghouses includes ~~within the meaning of this chapter,~~ the  
381 parlor, dining room, sleeping porches, kitchen, office, and  
382 sample rooms ~~shall be construed to mean "rooms."~~

383 5.(e) A "tourist camp" is a place where two or more tents,  
384 tent houses, or camp cottages are located and offered by a  
385 person or municipality for sleeping or eating accommodations,  
386 most generally to the transient public for ~~either~~ a direct money  
387 consideration or an indirect benefit to the lessor or owner in  
388 connection with a related business.

389 6.(f) A "trailer camp," "mobile home park," or  
390 "recreational vehicle park" is a place where space is offered,  
391 with or without service facilities, by a person ~~any persons~~ or  
392 municipality to the public for the parking and accommodation of  
393 two or more automobile trailers, mobile homes, or recreational  
394 vehicles that ~~which~~ are used for lodging, for ~~either~~ a direct  
395 money consideration or an indirect benefit to the lessor or  
396 owner in connection with a related business, such space being  
397 ~~hereby~~ defined as living quarters, and the rental price thereof  
398 includes ~~shall include~~ all service charges paid to the lessor.

399 (b)(g) "Lease," "let," or "rental" also means a transfer of  
400 possession or control of tangible personal property for a fixed  
401 or indeterminate term for consideration. A clause for a future  
402 option to purchase or to extend an agreement does not preclude  
403 an agreement from being a lease or rental. This definition  
404 applies to the levying of the sales and use tax regardless of  
405 whether a transaction is characterized as a lease or rental  
406 under generally accepted accounting principles, the Internal

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407 Revenue Code, the Uniform Commercial Code, or other federal,  
408 state, or local law. These terms include agreements covering  
409 motor vehicles and trailers if the amount of consideration may  
410 be increased or decreased by reference to the amount realized  
411 upon the sale or disposition of the property as provided in 26  
412 U.S.C. s. 7701(h)(1). These terms do not include:

413 1. A transfer of possession or control of property under a  
414 security agreement or deferred payment plan that requires the  
415 transfer of title upon completion of the required payments;

416 2. A transfer of possession or control of property under an  
417 agreement that requires the transfer of title upon completion of  
418 required payments and payment of an option price does not exceed  
419 the greater of \$100 or 1 percent of the total required payments;  
420 or

421 3. The provision of tangible personal property along with  
422 an operator for a fixed or indeterminate period of time. A  
423 condition of this exclusion is that the operator is necessary  
424 for the equipment to perform as designed. For the purpose of  
425 this subparagraph, an operator must do more than maintain,  
426 inspect, or set up the tangible personal property ~~the leasing or~~  
427 rental of tangible personal property and the possession or use  
428 thereof by the lessee or rentee for a consideration, without  
429 transfer of the title of such property, except as expressly  
430 provided to the contrary herein.

431 (c) ~~The term~~ "Lease," "let," or "rental" does not include  
432 ~~mean~~ hourly, daily, or mileage charges, to the extent that such  
433 charges are subject to the jurisdiction of the United States  
434 Interstate Commerce Commission, if ~~when~~ such charges are paid by  
435 reason of the presence of railroad cars owned by another on the

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436 tracks of the taxpayer, or charges made pursuant to car service  
437 agreements.

438 (d) ~~The term~~ "Lease," "let," "rental," or "license" does  
439 not include payments made to an owner of high-voltage bulk  
440 transmission facilities in connection with the possession or  
441 control of such facilities by a regional transmission  
442 organization, independent system operator, or similar entity  
443 under the jurisdiction of the Federal Energy Regulatory  
444 Commission. However, if ~~where~~ two taxpayers, in connection with  
445 the interchange of facilities, rent or lease property, each to  
446 the other, for use in providing or furnishing any of the  
447 services mentioned in s. 166.231, the term "lease or rental"  
448 means only the net amount of rental involved.

449 (e) ~~(h)~~ "Real property" means the surface land, improvements  
450 thereto, and fixtures, and is synonymous with "realty" and "real  
451 estate."

452 (f) ~~(i)~~ "License," ~~as used in this chapter~~ with reference to  
453 the use of real property, means the granting of a privilege to  
454 use or occupy a building or a parcel of real property for any  
455 purpose.

456 (g) ~~(j)~~ Privilege, franchise, or concession fees, or fees  
457 for a license to do business, paid to an airport are not  
458 payments for leasing, letting, renting, or granting a license  
459 for the use of real property.

460 (26) "Livestock" includes all animals of the equine,  
461 bovine, or swine class, including goats, sheep, mules, horses,  
462 hogs, cattle, ostriches, and other grazing animals raised for  
463 commercial purposes. The term also includes fish raised for  
464 commercial purposes.



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465 (27)~~(11)~~ "Motor fuel" means and includes what is commonly  
466 known and sold as gasoline and fuels containing a mixture of  
467 gasoline and other products.

468 (28)~~(12)~~ "Person" includes an ~~any~~ individual, firm,  
469 copartnership, joint adventure, association, corporation,  
470 estate, trust, business trust, receiver, syndicate, or other  
471 group or combination acting as a unit and also includes a ~~any~~  
472 political subdivision, municipality, state agency, bureau, or  
473 department and includes the plural as well as the singular  
474 number.

475 (29) "Power farm equipment" means moving or stationary  
476 equipment that contains within itself the means for its own  
477 propulsion or power and that is dependent upon an external power  
478 source to perform its functions.

479 (30) "Prewritten computer software" means computer  
480 software, including prewritten upgrades, which is not designed  
481 and developed by the author or other creator to the  
482 specifications of a specific purchaser. The combining of two or  
483 more prewritten computer software programs or prewritten  
484 portions of such programs does not cause the combination to be  
485 other than prewritten computer software. The term includes  
486 software designed and developed by the author or other creator  
487 to the specifications of a specific purchaser if such software  
488 is sold to a person other than the specific purchaser. If a  
489 person modifies or enhances computer software of which the  
490 person is not the author or creator, the person is deemed to be  
491 the author or creator only of such person's modifications or  
492 enhancements. Prewritten computer software or a prewritten  
493 portion of such software which is modified or enhanced to any

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494 degree, if such modification or enhancement is designed and  
495 developed to the specifications of a specific purchaser, remains  
496 prewritten computer software. However, the term does not include  
497 software that has been modified or enhanced for a particular  
498 purchaser if the charge for the enhancement is reasonable and  
499 separately stated on the invoice or other statement of price  
500 given to the purchaser.

501 (31) "Product transferred electronically" means a product,  
502 except computer software, which was obtained by a purchaser by  
503 means other than the purchase of tangible storage media.

504 (32) "Qualified aircraft" means an aircraft having a  
505 maximum certified takeoff weight of less than 10,000 pounds and  
506 equipped with twin turbofan engines that meet Stage IV noise  
507 requirements and which is used by a business operating as an on-  
508 demand air carrier under Federal Aviation Administration  
509 Regulation Title 14, chapter I, part 135, Code of Federal  
510 Regulations, which owns or leases and operates a fleet of at  
511 least 25 of such aircraft in this state.

512 (33) ~~(13)~~ "Retailer" means and includes every person engaged  
513 in the business of making sales at retail or for distribution,  
514 or use, or consumption, or storage to be used or consumed in  
515 this state.

516 (34) ~~(14)~~ (a) "Retail sale" or a "sale at retail" means a  
517 sale to a consumer or to a ~~any~~ person for a ~~any~~ purpose other  
518 than for resale in the form of tangible personal property or  
519 services taxable under this chapter, and includes all such  
520 transactions that may be made in lieu of retail sales or sales  
521 at retail. A sale for resale includes a sale of qualifying  
522 property. As used in this paragraph, the term "qualifying

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523 property" means tangible personal property, other than  
 524 electricity, which is used or consumed by a government  
 525 contractor in the performance of a qualifying contract as  
 526 defined in s. 212.08(17)(c), to the extent that the cost of the  
 527 property is allocated or charged as a direct item of cost to  
 528 such contract, title to which property vests in or passes to the  
 529 government under the contract. The term "government contractor"  
 530 includes prime contractors and subcontractors. As used in this  
 531 paragraph, a cost is a "direct item of cost" if it is a "direct  
 532 cost" as defined in 48 C.F.R. s. 9904.418-30(a)(2), or similar  
 533 successor provisions, including costs identified specifically  
 534 with a particular contract.

535 (a)~~(b)~~ The terms "retail sales," "sales at retail," "use,"  
 536 "storage," and "consumption" include the sale, use, storage, or  
 537 consumption of all tangible advertising materials imported or  
 538 caused to be imported into this state. Tangible advertising  
 539 material includes displays, display containers, brochures,  
 540 catalogs, price lists, point-of-sale advertising, and technical  
 541 manuals or ~~any~~ tangible personal property which does not  
 542 accompany the product to the ultimate consumer.

543 (b)~~(e)~~ The terms "retail sales," "sale at retail," "use,"  
 544 "storage," and "consumption" do not include:

545 1. Materials, containers, labels, sacks, bags, or similar  
 546 items intended to accompany a product sold to a customer without  
 547 which delivery of the product would be impracticable because of  
 548 the character of the contents and be used ~~one time~~ only once for  
 549 packaging tangible personal property for sale, ~~or~~ for the  
 550 convenience of the customer, or for packaging in the process of  
 551 providing a service taxable under this chapter. If ~~When~~ a

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552 separate charge for packaging materials is made, the charge is  
553 shall be considered part of the sales price or rental charge for  
554 purposes of determining the applicability of tax. ~~The terms do~~  
555 ~~not include~~

556 2. The sale, use, storage, or consumption of industrial  
557 materials, including chemicals and fuels except as provided  
558 herein, for future processing, manufacture, or conversion into  
559 articles of tangible personal property for resale if ~~when~~ such  
560 industrial materials, including chemicals and fuels except as  
561 provided herein, become a component or ingredient of the  
562 finished product. However, the terms include the sale, use,  
563 storage, or consumption of tangible personal property, including  
564 machinery and equipment or parts thereof, purchased electricity,  
565 and fuels used to power machinery, if ~~when~~ such items are used  
566 and dissipated in fabricating, converting, or processing  
567 tangible personal property for sale, even though they may become  
568 ingredients or components of the tangible personal property for  
569 sale through accident, wear, tear, erosion, corrosion, or  
570 similar means. The terms do not include the sale of materials to  
571 a registered repair facility for use in repairing a motor  
572 vehicle, airplane, or boat, if ~~when~~ such materials are  
573 incorporated into and sold as part of the repair. Such a sale  
574 shall be deemed a purchase for resale by the repair facility,  
575 even though every material is not separately stated or  
576 separately priced on the repair invoice.

577 ~~(d) "Gross sales" means the sum total of all sales of~~  
578 ~~tangible personal property as defined herein, without any~~  
579 ~~deduction whatsoever of any kind or character, except as~~  
580 ~~provided in this chapter.~~

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581 ~~(c) The term "Retail sale" includes a mail order sale, as~~  
582 ~~defined in s. 212.0596(1).~~

583 ~~(35)(15)~~ "Sale" means and includes:

584 (a) A ~~Any~~ transfer of title or possession, or both,  
585 exchange, barter, license, lease, or rental, conditional or  
586 otherwise, in any manner or by any means ~~whatsoever~~, of tangible  
587 personal property for a consideration.

588 (b) The rental of living quarters or sleeping or  
589 housekeeping accommodations in hotels, apartment houses, ~~or~~  
590 roominghouses, or tourist or trailer camps, ~~as hereinafter~~  
591 ~~defined in this chapter.~~

592 (c) The producing, fabricating, processing, printing, or  
593 imprinting of tangible personal property for a consideration for  
594 consumers who ~~furnish either~~ directly or indirectly furnish the  
595 materials used in the producing, fabricating, processing,  
596 printing, or imprinting.

597 (d) The furnishing, preparing, or serving for a  
598 consideration of ~~any~~ tangible personal property for consumption  
599 on or off the premises of the person furnishing, preparing, or  
600 serving such tangible personal property, which includes the sale  
601 of meals or prepared food by an employer to his or her  
602 employees.

603 (e) A transaction whereby the possession of property is  
604 transferred but the seller retains title as security for the  
605 payment of the price.

606 ~~(36)(16)~~ "Sales price" means the measure subject to the tax  
607 imposed by this chapter and means the total amount of  
608 consideration, including cash, credit, property, and services,  
609 for which tangible personal property or personal services are

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610 sold, leased, or rented, valued in money, whether received in  
611 money or otherwise.

612 (a) The sales price may not include a deduction for:

613 1. The seller's cost of the property sold;

614 2. The cost of materials used, labor or service cost;

615 interest, losses, all costs of transportation to the seller, all  
616 taxes imposed on the seller, and other expenses of the seller;

617 3. Charges by the seller for services necessary to complete  
618 the sale, other than delivery and installation charges;

619 4. Delivery charges; or

620 5. Installation charges.

621 (b) The sales price does not apply to:

622 1. Trade-ins allowed and taken at the time of sale if the  
623 amount is separately stated on the invoice, bill of sale, or  
624 similar document given to the purchaser;

625 2. Discounts, including cash, term, or coupons, which are  
626 not reimbursed by a third party, are allowed by a seller, and  
627 taken by a purchaser at the time of sale;

628 3. Interest, financing, and carrying charges from credit  
629 extended on the sale of personal property or services, if the  
630 amount is separately stated on the invoice, bill of sale, or  
631 similar document given to the purchaser;

632 4. Taxes legally imposed directly on the consumer which are  
633 separately stated on the invoice, bill of sale, or similar  
634 document given to the purchaser; or ~~means the total amount paid~~  
635 ~~for tangible personal property, including any services that are~~  
636 ~~a part of the sale, valued in money, whether paid in money or~~  
637 ~~otherwise, and includes any amount for which credit is given to~~  
638 ~~the purchaser by the seller, without any deduction therefrom on~~

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639 ~~account of the cost of the property sold, the cost of materials~~  
640 ~~used, labor or service cost, interest charged, losses, or any~~  
641 ~~other expense whatsoever. "Sales price" also includes the~~  
642 ~~consideration for a transaction which requires both labor and~~  
643 ~~material to alter, remodel, maintain, adjust, or repair tangible~~  
644 ~~personal property. Trade ins or discounts allowed and taken at~~  
645 ~~the time of sale shall not be included within the purview of~~  
646 ~~this subsection. "Sales price" also includes the full face value~~  
647 ~~of any coupon used by a purchaser to reduce the price paid to a~~  
648 ~~retailer for an item of tangible personal property; where the~~  
649 ~~retailer will be reimbursed for such coupon, in whole or in~~  
650 ~~part, by the manufacturer of the item of tangible personal~~  
651 ~~property; or whenever it is not practicable for the retailer to~~  
652 ~~determine, at the time of sale, the extent to which~~  
653 ~~reimbursement for the coupon will be made. The term "sales~~  
654 ~~price" does not include federal excise taxes imposed upon the~~  
655 ~~retailer on the sale of tangible personal property. The term~~  
656 ~~"sales price" does include federal manufacturers' excise taxes,~~  
657 ~~even if the federal tax is listed as a separate item on the~~  
658 ~~invoice. To the extent required by federal law, the term "sales~~  
659 ~~price" does not include~~

660 5. Charges for Internet access services which are not  
661 itemized on the customer's bill, but which can be reasonably  
662 identified from the selling dealer's books and records kept in  
663 the regular course of business. The dealer may support the  
664 allocation of charges with books and records kept in the regular  
665 course of business covering the dealer's entire service area,  
666 including territories outside this state.

667 (37) "Sea trial" means a voyage for the purpose of testing

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668 repair or modification work, which in length and scope is  
669 reasonably necessary to test repairs or modifications, or a  
670 voyage for the purpose of ascertaining the seaworthiness of a  
671 vessel. If the sea trial is to test repair or modification work,  
672 the owner or repair facility shall certify, in a form prescribed  
673 by the department, what repairs have been tested. The owner and  
674 the repair facility may also be required to certify that the  
675 length and scope of the voyage were reasonably necessary to test  
676 the repairs or modifications.

677 (38) "Seller" means a person making sales, leases, or  
678 rentals of personal property or services.

679 (39) "Solar energy system" means the equipment and  
680 requisite hardware that provide and are used for collecting,  
681 transferring, converting, storing, or using incident solar  
682 energy for water heating, space heating, cooling, or other  
683 applications that would otherwise require the use of a  
684 conventional source of energy such as petroleum products,  
685 natural gas, manufactured gas, or electricity.

686 (40) "Space flight" means a flight designed for suborbital,  
687 orbital, or interplanetary travel of a space vehicle, satellite,  
688 or station of any kind.

689 (41) "Spaceport activities" means activities directed or  
690 sponsored by Space Florida on spaceport territory pursuant to  
691 its powers and responsibilities under the Space Florida Act.

692 ~~(17) "Diesel fuel" means any liquid product, gas product,~~  
693 ~~or combination thereof used in an internal combustion engine or~~  
694 ~~motor to propel any form of vehicle, machine, or mechanical~~  
695 ~~contrivance. This term includes, but is not limited to, all~~  
696 ~~forms of fuel commonly or commercially known or sold as diesel~~



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697 ~~fuel or kerosene. However, the term "diesel fuel" does not~~  
698 ~~include butane gas, propane gas, or any other form of liquefied~~  
699 ~~petroleum gas or compressed natural gas.~~

700 (42)~~(18)~~ "Storage" means ~~and includes any~~ keeping or  
701 retaining retention in this state of tangible personal property  
702 in this state for use or consumption in this state or for a any  
703 purpose other than sale at retail in the regular course of  
704 business.

705 (43) "Streamlined Sales and Use Tax Agreement" means the  
706 agreement described in s. 213.256.

707 (44)~~(19)~~ "Tangible personal property" means ~~and includes~~  
708 personal property that ~~which~~ may be seen, weighed, measured, or  
709 touched or is in any manner perceptible to the senses, including  
710 electric power or energy, water, gas, steam, boats, motor  
711 vehicles and mobile homes as those terms are defined in s.  
712 320.01~~(1) and (2)~~, aircraft as defined in s. 330.27, and all  
713 other types of vehicles. The term ~~"tangible personal property"~~  
714 does not include stocks, bonds, notes, insurance, ~~or~~ other  
715 obligations or securities, a product transferred electronically,  
716 or pari-mutuel tickets sold or issued under the racing laws of  
717 the state.

718 (45)~~(20)~~ "Use" means and includes the exercise of a any  
719 right or power over tangible personal property incident to the  
720 ownership thereof, or interest therein, except that it does not  
721 include the sale at retail of that property in the regular  
722 course of business. The term ~~"use"~~ does not include:

723 (a) The loan of an automobile by a motor vehicle dealer to  
724 a high school for use in its driver education and safety  
725 program; or. ~~The term "use" does not include~~

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726 (b) A contractor's use of "qualifying property" as defined  
727 in subsection (34) by paragraph (14) (a).

728 ~~(46) (21) The term "Use tax" referred to in this chapter~~  
729 ~~includes the use, the consumption, the distribution, and the~~  
730 ~~storage as herein defined.~~

731 (47) "Voluntary seller" or "volunteer seller" means a  
732 seller that is not required to register in this state to collect  
733 the tax imposed by this chapter.

734 ~~(22) "Spaceport activities" means activities directed or~~  
735 ~~sponsored by Space Florida on spaceport territory pursuant to~~  
736 ~~its powers and responsibilities under the Space Florida Act.~~

737 ~~(23) "Space flight" means any flight designed for~~  
738 ~~suborbital, orbital, or interplanetary travel of a space~~  
739 ~~vehicle, satellite, or station of any kind.~~

740 ~~(24) "Coin-operated amusement machine" means any machine~~  
741 ~~operated by coin, slug, token, coupon, or similar device for the~~  
742 ~~purposes of entertainment or amusement. The term includes, but~~  
743 ~~is not limited to, coin-operated pinball machines, music~~  
744 ~~machines, juke boxes, mechanical games, video games, arcade~~  
745 ~~games, billiard tables, moving picture viewers, shooting~~  
746 ~~galleries, and all other similar amusement devices.~~

747 ~~(25) "Sea trial" means a voyage for the purpose of testing~~  
748 ~~repair or modification work, which is in length and scope~~  
749 ~~reasonably necessary to test repairs or modifications, or a~~  
750 ~~voyage for the purpose of ascertaining the seaworthiness of a~~  
751 ~~vessel. If the sea trial is to test repair or modification work,~~  
752 ~~the owner or repair facility shall certify, in a form required~~  
753 ~~by the department, what repairs have been tested. The owner and~~  
754 ~~the repair facility may also be required to certify that the~~

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755 ~~length and scope of the voyage were reasonably necessary to test~~  
756 ~~the repairs or modifications.~~

757 ~~(26) "Solar energy system" means the equipment and~~  
758 ~~requisite hardware that provide and are used for collecting,~~  
759 ~~transferring, converting, storing, or using incident solar~~  
760 ~~energy for water heating, space heating, cooling, or other~~  
761 ~~applications that would otherwise require the use of a~~  
762 ~~conventional source of energy such as petroleum products,~~  
763 ~~natural gas, manufactured gas, or electricity.~~

764 ~~(27) "Agricultural commodity" means horticultural,~~  
765 ~~aquacultural, poultry and farm products, and livestock and~~  
766 ~~livestock products.~~

767 ~~(28) "Farmer" means a person who is directly engaged in the~~  
768 ~~business of producing crops, livestock, or other agricultural~~  
769 ~~commodities. The term includes, but is not limited to, horse~~  
770 ~~breeders, nurserymen, dairy farmers, poultry farmers, cattle~~  
771 ~~ranchers, apiarists, and persons raising fish.~~

772 ~~(29) "Livestock" includes all animals of the equine,~~  
773 ~~bovine, or swine class, including goats, sheep, mules, horses,~~  
774 ~~hogs, cattle, ostriches, and other grazing animals raised for~~  
775 ~~commercial purposes. The term "livestock" shall also include~~  
776 ~~fish raised for commercial purposes.~~

777 ~~(30) "Power farm equipment" means moving or stationary~~  
778 ~~equipment that contains within itself the means for its own~~  
779 ~~propulsion or power and moving or stationary equipment that is~~  
780 ~~dependent upon an external power source to perform its~~  
781 ~~functions.~~

782 ~~(31) "Forest" means the land stocked by trees of any size~~  
783 ~~used in the production of forest products, or formerly having~~

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784 ~~such tree cover, and not currently developed for nonforest use.~~

785 ~~(32) "Agricultural production" means the production of~~  
786 ~~plants and animals useful to humans, including the preparation,~~  
787 ~~planting, cultivating, or harvesting of these products or any~~  
788 ~~other practices necessary to accomplish production through the~~  
789 ~~harvest phase, and includes aquaculture, horticulture,~~  
790 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~  
791 ~~bees, and any and all forms of farm products and farm~~  
792 ~~production.~~

793 ~~(33) "Qualified aircraft" means any aircraft having a~~  
794 ~~maximum certified takeoff weight of less than 10,000 pounds and~~  
795 ~~equipped with twin turbofan engines that meet Stage IV noise~~  
796 ~~requirements that is used by a business operating as an on-~~  
797 ~~demand air carrier under Federal Aviation Administration~~  
798 ~~Regulation Title 14, chapter I, part 135, Code of Federal~~  
799 ~~Regulations, that owns or leases and operates a fleet of at~~  
800 ~~least 25 of such aircraft in this state.~~

801 ~~(34) "Fractional aircraft ownership program" means a~~  
802 ~~program that meets the requirements of 14 C.F.R. part 91,~~  
803 ~~subpart K, relating to fractional ownership operations, except~~  
804 ~~that the program must include a minimum of 25 aircraft owned or~~  
805 ~~leased by the program manager and used in the program.~~

806 Section 2. Paragraph (c) of subsection (7) of section  
807 212.03, Florida Statutes, is amended to read:

808 212.03 Transient rentals tax; rate, procedure, enforcement,  
809 exemptions.—

810 (7)

811 (c) The rental of facilities in a trailer camp, mobile home  
812 park, or recreational vehicle park facilities, as defined in s.

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813 ~~212.02(10)(f)~~, which are intended primarily for rental as a  
814 principal or permanent place of residence is exempt from the tax  
815 imposed by this chapter. The rental of such facilities that  
816 primarily serve transient guests is not exempt under ~~by~~ this  
817 subsection. In applying ~~the application of~~ this law, or in  
818 making a ~~any~~ determination against the exemption, the department  
819 shall consider the facility as primarily serving transient  
820 guests unless the facility owner makes a verified declaration on  
821 a form prescribed by the department that more than half of the  
822 total rental units available are occupied by tenants who have a  
823 continuous residence greater than ~~in excess of~~ 3 months. The  
824 owner of a facility declared to be exempt under ~~by~~ this  
825 paragraph must determine ~~make a determination of~~ the taxable  
826 status of the facility at the end of the owner's accounting year  
827 using any consecutive 3-month period at least one month of which  
828 is in the accounting year. The owner shall ~~must~~ use a selected  
829 consecutive 3-month period during each annual redetermination.  
830 If ~~In the event that~~ an exempt facility no longer qualifies for  
831 the exemption ~~by this paragraph~~, the owner must so notify the  
832 department on a form prescribed by the department by the 20th  
833 day of the first month of the owner's next succeeding accounting  
834 year ~~that the facility no longer qualifies for such exemption~~.  
835 The tax levied by this section applies ~~shall apply~~ to the rental  
836 of facilities that no longer qualify for the exemption ~~under~~  
837 ~~this paragraph~~ beginning the first day of the owner's next  
838 succeeding accounting year. ~~The provisions of~~ This paragraph  
839 does ~~de~~ not apply to mobile home lots regulated under chapter  
840 723.

841 Section 3. Subsection (6) of section 212.0306, Florida

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842 Statutes, is amended to read:

843 212.0306 Local option food and beverage tax; procedure for  
844 levying; authorized uses; administration.—

845 (6) A ~~Any~~ county levying a tax authorized by this section  
846 must locally administer the tax using the powers and duties  
847 enumerated for local administration of the tourist development  
848 tax by s. 125.0104, 1992 Supplement to the Florida Statutes  
849 1991. ~~The county's ordinance shall also provide for brackets~~  
850 ~~applicable to taxable transactions.~~

851 Section 4. Paragraph (b) of subsection (1) of section  
852 212.04, Florida Statutes, is amended to read:

853 212.04 Admissions tax; rate, procedure, enforcement.—

854 (1)

855 (b) For the exercise of such privilege, a tax is levied at  
856 the rate of 6 percent of sales price, or the actual value  
857 received from such admissions, which amount ~~6 percent~~ shall be  
858 added to and collected with all such admissions from the  
859 purchaser ~~thereof~~, and ~~such tax shall be paid~~ for the exercise  
860 of the privilege as defined in the preceding paragraph. Each  
861 ticket must show on its face the actual sales price of the  
862 admission, or each dealer selling the admission must prominently  
863 display at the box office or other place where the admission  
864 charge is made a notice disclosing the price of the admission. 7  
865 ~~and~~ The tax shall be computed and collected on the basis of the  
866 actual price of the admission charged by the dealer. The sale  
867 price or actual value of admission ~~shall~~, for the purpose of  
868 this chapter, is the ~~be that~~ price remaining after deduction of  
869 federal taxes and state or locally imposed or authorized seat  
870 surcharges, taxes, or fees, if any, imposed upon such admission.

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871 The sale price or actual value does not include separately  
872 stated ticket service charges that are imposed by a facility  
873 ticket office or a ticketing service and added to a separately  
874 stated, established ticket price. ~~The rate of tax on each~~  
875 ~~admission shall be according to the brackets established by s.~~  
876 ~~212.12(9).~~

877 Section 5. Section 212.05, Florida Statutes, is amended to  
878 read:

879 212.05 Sales, storage, use tax.—It is ~~hereby declared to be~~  
880 the legislative intent that every person ~~is exercising a taxable~~  
881 ~~privilege~~ who engages in the business of selling tangible  
882 personal property at retail in this state, ~~including the~~  
883 ~~business of making mail order sales, or~~ who rents or furnishes  
884 ~~any of~~ the things or services taxable under this chapter, ~~or~~ who  
885 stores for use or consumption in this state an any item or  
886 article of tangible personal property, ~~as defined herein~~ and who  
887 leases or rents such property within the state is exercising a  
888 taxable privilege.

889 (1) For the exercise of such privilege, a tax is levied on  
890 each taxable transaction or incident, which ~~tax~~ is due and  
891 payable as follows:

892 (a) ~~1.a.~~ At the rate of 6 percent of the sales price of each  
893 item or article of tangible personal property when sold at  
894 retail in this state, computed on each taxable sale for the  
895 purpose of remitting the amount of tax due the state, and  
896 including each and every retail sale.

897 1.b. ~~The Each~~ occasional or isolated sale of an aircraft,  
898 boat, mobile home, or motor vehicle of a class or type which is  
899 required to be registered, licensed, titled, or documented in

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900 this state or by the United States Government is ~~shall be~~  
901 subject to tax at the rate provided in this paragraph. The  
902 department shall by rule adopt a ~~any~~ nationally recognized  
903 publication for valuation of used motor vehicles as the  
904 reference price list for a ~~any~~ used motor vehicle that must  
905 ~~which is required to~~ be licensed pursuant to s. 320.08(1), (2),  
906 (3)(a), (b), (c), or (e), or (9). If a ~~any~~ party to an  
907 occasional or isolated sale of such a vehicle reports to the tax  
908 collector a sales price that ~~which~~ is less than 80 percent of  
909 the average loan price for the specified model and year of such  
910 vehicle as listed in the most recent reference price list, the  
911 tax ~~levied under this paragraph~~ shall be computed by the  
912 department on such average loan price unless the parties to the  
913 sale have provided to the tax collector an affidavit signed by  
914 each party, or other substantial proof, stating the actual sales  
915 price. A ~~Any~~ party to such sale who reports a sales price less  
916 than the actual sales price commits ~~is guilty of~~ a misdemeanor  
917 of the first degree, punishable as provided in s. 775.082 or s.  
918 775.083. The department shall collect or attempt to collect from  
919 such party any delinquent sales taxes. ~~In addition,~~ Such party  
920 shall also pay any tax due and any penalty and interest assessed  
921 plus a penalty equal to twice the amount of the additional tax  
922 owed. Notwithstanding any other provision of law, the department  
923 ~~of Revenue~~ may waive or compromise a ~~any~~ penalty imposed  
924 pursuant to this subparagraph.

925 2. This paragraph does not apply to the sale of a boat or  
926 aircraft by or through a registered dealer under this chapter to  
927 a purchaser who, at the time of taking delivery, is a  
928 nonresident of this state, does not make his or her permanent



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929 place of abode in this state, and is not engaged in carrying on  
930 ~~in this state~~ any employment, trade, business, or profession in  
931 this state in which the boat or aircraft will be used in this  
932 state, or is a corporation of which none of the officers or  
933 directors ~~of which~~ is a resident of, or makes his or her  
934 permanent place of abode in, this state, or is a noncorporate  
935 entity that has no individual vested with authority to  
936 participate in the management, direction, or control of the  
937 entity's affairs who is a resident of, or makes his or her  
938 permanent abode in, this state. For purposes of this exemption,  
939 ~~either~~ a registered dealer acting on his or her own behalf as  
940 seller, a registered dealer acting as broker on behalf of a  
941 seller, or a registered dealer acting as broker on behalf of the  
942 purchaser may be deemed to be the selling dealer. This exemption  
943 is ~~shall~~ not be allowed unless:

944 a. The purchaser removes a qualifying boat, as described in  
945 sub-subparagraph f., from the state within 90 days after the  
946 date of purchase or extension, or the purchaser removes a  
947 nonqualifying boat or an aircraft from this state within 10 days  
948 after the date of purchase, or, if when the boat or aircraft is  
949 repaired or altered, within 20 days after completion of the  
950 repairs or alterations;

951 b. The purchaser, within 30 days from the date of  
952 departure, provides ~~shall provide~~ the department with written  
953 proof that the purchaser licensed, registered, titled, or  
954 documented the boat or aircraft outside the state. If such  
955 written proof is unavailable, within 30 days the purchaser  
956 provides ~~shall provide~~ proof that the purchaser applied for such  
957 license, title, registration, or documentation. The purchaser

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958 shall forward to the department proof of title, license,  
959 registration, or documentation upon receipt;

960 c. The purchaser, within 10 days after ~~of~~ removing the boat  
961 or aircraft from this state Florida, furnishes ~~shall furnish~~ the  
962 department with proof of removal in the form of receipts for  
963 fuel, dockage, slippage, tie-down, or hangaring from outside the  
964 state of Florida. The information ~~so~~ provided must clearly and  
965 specifically identify the boat or aircraft;

966 d. The selling dealer, within 5 days after ~~of~~ the date of  
967 sale, provides ~~shall provide~~ to the department a copy of the  
968 sales invoice, closing statement, bills of sale, and the  
969 original affidavit signed by the purchaser attesting that he or  
970 she has read ~~the provisions of~~ this section;

971 e. The seller makes a copy of the affidavit a part of his  
972 or her record for as long as required by s. 213.35; and

973 f. Unless the nonresident purchaser of a boat of 5 net tons  
974 of admeasurement or larger intends to remove the boat from this  
975 state within 10 days after the date of purchase or if ~~when~~ the  
976 boat is repaired or altered, within 20 days after completion of  
977 the repairs or alterations, the nonresident purchaser applies  
978 ~~shall apply~~ to the selling dealer for a decal that ~~which~~  
979 authorizes the removal of the boat 90 days after the date of  
980 purchase ~~for removal of the boat~~. The nonresident purchaser of a  
981 qualifying boat may apply to the selling dealer within 60 days  
982 after the date of purchase for an extension decal that  
983 authorizes the boat to remain in this state for an additional 90  
984 days, but not more than a total of 180 days, before the  
985 nonresident purchaser must ~~is required to~~ pay the tax imposed by  
986 this chapter. The department may ~~is authorized to~~ issue decals

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987 in advance to dealers. The number of decals issued in advance to  
988 a dealer must ~~shall~~ be consistent with the volume of the  
989 dealer's past sales of boats which qualify under this sub-  
990 subparagraph. The selling dealer or his or her agent shall mark  
991 and affix the decals to qualifying boats in the manner  
992 prescribed by the department before, ~~prior to~~ delivery of the  
993 boat.

994 (I) The department may ~~is hereby authorized to~~ charge  
995 dealers a fee sufficient to recover the costs of decals issued,  
996 except the extension decal costs ~~shall cost~~ \$425.

997 (II) The proceeds from the sale of decals shall ~~will~~ be  
998 deposited into the administrative trust fund.

999 (III) Decals must ~~shall~~ display information that identifies  
1000 ~~to identify~~ the boat as a qualifying boat under this sub-  
1001 subparagraph, including, but not limited to, the decal's date of  
1002 expiration.

1003 (IV) The department may ~~is authorized to~~ require dealers  
1004 who purchase decals to file reports with the department and may  
1005 prescribe all necessary records by rule. All such records are  
1006 subject to inspection by the department.

1007 (V) A ~~Any~~ dealer or his or her agent who issues a decal  
1008 falsely, fails to affix a decal, mismarks the expiration date of  
1009 a decal, or fails to properly account for decals will be  
1010 considered prima facie to have committed a fraudulent act to  
1011 evade the tax and are ~~will be~~ liable for payment of the tax plus  
1012 a mandatory penalty of 200 percent of the tax, and commits ~~shall~~  
1013 ~~be liable for fine and punishment as provided by law for a~~  
1014 ~~conviction of~~ a misdemeanor of the first degree, punishable as  
1015 provided in s. 775.082 or s. 775.083.

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1016 (VI) A ~~Any~~ nonresident purchaser of a boat who removes a  
1017 decal before ~~prior to~~ permanently removing the boat from the  
1018 state, or defaces, changes, modifies, or alters a decal in a  
1019 manner affecting its expiration date before ~~prior to~~ its  
1020 expiration, or who causes or allows the same to be done by  
1021 another, is ~~will be~~ considered prima facie to have committed a  
1022 fraudulent act to evade the tax and is ~~will be~~ liable for  
1023 payment of the tax plus a mandatory penalty of 200 percent of  
1024 the tax, and commits ~~shall be liable for fine and punishment as~~  
1025 ~~provided by law for a conviction of~~ a misdemeanor of the first  
1026 degree, punishable as provided in s. 775.082 or s. 775.083.

1027 (VII) The department may ~~is authorized to~~ adopt rules  
1028 necessary to administer and enforce this subparagraph and to  
1029 publish the necessary forms and instructions.

1030 ~~(VIII) The department is hereby authorized to adopt~~  
1031 ~~emergency rules pursuant to s. 120.54(4) to administer and~~  
1032 ~~enforce the provisions of this subparagraph.~~

1033 g. If the purchaser fails to remove the qualifying boat  
1034 from this state within the maximum 180 days after purchase or a  
1035 nonqualifying boat or an aircraft from this state within 10 days  
1036 after purchase or, if ~~when~~ the boat or aircraft is repaired or  
1037 altered, within 20 days after completion of such repairs or  
1038 alterations, or permits the boat or aircraft to return to this  
1039 state within 6 months after ~~from~~ the date of departure, except  
1040 as provided in s. 212.08(7)(fff), or if the purchaser fails to  
1041 furnish the department with ~~any of~~ the documentation required by  
1042 ~~this~~ subparagraph f. within the prescribed time period, the  
1043 purchaser is ~~shall be~~ liable for use tax on the cost price of  
1044 the boat or aircraft and, ~~in addition thereto,~~ payment of a

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1045 penalty to the department ~~of Revenue~~ equal to the tax payable.  
1046 This penalty is ~~shall be~~ in lieu of the penalty imposed by s.  
1047 212.12(2). The maximum 180-day period following the sale of a  
1048 qualifying boat tax-exempt to a nonresident may not be tolled  
1049 ~~for any reason.~~

1050 (b) At the rate of 6 percent of the cost price of each item  
1051 or article of tangible personal property if ~~when~~ the same is not  
1052 sold but is used, consumed, distributed, or stored for use or  
1053 consumption in this state; however, for tangible property  
1054 originally purchased exempt from tax for use exclusively for  
1055 lease and which is converted to the owner's own use, tax may be  
1056 paid on the fair market value of the property at the time of  
1057 conversion. If the fair market value of the property cannot be  
1058 determined, use tax at the time of conversion shall be based on  
1059 the owner's acquisition cost. ~~Under no circumstances may~~ The  
1060 aggregate amount of sales tax from leasing the property and use  
1061 tax due at the time of conversion may not be less than the total  
1062 sales tax that would have been due on the original acquisition  
1063 cost paid by the owner.

1064 (c) At the rate of 6 percent of the gross proceeds derived  
1065 from the lease or rental of tangible personal property, ~~as~~  
1066 ~~defined herein; however, the following special provisions apply~~  
1067 ~~to the lease or rental of motor vehicles:~~

1068 1. ~~When a motor vehicle is leased or rented for a period of~~  
1069 ~~less than 12 months:~~

1070 a. ~~If the motor vehicle is rented in Florida, the entire~~  
1071 ~~amount of such rental is taxable, even if the vehicle is dropped~~  
1072 ~~off in another state.~~

1073 b. ~~If the motor vehicle is rented in another state and~~

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1074 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1075 ~~2. Except as provided in subparagraph 3., for the lease or~~  
1076 ~~rental of a motor vehicle for a period of not less than 12~~  
1077 ~~months, sales tax is due on the lease or rental payments if the~~  
1078 ~~vehicle is registered in this state; provided, however, that no~~  
1079 ~~tax shall be due if the taxpayer documents use of the motor~~  
1080 ~~vehicle outside this state and tax is being paid on the lease or~~  
1081 ~~rental payments in another state.~~

1082 ~~3. The tax imposed by this chapter does not apply to the~~  
1083 ~~lease or rental of a commercial motor vehicle as defined in s.~~  
1084 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~  
1085 ~~than 12 months when tax was paid on the purchase price of such~~  
1086 ~~vehicle by the lessor. To the extent tax was paid with respect~~  
1087 ~~to the purchase of such vehicle in another state, territory of~~  
1088 ~~the United States, or the District of Columbia, the Florida tax~~  
1089 ~~payable shall be reduced in accordance with the provisions of s.~~  
1090 ~~212.06(7). This subparagraph shall only be available when the~~  
1091 ~~lease or rental of such property is an established business or~~  
1092 ~~part of an established business or the same is incidental or~~  
1093 ~~germane to such business.~~

1094 (d) At the rate of 6 percent of the lease or rental price  
1095 paid by a lessee or rentee, or contracted or agreed to be paid  
1096 by a lessee or rentee, to the owner of the tangible personal  
1097 property.

1098 (e)~~1.~~ At the rate of 6 percent on charges for:

1099 1.a. Prepaid calling arrangements. The tax ~~on charges for~~  
1100 ~~prepaid calling arrangements~~ shall be collected at the time of  
1101 sale and remitted by the selling dealer.

1102 a.(I) "Prepaid calling arrangement" means the separately

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1103 stated retail sale by advance payment of communications services  
1104 that consist exclusively of telephone calls originated by using  
1105 an access number, authorization code, or other means that may be  
1106 manually, electronically, or otherwise entered and that are sold  
1107 in predetermined units or dollars whose number declines with use  
1108 in a known amount.

1109 b.(II) The sale or recharge of the prepaid calling  
1110 arrangement is deemed to take place in accordance with s.  
1111 212.06(17) If the sale or recharge of the prepaid calling  
1112 arrangement does not take place at the dealer's place of  
1113 business, it shall be deemed to take place at the customer's  
1114 shipping address or, if no item is shipped, at the customer's  
1115 address or the location associated with the customer's mobile  
1116 telephone number.

1117 c.(III) The sale or recharge of a prepaid calling  
1118 arrangement shall be treated as a sale of tangible personal  
1119 property for purposes of this chapter, whether ~~or not~~ a tangible  
1120 item evidencing such arrangement is furnished to the purchaser,  
1121 and such sale within this state subjects the selling dealer to  
1122 the jurisdiction of this state for purposes of this subsection.

1123 2.b. The installation of telecommunication and telegraphic  
1124 equipment.

1125 3.e. Electrical power or energy, except that the tax rate  
1126 for charges for electrical power or energy is 7 percent.

1127  
1128 2. The provisions of s. Section 212.17(3), regarding credit for  
1129 tax paid on charges subsequently found to be worthless, is shall  
1130 be equally applicable to any tax paid under ~~the provisions of~~  
1131 this section on charges for prepaid calling arrangements,

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1132 telecommunication or telegraph services, or electric power  
1133 subsequently found to be uncollectible. The term ~~word~~ "charges"  
1134 as used in this paragraph does not include an ~~any~~ excise or  
1135 similar tax levied by the Federal Government, a ~~any~~ political  
1136 subdivision of the state, or a ~~any~~ municipality upon the  
1137 purchase, sale, or recharge of prepaid calling arrangements or  
1138 upon the purchase or sale of telecommunication, television  
1139 system program, or telegraph service or electric power, which  
1140 ~~tax~~ is collected by the seller from the purchaser.

1141 (f) At the rate of 6 percent on the sale, rental, use,  
1142 consumption, or storage for use in this state of machines and  
1143 equipment, and parts and accessories therefor, used in  
1144 manufacturing, processing, compounding, producing, mining, or  
1145 quarrying personal property for sale or to be used in furnishing  
1146 communications, transportation, or public utility services.

1147 (g)~~1.~~ At the rate of 6 percent on the retail price of  
1148 newspapers and magazines sold or used in Florida. However,

1149 ~~2.~~ notwithstanding any other provision ~~provisions~~ of this  
1150 chapter, inserts of printed materials which are distributed with  
1151 a newspaper or magazine are a component part of the newspaper or  
1152 magazine, and ~~neither~~ the sale or ~~nor~~ use of such inserts is not  
1153 subject to tax if ~~when~~:

1154 ~~1.a.~~ Printed by a newspaper or magazine publisher or  
1155 commercial printer and distributed as a component part of a  
1156 newspaper or magazine, which means that the items after being  
1157 printed are delivered directly to a newspaper or magazine  
1158 publisher by the printer for inclusion in editions of the  
1159 distributed newspaper or magazine;

1160 ~~2.b.~~ Such publications are labeled as part of the



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1161 designated newspaper or magazine publication into which they are  
1162 to be inserted; and

1163 ~~3.e.~~ The purchaser of the insert presents a resale  
1164 certificate to the vendor stating that the inserts are to be  
1165 distributed as a component part of a newspaper or magazine.

1166 (h)~~1.~~ ~~A tax is imposed~~ At the rate of 4 percent on the  
1167 charges for the use of coin-operated amusement machines.

1168 1. The tax shall be calculated by dividing the gross  
1169 receipts from such charges for the applicable reporting period  
1170 by a divisor, ~~determined as provided in this subparagraph,~~ to  
1171 compute gross taxable sales, and then subtracting gross taxable  
1172 sales from gross receipts to arrive at the amount of tax due.  
1173 For counties that do not impose a discretionary sales surtax,  
1174 the divisor is ~~equal to~~ 1.04; for counties that impose a 0.5  
1175 percent discretionary sales surtax, the divisor is ~~equal to~~  
1176 1.045; for counties that impose a 1 percent discretionary sales  
1177 surtax, the divisor is ~~equal to~~ 1.050; and for counties that  
1178 impose a 2 percent sales surtax, the divisor is ~~equal to~~ 1.060.  
1179 If a county imposes a discretionary sales surtax that is not  
1180 listed in this subparagraph, the department shall make the  
1181 applicable divisor available in an electronic format or  
1182 otherwise. Additional divisors must ~~shall~~ bear the same  
1183 mathematical relationship to the next higher and next lower  
1184 divisors as the new surtax rate bears to the next higher and  
1185 next lower surtax rates for which divisors have been  
1186 established. If ~~When~~ a machine is activated by a slug, token,  
1187 coupon, or ~~any~~ similar device that ~~which~~ has been purchased, the  
1188 tax is on the price paid by the user of the device for such  
1189 device.

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1190 2. As used in this paragraph, the term "operator" means a  
1191 ~~any~~ person who possesses a coin-operated amusement machine for  
1192 the purpose of generating sales through that machine and who is  
1193 responsible for removing the receipts from the machine.

1194 a. If the owner of the machine is also the operator of it,  
1195 he or she is ~~shall be~~ liable for payment of the tax without any  
1196 deduction for rent or a license fee paid to a location owner for  
1197 the use of ~~any~~ real property on which the machine is located.

1198 b. If the owner or lessee of the machine is also its  
1199 operator, he or she is ~~shall be~~ liable for payment of the tax on  
1200 the purchase or lease of the machine, as well as the tax on  
1201 sales generated through the machine.

1202 c. If the proprietor of the business where the machine is  
1203 located does not own the machine, he or she shall be deemed ~~to~~  
1204 ~~be~~ the lessee and operator of the machine and is responsible for  
1205 the payment of the tax on sales, unless such responsibility is  
1206 otherwise provided for in a written agreement between him or her  
1207 and the machine owner.

1208 3.~~a.~~ An operator of a coin-operated amusement machine may  
1209 not operate or cause to be operated in this state ~~any~~ such  
1210 machine until the operator has registered with the department,  
1211 applied to the department for an identifying certificate, and is  
1212 ~~has~~ conspicuously displaying such ~~displayed an identifying~~  
1213 certificate on the premises where the coin-operated amusement  
1214 machines are being operated ~~issued by the department. The~~  
1215 ~~identifying certificate shall be issued by the department upon~~  
1216 ~~application from the operator. The identifying certificate~~ must  
1217 ~~shall~~ include a unique number, ~~and the certificate shall be~~  
1218 permanently marked with the operator's name, the operator's

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1219 sales tax number, and the maximum number of machines to be  
1220 operated under the certificate. An identifying certificate may  
1221 ~~shall~~ not be transferred from one operator to another. ~~The~~  
1222 ~~identifying certificate must be conspicuously displayed on the~~  
1223 ~~premises where the coin-operated amusement machines are being~~  
1224 ~~operated.~~

1225 a.b. The operator of the machine must obtain an identifying  
1226 certificate before the machine is first operated in the state  
1227 and by July 1 of each year thereafter. The annual fee for the  
1228 ~~each~~ certificate shall be based on the number of machines  
1229 identified on the application times \$30 and is due and payable  
1230 upon applying application for the identifying device. The  
1231 application must ~~shall~~ contain the operator's name, sales tax  
1232 number, business address where the machines are being operated,  
1233 and the number of machines in operation at that place of  
1234 business by the operator. An ~~No~~ operator may not operate more  
1235 machines than are listed on the certificate. A new certificate  
1236 is required if more machines are being operated at that location  
1237 than are listed on the certificate. The fee for the new  
1238 certificate shall be based on the number of additional machines  
1239 identified on the application form times \$30.

1240 b.e. A penalty of \$250 per machine is imposed on the  
1241 operator for failing to properly obtain and display the required  
1242 identifying certificate. A penalty of \$250 is imposed on the  
1243 lessee of a any machine placed in a place of business without a  
1244 proper current identifying certificate. Such penalties are ~~shall~~  
1245 ~~apply~~ in addition to all other applicable taxes, interest, and  
1246 penalties.

1247 c.d. Operators of coin-operated amusement machines must

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1248 obtain a separate sales and use tax certificate of registration  
 1249 for each county in which such machines are located. One sales  
 1250 and use tax certificate of registration is sufficient for all of  
 1251 the operator's machines within a single county.

1252 4. ~~The provisions of~~ This paragraph does ~~de~~ not apply to  
 1253 coin-operated amusement machines owned and operated by churches  
 1254 or synagogues.

1255 5. In addition to ~~any~~ other penalties imposed by this  
 1256 chapter, a person who knowingly and willfully violates a ~~any~~  
 1257 provision of this paragraph commits a misdemeanor of the second  
 1258 degree, punishable as provided in s. 775.082 or s. 775.083.

1259 6. The department may adopt rules necessary to administer  
 1260 ~~the provisions of~~ this paragraph.

1261 (i)1. At the rate of 6 percent on charges for all:

1262 a. Investigative services ~~Detective~~, security guard and  
 1263 patrol services ~~burglar protection~~, armored car services, and  
 1264 security system ~~other protection~~ services, ~~(NAICS National~~  
 1265 ~~Numbers 561611, 561612, 561613, and 561621, respectively)~~. A ~~Any~~  
 1266 law enforcement officer, as defined in s. 943.10, who is  
 1267 performing approved duties as determined by his or her local law  
 1268 enforcement agency in his or her capacity as a law enforcement  
 1269 officer, and who is subject to the direct and immediate command  
 1270 of the ~~his or her~~ law enforcement agency, and wearing a ~~in the~~  
 1271 law enforcement officer's uniform ~~as~~ authorized by the ~~his or~~  
 1272 ~~her~~ law enforcement agency, is performing law enforcement and  
 1273 public safety services and is not performing investigative  
 1274 services ~~detective~~, security guard and patrol services ~~burglar~~  
 1275 ~~protection~~, armored car services, or security system ~~other~~  
 1276 ~~protective~~ services, if the law enforcement officer is

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1277 performing his or her approved duties in a geographical area in  
1278 which the law enforcement officer has arrest jurisdiction. Such  
1279 law enforcement and public safety services are not subject to  
1280 tax irrespective of whether the duty is characterized as "extra  
1281 duty," "off-duty," or "secondary employment," and irrespective  
1282 of whether the officer is paid directly or through the officer's  
1283 agency by an outside source. The term "law enforcement officer"  
1284 includes a full-time or part-time law enforcement officer  
1285 ~~officers~~, and an any auxiliary law enforcement officer if the,  
1286 ~~when such~~ auxiliary law enforcement officer is working under the  
1287 direct supervision of a full-time or part-time law enforcement  
1288 officer.

1289 b. Janitorial services ~~Nonresidential cleaning~~, excluding  
1290 cleaning of the interiors of transportation equipment, and  
1291 nonresidential building exterminating and pest control services,  
1292 ~~(NAICS National Numbers 561710 and 561720, respectively)~~.

1293 2. As used in this paragraph, "NAICS" means those  
1294 classifications contained in the North American Industry  
1295 Classification System, as published in 2012 ~~2007~~ by the Office  
1296 of Management and Budget, Executive Office of the President.

1297 3. Charges for investigative services ~~detective~~, security  
1298 guard and patrol services ~~burglar protection~~, armored car  
1299 services, and security system ~~other protection security~~ services  
1300 performed in this state but used outside this state are exempt  
1301 from taxation. Charges for detective, burglar protection, and  
1302 other protection security services performed outside this state  
1303 and used in this state are subject to tax.

1304 4. If a transaction involves both the sale or use of a  
1305 service taxable under this paragraph and the sale or use of a

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1306 service or ~~any~~ other item not taxable under this chapter, the  
1307 consideration paid must be separately identified and stated with  
1308 respect to the taxable and exempt portions of the transaction or  
1309 the entire transaction is ~~shall be~~ presumed taxable. The burden  
1310 is ~~shall be~~ on the seller of the service or the purchaser of the  
1311 service, as ~~whichever~~ applicable, to overcome this presumption  
1312 by providing documentary evidence as to which portion of the  
1313 transaction is exempt from tax. The department may ~~is authorized~~  
1314 ~~to~~ adjust the amount of consideration identified as the taxable  
1315 and exempt portions of the transaction; however, a determination  
1316 that the taxable and exempt portions are inaccurately stated and  
1317 that the adjustment is applicable must be supported by  
1318 substantial competent evidence.

1319 5. Each seller of services subject to sales tax pursuant to  
1320 this paragraph shall maintain a monthly log showing each  
1321 transaction for which sales tax was not collected because the  
1322 services meet the requirements of subparagraph 3. for out-of-  
1323 state use. The log must identify the purchaser's name, location  
1324 and mailing address, and federal employer identification number,  
1325 if a business, or the social security number, if an individual,  
1326 the service sold, the price of the service, the date of sale,  
1327 the reason for the exemption, and the sales invoice number. The  
1328 monthly log shall be maintained pursuant to the same  
1329 requirements and subject to the same penalties imposed for the  
1330 keeping of similar records pursuant to this chapter.

1331 (j)1. Notwithstanding any other provision of this chapter,  
1332 ~~there is hereby levied~~ a tax on the sale, use, consumption, or  
1333 storage for use in this state of a ~~any~~ coin or currency, whether  
1334 in circulation or not is levied if, ~~when~~ such coin or currency:

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- 1335 a. Is not legal tender;
- 1336 b. If legal tender, is sold, exchanged, or traded at a rate  
1337 in excess of its face value; or
- 1338 c. Is sold, exchanged, or traded at a rate based on its  
1339 precious metal content.
- 1340 2. Such tax shall be at a rate of 6 percent of the price at  
1341 which the coin or currency is sold, exchanged, or traded, except  
1342 that such tax may not be levied on, ~~with respect to~~ a coin or  
1343 currency that ~~which~~ is legal tender of the United States and  
1344 that ~~which~~ is sold, exchanged, or traded, ~~such tax shall not be~~  
1345 ~~levied~~.
- 1346 3. ~~There are exempt from this tax~~ Exchanges of coins or  
1347 currency that ~~which~~ are in general circulation in, and legal  
1348 tender of, one nation for coins or currency that ~~which~~ are in  
1349 general circulation in, and legal tender of, another nation if  
1350 ~~when~~ exchanged solely for use as legal tender and at an exchange  
1351 rate based on the relative value of each as a medium of  
1352 exchange, are exempt from the tax.
- 1353 4. With respect to a ~~any~~ transaction that involves the sale  
1354 of coins or currency taxable under this paragraph in which the  
1355 taxable amount represented by the sale of such coins or currency  
1356 exceeds \$500, the entire amount ~~represented by the sale of such~~  
1357 sale ~~coins or currency~~ is exempt from the tax ~~imposed under this~~  
1358 ~~paragraph~~. The dealer must maintain proper documentation, as  
1359 prescribed by rule of the department, to identify that portion  
1360 of a transaction which involves the sale of coins or currency  
1361 and is exempt under this subparagraph.
- 1362 (k) At the rate of 6 percent of the sales price of each  
1363 gallon of diesel fuel not taxed under chapter 206 purchased for

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1364 use in a vessel, except dyed diesel fuel that is exempt pursuant  
1365 to s. 212.08(4)(a)4.

1366 (1) Florists located in this state are liable for sales tax  
1367 on sales to retail customers regardless of where or by whom the  
1368 items sold are to be delivered. Florists located in this state  
1369 are not liable for sales tax on payments received from other  
1370 florists for items delivered to customers in this state.

1371 (m) Operators of game concessions or other concessionaires  
1372 who customarily award tangible personal property as prizes may,  
1373 in lieu of paying tax on the cost price of such property, pay  
1374 tax on 25 percent of the gross receipts from such concession  
1375 activity.

1376 (2) The tax shall be collected by the dealer, ~~as defined~~  
1377 ~~herein,~~ and remitted by the dealer to the state at the time and  
1378 in the manner as hereinafter provided.

1379 (3) The tax so levied is in addition to all other taxes,  
1380 whether levied in the form of excise, license, or privilege  
1381 taxes, and in addition to all other fees and taxes levied.

1382 ~~(4) The tax imposed pursuant to this chapter shall be due~~  
1383 ~~and payable according to the brackets set forth in s. 212.12.~~

1384 (4) ~~(5)~~ Notwithstanding any other provision of this chapter,  
1385 the maximum amount of tax imposed under this chapter and  
1386 collected on each sale or use of a boat in this state may not  
1387 exceed \$18,000.

1388 Section 6. Subsection (6) of section 212.0506, Florida  
1389 Statutes, is amended to read:

1390 212.0506 Taxation of service warranties.—

1391 ~~(6) This tax shall be due and payable according to the~~  
1392 ~~brackets set forth in s. 212.12.~~



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1393 Section 7. Section 212.054, Florida Statutes, is amended to  
1394 read:

1395 212.054 Discretionary sales surtax; limitations,  
1396 administration, and collection.—

1397 (1) A ~~No~~ general excise tax on sales may not shall be  
1398 levied by the governing body of a any county unless specifically  
1399 authorized under ~~in~~ s. 212.055. Such Any general excise tax ~~on~~  
1400 ~~sales authorized pursuant to said section~~ shall be administered  
1401 and collected exclusively as provided in this section.

1402 (2) (a) The tax imposed by the governing body of a any  
1403 county authorized to so levy pursuant to s. 212.055 is shall be  
1404 a discretionary surtax on all transactions occurring in the  
1405 county which ~~transactions~~ are subject to the state tax imposed  
1406 on sales, use, services, rentals, admissions, and other  
1407 transactions by this chapter and communications services as  
1408 defined for purposes of chapter 202. The surtax, if levied,  
1409 shall be computed as the applicable rate or rates authorized  
1410 pursuant to s. 212.055 times the amount of taxable sales and  
1411 taxable purchases representing such transactions. If the surtax  
1412 is levied on the sale of an item of tangible personal property  
1413 or on the sale of a service, the surtax shall be computed by  
1414 multiplying the rate imposed by the county within which the sale  
1415 occurs by the amount of the taxable sale. The sale of an item of  
1416 tangible personal property or the sale of a service is not  
1417 subject to the surtax if the property, the service, or the  
1418 tangible personal property representing the service is delivered  
1419 within a county that does not impose a discretionary sales  
1420 surtax.

1421 (b) However:

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1422           1. The sales amount above \$5,000 on a motor vehicle,  
1423 aircraft, boat, manufactured home, modular home, or mobile home  
1424 is any item of tangible personal property shall not be subject  
1425 to the surtax. ~~However, charges for prepaid calling~~  
1426 ~~arrangements, as defined in s. 212.05(1)(c)1.a., shall be~~  
1427 ~~subject to the surtax. For purposes of administering the \$5,000~~  
1428 ~~limitation on an item of tangible personal property, if two or~~  
1429 ~~more taxable items of tangible personal property are sold to the~~  
1430 ~~same purchaser at the same time and, under generally accepted~~  
1431 ~~business practice or industry standards or usage, are normally~~  
1432 ~~sold in bulk or are items that, when assembled, comprise a~~  
1433 ~~working unit or part of a working unit, such items must be~~  
1434 ~~considered a single item for purposes of the \$5,000 limitation~~  
1435 ~~when supported by a charge ticket, sales slip, invoice, or other~~  
1436 ~~tangible evidence of a single sale or rental.~~

1437           2. In the case of utility services covering a period  
1438 starting before and ending after the effective date of a surtax  
1439 adoption, termination, or rate increase or decrease, the rate  
1440 adoption, termination, increase, or decrease applies to the  
1441 first billing period starting on or after the effective date of  
1442 change billed on or after the effective date of any such surtax,  
1443 ~~the entire amount of the charge for utility services shall be~~  
1444 ~~subject to the surtax. In the case of utility services billed~~  
1445 ~~after the last day the surtax is in effect, the entire amount of~~  
1446 ~~the charge on said items shall not be subject to the surtax.~~  
1447 "Utility service," as used in this section, does not include any  
1448 communications services as defined in chapter 202.

1449           3. In the case of written contracts which are signed before  
1450 ~~prior to~~ the effective date of ~~any~~ such surtax for the

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1451 construction of improvements to real property or for remodeling  
1452 of existing structures, the surtax shall be paid by the  
1453 contractor responsible for the performance of the contract.  
1454 However, the contractor may apply for one refund of ~~any~~ such  
1455 surtax paid on materials necessary for the completion of the  
1456 contract. An ~~Any~~ application for refund must ~~shall~~ be made  
1457 within ~~no later than~~ 15 months following initial imposition of  
1458 the surtax in that county. The application for refund shall be  
1459 in the manner prescribed by the department by rule. A complete  
1460 application must ~~shall~~ include proof of the written contract and  
1461 of payment of the surtax, and. ~~The application shall contain~~ a  
1462 sworn statement, signed by the applicant or its representative,  
1463 attesting to the validity of the application. The department  
1464 shall, within 30 days after approval of a complete application,  
1465 certify to the county information necessary for issuance of a  
1466 refund to the applicant. Counties may ~~are hereby authorized to~~  
1467 issue refunds for this purpose and shall set aside from the  
1468 proceeds of the surtax a sum sufficient to pay any refund  
1469 lawfully due. A ~~Any~~ person who fraudulently obtains or attempts  
1470 to obtain a refund pursuant to this subparagraph, in addition to  
1471 being liable for repayment of the ~~any~~ refund fraudulently  
1472 obtained plus a mandatory penalty of 100 percent of the refund,  
1473 commits ~~is guilty of~~ a felony of the third degree, punishable as  
1474 provided in s. 775.082, s. 775.083, or s. 775.084.

1475 4. In the case of a ~~any~~ vessel, railroad, or motor vehicle  
1476 common carrier entitled to partial exemption from tax imposed  
1477 under this chapter pursuant to s. 212.08(4), (8), or (9), the  
1478 basis for imposition of surtax is ~~shall be~~ the same as provided  
1479 in s. 212.08 and the ratio shall be applied each month to total

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1480 purchases in this state of property qualified for proration  
1481 which is delivered or sold in the taxing county to establish the  
1482 portion used and consumed in intracounty movement and subject to  
1483 surtax.

1484 (3) Except as otherwise provided in this section, a surtax  
1485 applies to a retail sale, lease, or rental of tangible personal  
1486 property, a digital good, or a service if, under s. 212.06(17),  
1487 the transaction occurs in a county that imposes a surtax under  
1488 s. 212.055.

1489 (4)~~(3)~~ In determining whether a transaction occurs in a  
1490 county imposing a surtax ~~For the purpose of this section, a~~  
1491 ~~transaction shall be deemed to have occurred in a county~~  
1492 ~~imposing the surtax when:~~

1493 (a)~~1.~~ The retail sale of a modular or manufactured home,  
1494 not including a mobile home, occurs in the county to which the  
1495 house is delivered ~~includes an item of tangible personal~~  
1496 ~~property, a service, or tangible personal property representing~~  
1497 ~~a service, and the item of tangible personal property, the~~  
1498 ~~service, or the tangible personal property representing the~~  
1499 ~~service is delivered within the county. If there is no~~  
1500 ~~reasonable evidence of delivery of a service, the sale of a~~  
1501 ~~service is deemed to occur in the county in which the purchaser~~  
1502 ~~accepts the bill of sale.~~

1503 (b)~~2.~~ The retail sale, excluding a lease or rental, of a  
1504 motor vehicle that does not qualify as transportation equipment,  
1505 as defined in s. 212.06(17), or the retail sale of a ~~of any~~  
1506 ~~motor vehicle or mobile home of a class or type that which is~~  
1507 ~~required to be registered in this state or in any other state~~  
1508 occurs ~~shall be deemed to have occurred only~~ in the county

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1509 identified from ~~as~~ the ~~residence~~ address of the purchaser on the  
 1510 registration or title document for the ~~such~~ property.

1511 (c) ~~(b)~~ Admission charged for an event occurs ~~The event for~~  
 1512 ~~which an admission is charged is located~~ in the county in which  
 1513 the event is held.

1514 (d) ~~(e)~~ A lease or rental of real property occurs in the  
 1515 county in which the real property is located ~~The consumer of~~  
 1516 ~~utility services is located in the county.~~

1517 (e) ~~(d)~~ 1. The retail sale, excluding a lease or rental, of  
 1518 an aircraft that does not qualify as transportation equipment,  
 1519 as defined in s. 212.06(17), or of a boat of a class or type  
 1520 that is required to be registered, licensed, titled, or  
 1521 documented in this state or by the Federal Government occurs in  
 1522 the county to which the aircraft or boat is delivered. The user  
 1523 of an ~~any~~ aircraft or boat of a class or type that ~~which~~ is  
 1524 required to be registered, licensed, titled, or documented in  
 1525 this state or by the United States Government imported into the  
 1526 county for use, consumption, distribution, or storage to be used  
 1527 or consumed occurs in the county in which the user is located ~~in~~  
 1528 ~~the county.~~

1529 1.2. ~~However, it shall be~~ presumed that such items used  
 1530 outside the county imposing the surtax for 6 months or longer  
 1531 before being imported into the county were not purchased for use  
 1532 in the county, except as provided in s. 212.06(8) (b).

1533 2.3. This paragraph does not apply to the use or  
 1534 consumption of items on ~~upon~~ which a like tax of equal or  
 1535 greater amount has been lawfully imposed and paid outside the  
 1536 county.

1537 (f) ~~(e)~~ The purchase ~~purchaser~~ of a any motor vehicle or

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1538 mobile home of a class or type that ~~which~~ is required to be  
1539 registered in this state occurs in the county identified from  
1540 the residential address of the purchaser ~~is a resident of the~~  
1541 ~~taxing county as determined by the address appearing on or to be~~  
1542 ~~reflected~~ on the registration document for the ~~such~~ property.

1543 (g) ~~(f)~~ 1. The use, consumption, distribution, or storage of  
1544 a Any motor vehicle or mobile home of a class or type that ~~which~~  
1545 is required to be registered in this state and that is imported  
1546 from another state occurs in the county into which it is  
1547 imported into the taxing county ~~by a user residing therein for~~  
1548 ~~the purpose of use, consumption, distribution, or storage in the~~  
1549 ~~taxing county.~~

1550 2. However, it is ~~shall be~~ presumed that such items used  
1551 outside the taxing county for 6 months or longer before being  
1552 imported into the county were not purchased for use in the  
1553 county.

1554 ~~(g) The real property which is leased or rented is located~~  
1555 ~~in the county.~~

1556 (h) A ~~The~~ transient rental transaction occurs in the county  
1557 in which the rental property is located.

1558 ~~(i) The delivery of any aircraft or boat of a class or type~~  
1559 ~~which is required to be registered, licensed, titled, or~~  
1560 ~~documented in this state or by the United States Government is~~  
1561 ~~to a location in the county. However, this paragraph does not~~  
1562 ~~apply to the use or consumption of items upon which a like tax~~  
1563 ~~of equal or greater amount has been lawfully imposed and paid~~  
1564 ~~outside the county.~~

1565 (i) ~~(j)~~ A transaction occurs in a county imposing a surtax  
1566 if the dealer owing a use tax on purchases or leases is located

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1567 in that ~~the~~ county.

1568 ~~(k) The delivery of tangible personal property other than~~  
1569 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~  
1570 ~~is made to a location outside the county, but the property is~~  
1571 ~~brought into the county within 6 months after delivery, in which~~  
1572 ~~event, the owner must pay the surtax as a use tax.~~

1573 ~~(j)(1)~~ The use of a coin-operated amusement or vending  
1574 machine occurs is located in the county in which the machine is  
1575 located.

1576 ~~(k)(m)~~ An ~~The florist taking the original order to sell~~  
1577 tangible personal property taken by a florist occurs is located  
1578 in the county in which the florist taking the order is located,  
1579 ~~notwithstanding any other provision of this section.~~

1580 ~~(5)(4)(a)~~ The department shall administer, collect, and  
1581 enforce the tax authorized under s. 212.055 pursuant to the same  
1582 procedures used in the administration, collection, and  
1583 enforcement of the general state sales tax imposed under ~~the~~  
1584 ~~provisions of~~ this chapter, except as provided in this section.  
1585 The provisions of this chapter regarding interest and penalties  
1586 on delinquent taxes ~~shall~~ apply to the surtax. Discretionary  
1587 sales surtaxes may ~~shall~~ not be included in the computation of  
1588 estimated taxes pursuant to s. 212.11. Notwithstanding any other  
1589 provision of law, a dealer need not separately state the amount  
1590 of the surtax on the charge ticket, sales slip, invoice, or  
1591 other tangible evidence of sale.

1592 (a) As used in ~~For the purposes of~~ this section and s.  
1593 212.055, the "proceeds" of a ~~any~~ surtax means all funds  
1594 collected and received by the department pursuant to a specific  
1595 authorization and levy under s. 212.055, including ~~any~~ interest

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1596 and penalties on delinquent surtaxes.

1597 (b) The proceeds of a discretionary sales surtax collected  
1598 by the selling dealer located in a county imposing the surtax  
1599 shall be returned, less the cost of administration, to the  
1600 county where the selling dealer is located. The proceeds shall  
1601 be transferred to the Discretionary Sales Surtax Clearing Trust  
1602 Fund. A separate account shall be established in the trust fund  
1603 for each county imposing a discretionary surtax. The amount  
1604 deducted for the costs of administration may not exceed 3  
1605 percent of the total revenue generated for all counties levying  
1606 a surtax authorized under ~~in~~ s. 212.055. The amount deducted for  
1607 the costs of administration may be used only for costs that are  
1608 solely and directly attributable to the surtax. The total cost  
1609 of administration shall be prorated among those counties levying  
1610 the surtax based on ~~the basis of~~ the amount collected for a  
1611 particular county compared to the total amount collected for all  
1612 counties. The department shall distribute the moneys in the  
1613 trust fund to the appropriate counties each month, unless  
1614 otherwise provided in s. 212.055.

1615 (c) ~~A~~ A Any dealer located in a county that does not impose  
1616 a discretionary sales surtax but who collects the surtax due to  
1617 sales of tangible personal property or services delivered  
1618 outside the county shall remit monthly the proceeds of the  
1619 surtax to the department to be deposited into an account in the  
1620 Discretionary Sales Surtax Clearing Trust Fund which is separate  
1621 from the county surtax collection accounts. The department shall  
1622 distribute funds in this account using a distribution factor  
1623 determined for each county that levies a surtax and multiplied  
1624 by the amount of funds in the account and available for



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1625 distribution.

1626 1. The distribution factor for each county equals the  
1627 product of:

1628 a. The county's latest official population determined  
1629 pursuant to s. 186.901;

1630 b. The county's rate of surtax; and

1631 c. The number of months the county has levied a surtax  
1632 during the most recent distribution period, ~~+~~ divided by the sum  
1633 of all such products of the counties levying the surtax during  
1634 the most recent distribution period.

1635 2. The department shall compute distribution factors for  
1636 eligible counties once each quarter and make appropriate  
1637 quarterly distributions.

1638 3. A county that fails to timely provide the information  
1639 required by this section to the department authorizes the  
1640 department, ~~by such action,~~ to use the best information  
1641 available to it in distributing surtax revenues to the county.  
1642 If this information is unavailable to the department, the  
1643 department may partially or entirely disqualify the county from  
1644 receiving surtax revenues under this paragraph. A county that  
1645 fails to provide timely information waives its right to  
1646 challenge the department's determination of the county's share,  
1647 if any, of revenues provided under this paragraph.

1648 ~~(5) No discretionary sales surtax or increase or decrease~~  
1649 ~~in the rate of any discretionary sales surtax shall take effect~~  
1650 ~~on a date other than January 1. No discretionary sales surtax~~  
1651 ~~shall terminate on a day other than December 31.~~

1652 (6) The governing body of a ~~any~~ county levying a  
1653 discretionary sales surtax shall enact an ordinance levying the

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1654 surtax in accordance with the procedures described in s.  
1655 125.66(2).

1656 (7)~~(a)~~ An adoption, repeal, or rate change of a surtax by  
1657 the governing body of a any county levying a discretionary sales  
1658 surtax or the school board of a any county levying the school  
1659 capital outlay surtax authorized by s. 212.055(6) is effective  
1660 on April 1.

1661 (a) A county or school board adopting, repealing, or  
1662 changing the rate of such surtax shall notify the department  
1663 within 10 days after final adoption by ordinance or referendum  
1664 ~~of an imposition, termination, or rate change of the surtax,~~ but  
1665 no later than October 20 immediately before the April 1 ~~November~~  
1666 ~~16~~ prior to the effective date. The notice must specify the time  
1667 period during which the surtax is ~~will be~~ in effect and the rate  
1668 and must include a copy of the ordinance and such other  
1669 information as the department requires by rule. Failure to  
1670 timely provide such notification to the department shall result  
1671 in the delay of the effective date for ~~a period of 1 year.~~

1672 (b) In addition to the notification required by paragraph  
1673 (a), the governing body of a any county proposing to levy a  
1674 discretionary sales surtax or the school board of a any county  
1675 proposing to levy the school capital outlay surtax authorized by  
1676 s. 212.055(6) shall notify the department by October 1 if the  
1677 referendum or consideration of the ordinance that would result  
1678 in imposition, termination, or rate change of the surtax is  
1679 scheduled to occur on or after October 1 of that year. Failure  
1680 to timely provide such notification to the department shall  
1681 result in the delay of the effective date for ~~a period of 1~~  
1682 year.

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1683       (c) The department shall provide notice to affected sellers  
1684 of the adoption, repeal, or rate change of the surtax by  
1685 February 1 immediately before the April 1 effective date.

1686       (d) Notwithstanding the date set in an ordinance for the  
1687 termination of a surtax, a surtax terminates only on March 31. A  
1688 surtax imposed before January 1, 2014, for which an ordinance  
1689 provides a different termination date, also terminates on the  
1690 March 31 after the termination date established in the  
1691 ordinance.

1692       (8) With respect to a ~~any~~ motor vehicle or mobile home of a  
1693 class or type that ~~which~~ is required to be registered in this  
1694 state, the tax due on a transaction occurring in the taxing  
1695 county ~~as herein provided~~ shall be collected from the purchaser  
1696 or user incident to the titling and registration of such  
1697 property, irrespective of whether such titling or registration  
1698 occurs in the taxing county.

1699       (9) The department may certify vendor databases and shall  
1700 purchase or otherwise make available a database or databases,  
1701 singly or in combination, which describe boundary changes for  
1702 all taxing jurisdictions, including a description of the change  
1703 and the effective date of a boundary change; provide all sales  
1704 and use tax rates by jurisdiction; assign to each 5-digit and 9-  
1705 digit zip code the proper rate and jurisdiction, and apply the  
1706 lowest combined rate imposed in the zip code area if the area  
1707 includes more than one tax rate in any level of taxing  
1708 jurisdiction; and use address-based boundary database records  
1709 for assigning taxing jurisdictions and associated tax rates.

1710       (a) A seller or certified service provider that collects  
1711 and remits the state tax and local tax imposed by this chapter

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1712 shall be held harmless from tax, interest, and penalties due  
1713 solely as a result of relying on erroneous data on tax rates,  
1714 boundaries, or taxing jurisdiction assignments provided by the  
1715 state if the seller or certified service provider exercises due  
1716 diligence when employing an electronic database provided by the  
1717 department under this subsection or employing a state-certified  
1718 database to determine the taxing jurisdiction and tax rate for a  
1719 transaction.

1720 (b) If a seller or certified service provider is unable to  
1721 determine the applicable rate and jurisdiction using an address-  
1722 based database record after exercising due diligence, the seller  
1723 or certified service provider may apply the 9-digit zip code  
1724 designation applicable to a purchaser.

1725 (c) If a 9-digit zip code designation is not available for  
1726 a street address or if a seller or certified service provider is  
1727 unable to determine the 9-digit zip code designation applicable  
1728 to a purchase after exercising due diligence, the seller or  
1729 certified service provider may apply the rate for the 5-digit  
1730 zip code area.

1731 (d) There is a rebuttable presumption that a seller or  
1732 certified service provider has exercised due diligence if the  
1733 seller or certified service provider has attempted to determine  
1734 the tax rate and jurisdiction by using state-certified software  
1735 that makes this assignment from the address and zip code  
1736 information applicable to the purchase.

1737 (e) There is a rebuttable presumption that a seller or  
1738 certified service provider has exercised due diligence if the  
1739 seller or certified service provider has attempted to determine  
1740 the 9-digit zip code designation by using state-certified

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1741 software that makes this designation from the street address and  
1742 the 5-digit zip code applicable to a purchase.

1743 (f) If a seller or certified service provider does not use  
1744 one of the methods specified in paragraph (a), the seller or  
1745 certified service provider may be held liable to the department  
1746 for tax, interest, and penalties that are due for charging and  
1747 collecting the incorrect amount of tax.

1748 (10) A purchaser shall be held harmless from tax, interest,  
1749 and penalties for having failed to pay the correct amount of  
1750 sales or use tax due solely because:

1751 (a) The seller or certified service provider relied on  
1752 erroneous data on tax rates, boundaries, or taxing jurisdiction  
1753 assignments provided by the department;

1754 (b) A purchaser holding a direct-pay permit relied on  
1755 erroneous data on tax rates, boundaries, or taxing jurisdiction  
1756 assignments provided by the department; or

1757 (c) A purchaser relied on erroneous data supplied in a  
1758 database described in paragraph (9) (a).

1759 (11) A seller is not liable for failing to collect tax at  
1760 the new tax rate if:

1761 (a) The new rate takes effect within 30 days after the new  
1762 rate is enacted;

1763 (b) The seller collected the tax at the preceding rate;

1764 (c) The seller's failure to collect the tax at the new rate  
1765 does not extend beyond 30 days after the enactment of the new  
1766 rate; and

1767 (d) The seller did not fraudulently fail to collect at the  
1768 new rate or solicit purchasers based on the preceding rate.

1769 Section 8. Paragraph (c) of subsection (2) and subsections

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1770 (3) and (5) of section 212.06, Florida Statutes, are amended,  
1771 and subsection (17) is added to that section, to read:

1772 212.06 Sales, storage, use tax; collectible from dealers;  
1773 "dealer" defined; dealers to collect from purchasers;  
1774 legislative intent as to scope of tax.-

1775 (2)

1776 (c) The term "dealer" is further defined to mean a every  
1777 person, as used in this chapter, who sells at retail or who  
1778 offers for sale at retail, or who has in his or her possession  
1779 for sale at retail; or for use, consumption, or distribution; or  
1780 for storage to be used or consumed in this state, tangible  
1781 personal property ~~as defined herein, including a retailer who~~  
1782 ~~transacts a mail order sale.~~

1783 (3) (a) Except as provided in paragraph (b), every dealer  
1784 making sales, whether within or outside the state, of tangible  
1785 personal property for distribution, storage, or use or other  
1786 consumption, in this state, shall, at the time of making sales,  
1787 collect the tax imposed by this chapter from the purchaser.

1788 (b) Notwithstanding subsection (17), a purchaser of direct  
1789 mail who is not a holder of a direct-pay permit shall, in  
1790 conjunction with the purchase, provide a direct-mail form or  
1791 information to the seller to show the jurisdictions to which the  
1792 direct mail is delivered to recipients.

1793 1. Upon receipt of such information from the purchaser, the  
1794 seller shall collect the tax according to the delivery  
1795 information provided by the purchaser. In the absence of bad  
1796 faith, the seller is relieved of further obligation to collect  
1797 tax on a transaction for which the seller has collected tax  
1798 pursuant to the delivery information provided by the purchaser.

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1799       2. If the purchaser of direct mail does not have a direct-  
1800 pay permit and does not provide the seller with a direct-mail  
1801 form or delivery information, the seller shall collect the tax  
1802 according to subparagraph (17)(c)5. This paragraph does not  
1803 limit a purchaser's obligation to remit sales or use tax to a  
1804 state to which the direct mail is delivered.

1805       3. If a purchaser of direct mail provides the seller with  
1806 documentation of direct-pay authority, the purchaser is not  
1807 required to provide a direct-mail form or delivery information  
1808 to the seller. A purchaser of printed materials shall have sole  
1809 responsibility for the taxes imposed by this chapter on those  
1810 materials when the printer of the materials delivers them to the  
1811 United States Postal Service for mailing to persons other than  
1812 the purchaser located within and outside this state. Printers of  
1813 materials delivered by mail to persons other than the purchaser  
1814 located within and outside this state shall have no obligation  
1815 or responsibility for the payment or collection of any taxes  
1816 imposed under this chapter on those materials. However, printers  
1817 are obligated to collect the taxes imposed by this chapter on  
1818 printed materials when all, or substantially all, of the  
1819 materials will be mailed to persons located within this state.  
1820 For purposes of the printer's tax collection obligation, there  
1821 is a rebuttable presumption that all materials printed at a  
1822 facility are mailed to persons located within the same state as  
1823 that in which the facility is located. A certificate provided by  
1824 the purchaser to the printer concerning the delivery of the  
1825 printed materials for that purchase or all purchases shall be  
1826 sufficient for purposes of rebutting the presumption created  
1827 herein.

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1828 ~~4.2.~~ The department may ~~of Revenue is authorized to~~ adopt  
1829 rules and forms to administer ~~implement the provisions of this~~  
1830 paragraph.

1831 (5) (a) ~~1. Except as provided in subparagraph 2., It is not~~  
1832 ~~the intention of~~ This chapter does not ~~to~~ levy a tax upon  
1833 tangible personal property imported, produced, or manufactured  
1834 in this state for export if: ~~provided that tangible personal~~  
1835 ~~property may not be considered as being imported, produced, or~~  
1836 ~~manufactured for export unless~~

1837 1. The importer, producer, or manufacturer:

1838 a. Delivers the tangible personal property ~~same~~ to a  
1839 licensed exporter for exporting or to a common carrier for  
1840 shipment outside the state or mails the same by United States  
1841 mail to a destination outside the state; ~~or, in the case of~~  
1842 ~~aircraft being exported under their own power to a destination~~  
1843 ~~outside the continental limits of the United States, by~~  
1844 submission

1845 b. Submits to the department ~~of~~ a duly signed and validated  
1846 United States customs declaration for an aircraft that is  
1847 exported under its own power to a destination outside of the  
1848 continental United States, showing the departure of the aircraft  
1849 from the continental United States and; ~~and further with respect~~  
1850 ~~to aircraft,~~ the canceled United States registry of the said  
1851 aircraft; ~~or in the case of~~

1852 c. Submits documentation, as specified by rule, to the  
1853 department showing the departure of an aircraft of foreign  
1854 registry from the continental United States on which parts and  
1855 equipment have been installed ~~on aircraft of foreign registry,~~  
1856 ~~by submission to the department of documentation, the extent of~~



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1857 ~~which shall be provided by rule, showing the departure of the~~  
1858 ~~aircraft from the continental United States; or nor is it the~~  
1859 ~~intention of this chapter to levy a tax on any sale which~~

1860 2. The state is prohibited from taxing the sale under the  
1861 Constitution or laws of the United States.

1862  
1863 Every retail sale made to a person physically present at the  
1864 time of sale shall be presumed to have been delivered in this  
1865 state.

1866 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~  
1867 ~~each sale of tangible personal property to be transported to a~~  
1868 ~~cooperating state as defined in sub-subparagraph e., at the rate~~  
1869 ~~specified in sub-subparagraph d. However, a Florida dealer will~~  
1870 ~~be relieved from the requirements of collecting taxes pursuant~~  
1871 ~~to this subparagraph if the Florida dealer obtains from the~~  
1872 ~~purchaser an affidavit setting forth the purchaser's name,~~  
1873 ~~address, state taxpayer identification number, and a statement~~  
1874 ~~that the purchaser is aware of his or her state's use tax laws,~~  
1875 ~~is a registered dealer in Florida or another state, or is~~  
1876 ~~purchasing the tangible personal property for resale or is~~  
1877 ~~otherwise not required to pay the tax on the transaction. The~~  
1878 ~~department may, by rule, provide a form to be used for the~~  
1879 ~~purposes set forth herein.~~

1880 ~~b. For purposes of this subparagraph, "a cooperating state"~~  
1881 ~~is one determined by the executive director of the department to~~  
1882 ~~cooperate satisfactorily with this state in collecting taxes on~~  
1883 ~~mail order sales. No state shall be so determined unless it~~  
1884 ~~meets all the following minimum requirements:~~

1885 ~~(I) It levies and collects taxes on mail order sales of~~

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1886 ~~property transported from that state to persons in this state,~~  
1887 ~~as described in s. 212.0596, upon request of the department.~~

1888 ~~(II) The tax so collected shall be at the rate specified in~~  
1889 ~~s. 212.05, not including any local option or tourist or~~  
1890 ~~convention development taxes collected pursuant to s. 125.0104~~  
1891 ~~or this chapter.~~

1892 ~~(III) Such state agrees to remit to the department all~~  
1893 ~~taxes so collected no later than 30 days from the last day of~~  
1894 ~~the calendar quarter following their collection.~~

1895 ~~(IV) Such state authorizes the department to audit dealers~~  
1896 ~~within its jurisdiction who make mail order sales that are the~~  
1897 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~  
1898 ~~the department for auditing them with its own personnel.~~

1899 ~~(V) Such state agrees to provide to the department records~~  
1900 ~~obtained by it from retailers or dealers in such state showing~~  
1901 ~~delivery of tangible personal property into this state upon~~  
1902 ~~which no sales or use tax has been paid in a manner similar to~~  
1903 ~~that provided in sub-subparagraph g.~~

1904 ~~e. For purposes of this subparagraph, "sales of tangible~~  
1905 ~~personal property to be transported to a cooperating state"~~  
1906 ~~means mail order sales to a person who is in the cooperating~~  
1907 ~~state at the time the order is executed, from a dealer who~~  
1908 ~~receives that order in this state.~~

1909 ~~d. The tax levied by sub-subparagraph a. shall be at the~~  
1910 ~~rate at which such a sale would have been taxed pursuant to the~~  
1911 ~~cooperating state's tax laws if consummated in the cooperating~~  
1912 ~~state by a dealer and a purchaser, both of whom were physically~~  
1913 ~~present in that state at the time of the sale.~~

1914 ~~e. The tax levied by sub-subparagraph a., when collected,~~

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1915 shall be held in the State Treasury in trust for the benefit of  
1916 the cooperating state and shall be paid to it at a time agreed  
1917 upon between the department, acting for this state, and the  
1918 cooperating state or the department or agency designated by it  
1919 to act for it; however, such payment shall in no event be made  
1920 later than 30 days from the last day of the calendar quarter  
1921 after the tax was collected. Funds held in trust for the benefit  
1922 of a cooperating state shall not be subject to the service  
1923 charges imposed by s. 215.20.

1924 f. The department is authorized to perform such acts and to  
1925 provide such cooperation to a cooperating state with reference  
1926 to the tax levied by sub-subparagraph a. as is required of the  
1927 cooperating state by sub-subparagraph b.

1928 g. In furtherance of this act, dealers selling tangible  
1929 personal property for delivery in another state shall make  
1930 available to the department, upon request of the department,  
1931 records of all tangible personal property so sold. Such records  
1932 shall include a description of the property, the name and  
1933 address of the purchaser, the name and address of the person to  
1934 whom the property was sent, the purchase price of the property,  
1935 information regarding whether sales tax was paid in this state  
1936 on the purchase price, and such other information as the  
1937 department may by rule prescribe.

1938 (b)1. Notwithstanding the provisions of paragraph (a), it  
1939 is not the intention of this chapter does not to levy a tax on  
1940 the sale of tangible personal property to a nonresident dealer  
1941 who does not hold a Florida sales tax registration if, provided  
1942 such ~~nonresident~~ dealer furnishes the seller a statement  
1943 declaring that the tangible personal property will be

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1944 transported outside this state by the nonresident dealer for  
1945 resale and for no other purpose.

1946 1. The statement must ~~shall~~ include, ~~but not be limited to,~~  
1947 the nonresident dealer's name, address, applicable passport or  
1948 visa number, arrival-departure card number, and evidence of  
1949 authority to do business in the nonresident dealer's home state  
1950 or country, such as his or her business name and address,  
1951 occupational license number, if applicable, or ~~any~~ other  
1952 suitable requirement. The statement shall be signed by the  
1953 nonresident dealer and ~~shall~~ include the following sentence:  
1954 "Under penalties of perjury, I declare that I have read the  
1955 foregoing, and the facts alleged are true to the best of my  
1956 knowledge and belief."

1957 2. The burden of proof ~~of subparagraph 1.~~ rests with the  
1958 seller, who must retain the proper documentation to support the  
1959 exempt sale. The exempt transaction is subject to verification  
1960 by the department.

1961 (c) Notwithstanding ~~the provisions of~~ paragraph (a), ~~it is~~  
1962 ~~not the intention of~~ this chapter does not ~~to~~ levy a tax on the  
1963 sale by a printer to a nonresident print purchaser of material  
1964 printed by that printer for that ~~nonresident~~ print purchaser if  
1965 ~~when~~ the print purchaser does not furnish the printer a resale  
1966 certificate containing a sales tax registration number but does  
1967 furnish ~~to the printer~~ a statement declaring that such material  
1968 will be resold by the nonresident print purchaser.

1969 (17) This subsection shall be used to determine the  
1970 location where a transaction occurs for purposes of applying the  
1971 tax imposed by this chapter.

1972 (a) As used in this subsection, the term:

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- 1973           1. "Product" means tangible personal property, a digital  
1974 good, or a service.
- 1975           2. "Receive" and "receipt" mean taking possession of  
1976 tangible personal property, making first use of services, or  
1977 taking possession or making first use of digital goods,  
1978 whichever occurs first. The terms do not include possession by a  
1979 shipping company on behalf of the purchaser.
- 1980           3. "Transportation equipment" means:
- 1981           a. Locomotives and rail cars that are used for the carriage  
1982 of persons or property in interstate commerce;
- 1983           b. Trucks and truck tractors that have a gross vehicle  
1984 weight rating (GVWR) of 10,001 pounds or greater, trailers,  
1985 semitrailers, or passenger buses that are registered through the  
1986 International Registration Plan and operated under authority of  
1987 a carrier authorized and certificated by the United States  
1988 Department of Transportation or another federal authority to  
1989 engage in the carriage of persons or property in interstate  
1990 commerce;
- 1991           c. Aircraft that are operated by air carriers authorized  
1992 and certificated by the United States Department of  
1993 Transportation or another federal or a foreign authority to  
1994 engage in the carriage of persons or property in interstate or  
1995 foreign commerce; or
- 1996           d. Containers designed for use on and component parts  
1997 attached or secured on the items set forth in sub-subparagraphs  
1998 a.-c.
- 1999           (b) This section does not apply to sales or use taxes  
2000 levied on:
- 2001           1. The retail sale or transfer of a boat, modular home,

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2002 manufactured home, or mobile home.

2003 2. The retail sale, excluding a lease or rental, of a motor  
2004 vehicle or aircraft that does not qualify as transportation  
2005 equipment. The lease or rental of these items are deemed to have  
2006 occurred in accordance with paragraph (e).

2007 3. The retail sale of tangible personal property by a  
2008 florist.

2009  
2010 Such retail sales occur at the location determined under s.  
2011 212.054(4).

2012 (c) The retail sale of a product, excluding a lease or  
2013 rental, occurs:

2014 1. When the product is received by the purchaser at a  
2015 business location of the seller, at that business location;

2016 2. When the product is not received by the purchaser at a  
2017 business location of the seller, at the location of receipt by  
2018 the purchaser, or the purchaser's donee, designated as such by  
2019 the purchaser, including the location indicated by instructions  
2020 for delivery to the purchaser or donee, known to the seller;

2021 3. If subparagraphs 1. and 2. do not apply, at the location  
2022 indicated by an address for the purchaser which is available  
2023 from the business records of the seller which are maintained in  
2024 the ordinary course of the seller's business, if use of this  
2025 address does not constitute bad faith;

2026 4. If subparagraphs 1., 2., and 3. do not apply, at the  
2027 location indicated by an address for the purchaser obtained  
2028 during the consummation of the sale, including the address of a  
2029 purchaser's payment instrument, if no other address is available  
2030 and use of this address does not constitute bad faith; or

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2031 5. If subparagraphs 1., 2., 3., and 4. do not apply,  
2032 including when the seller is without sufficient information to  
2033 apply the previous subparagraphs, at the address from which  
2034 tangible personal property was shipped, from which the digital  
2035 good or the computer software delivered electronically was first  
2036 available for transmission by the seller, or from which the  
2037 service was provided, disregarding a location that merely  
2038 provided the digital transfer of the product sold.

2039 (d) The lease or rental of tangible personal property,  
2040 other than property identified in paragraphs (e) and (f),  
2041 occurs:

2042 1. For a lease or rental that requires recurring periodic  
2043 payments, when the first periodic payment occurs in accordance  
2044 with paragraph (c), notwithstanding the exclusion of lease or  
2045 rental in paragraph (c). Subsequent periodic payments are deemed  
2046 to have occurred at the primary property location for each  
2047 period covered by the payment. The primary property location is  
2048 determined by the address for the property provided by the  
2049 lessee which is available to the lessor from its records  
2050 maintained in the ordinary course of business, if use of this  
2051 address does not constitute bad faith. The property location is  
2052 not altered by intermittent use of the property at different  
2053 locations, such as use of business property that accompanies  
2054 employees on business trips and service calls.

2055 2. For a lease or rental that does not require recurring  
2056 periodic payments, when the payment occurs in accordance with  
2057 paragraph (c), notwithstanding the exclusion of a lease or  
2058 rental in paragraph (c).

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2060 This paragraph does not affect the imposition or computation of  
2061 sales or use tax on leases or rentals based on a lump sum or  
2062 accelerated basis or on the acquisition of property for lease.

2063 (e) The lease or rental of a motor vehicle or aircraft that  
2064 does not qualify as transportation equipment shall be sourced as  
2065 follows:

2066 1. For a lease or rental that requires recurring periodic  
2067 payments, each periodic payment is deemed to take place at the  
2068 primary property location. The primary property location is  
2069 determined by the address for the property provided by the  
2070 lessee which is available to the lessor from its records  
2071 maintained in the ordinary course of business, if use of this  
2072 address does not constitute bad faith. This location may not be  
2073 altered by intermittent use at different locations.

2074 2. For a lease or rental that does not require recurring  
2075 periodic payments, the payment is deemed to take place in  
2076 accordance with paragraph (d), notwithstanding the exclusion of  
2077 a lease or rental in paragraph (d).

2078  
2079 This paragraph does not affect the imposition or computation of  
2080 sales or use tax on leases or rentals based on a lump sum or  
2081 accelerated basis or on the acquisition of property for lease.

2082 (f) The retail sale, including a lease or rental, of  
2083 transportation equipment shall be deemed to take place in  
2084 accordance with paragraph (c), notwithstanding the exclusion of  
2085 a lease or rental in paragraph (c).

2086 Section 9. Paragraph (c) of subsection (1) of section  
2087 212.07, Florida Statutes, is amended, and subsection (10) is  
2088 added that section, to read:



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2089           212.07 Sales, storage, use tax; tax added to purchase  
2090 price; dealer not to absorb; liability of purchasers who cannot  
2091 prove payment of the tax; penalties; general exemptions.—

2092           (1)

2093           (c) Unless the purchaser of tangible personal property that  
2094 is incorporated into tangible personal property manufactured,  
2095 produced, compounded, processed, or fabricated for one's own use  
2096 and subject to the tax imposed under s. 212.06(1)(b) or is  
2097 purchased for export under s. 212.06(5)(a)~~1~~, extends a  
2098 certificate in compliance with the rules of the department, the  
2099 dealer is ~~shall himself or herself be~~ liable for and shall pay  
2100 the tax.

2101           (10) The executive director may maintain and publish a  
2102 taxability matrix in a downloadable format that has been  
2103 approved by the governing board of the Streamlined Sales and Use  
2104 Tax Agreement.

2105           (a) The state shall provide notice of changes to the  
2106 taxability of the products or services listed in the taxability  
2107 matrix.

2108           (b) A seller or certified service provider who collects and  
2109 remits the state and local tax imposed by this chapter shall be  
2110 held harmless from tax, interest, and penalties for having  
2111 charged and collected the incorrect amount of sales or use tax  
2112 due solely because of relying on erroneous data provided by the  
2113 state in the taxability matrix.

2114           (c) A purchaser shall be held harmless from penalties for  
2115 having failed to pay the correct amount of sales or use tax due  
2116 solely because:

2117           1. The seller or certified service provider relied on

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2118 erroneous data provided by the state in the taxability matrix  
2119 completed by the state;

2120 2. A purchaser relied on erroneous data provided by the  
2121 state in the taxability matrix completed by the state; or

2122 3. A purchaser holding a direct-pay permit relied on  
2123 erroneous data provided by the state in the taxability matrix  
2124 completed by the state.

2125 (d) A purchaser shall be held harmless from tax and  
2126 interest for having failed to pay the correct amount of sales or  
2127 use tax due solely because of the state's erroneous  
2128 classification of the transaction as "taxable" or "exempt,"  
2129 "included in sales price" or "excluded from sales price," or  
2130 "included in the definition" or "excluded from the definition."

2131 Section 10. Subsections (1) and (2) and paragraphs (b) and  
2132 (c) of subsection (17) of section 212.08, Florida Statutes, are  
2133 amended to read:

2134 212.08 Sales, rental, use, consumption, distribution, and  
2135 storage tax; specified exemptions.—The sale at retail, the  
2136 rental, the use, the consumption, the distribution, and the  
2137 storage to be used or consumed in this state of the following  
2138 are hereby specifically exempt from the tax imposed by this  
2139 chapter.

2140 (1) EXEMPTIONS; GENERAL GROCERIES.—

2141 (a) Food and food ingredients ~~products~~ for human  
2142 consumption are exempt from the tax imposed by this chapter.

2143 (b) ~~For the purpose of this chapter,~~ As used in this  
2144 subsection, the term "food and food ingredients ~~products~~" means  
2145 substances, whether in liquid, concentrated, solid, frozen,  
2146 dried, or dehydrated form, which are sold for ingestion or

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2147 chewing by humans and are consumed for their taste or  
2148 nutritional value ~~edible commodities, whether processed, cooked,~~  
2149 ~~raw, canned, or in any other form, which are generally regarded~~  
2150 ~~as food.~~ This includes, but is not limited to, all of the  
2151 following:

2152 ~~1. Cereals and cereal products, baked goods, oleomargarine,~~  
2153 ~~meat and meat products, fish and seafood products, frozen foods~~  
2154 ~~and dinners, poultry, eggs and egg products, vegetables and~~  
2155 ~~vegetable products, fruit and fruit products, spices, salt,~~  
2156 ~~sugar and sugar products, milk and dairy products, and products~~  
2157 ~~intended to be mixed with milk.~~

2158 ~~2. Natural fruit or vegetable juices or their concentrates~~  
2159 ~~or reconstituted natural concentrated fruit or vegetable juices,~~  
2160 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~  
2161 ~~sweetened or unsweetened, seasoned with salt or spice, or~~  
2162 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~  
2163 ~~unless it is sold in a liquid form.~~

2164 1.3. Bakery products sold by bakeries, pastry shops, or  
2165 like establishments, if sold without eating utensils. For  
2166 purposes of this subparagraph, bakery products include bread,  
2167 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,  
2168 Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and  
2169 tortillas that do not have eating facilities.

2170 2. Dietary supplements, other than tobacco, are a product  
2171 intended to supplement the diet which contains one or more of  
2172 the following dietary ingredients: a vitamin; a mineral; an herb  
2173 or other botanical; an amino acid; a dietary substance for use  
2174 by humans to supplement the diet by increasing the total dietary  
2175 intake; or a concentrate, metabolite, constituent, extract, or

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2176 combination of an ingredient described in this subparagraph  
2177 which is intended for ingestion in tablet, capsule, powder,  
2178 softgel, gelcap, or liquid form or, if not intended for  
2179 ingestion in such a form, is not represented as conventional  
2180 food and is not represented for use as a sole item of a meal or  
2181 of the diet, and which is required to be labeled as a dietary  
2182 supplement, identifiable by the supplemental facts panel found  
2183 on the label and as required pursuant to 21 C.F.R. s. 101.36.

2184 (c) The exemption provided by this subsection does not  
2185 apply to:

2186 ~~1. Food products sold as meals for consumption on or off~~  
2187 ~~the premises of the dealer.~~

2188 ~~2. Food products furnished, prepared, or served for~~  
2189 ~~consumption at tables, chairs, or counters or from trays,~~  
2190 ~~glasses, dishes, or other tableware, whether provided by the~~  
2191 ~~dealer or by a person with whom the dealer contracts to furnish,~~  
2192 ~~prepare, or serve food products to others.~~

2193 ~~3. Food products ordinarily sold for immediate consumption~~  
2194 ~~on the seller's premises or near a location at which parking~~  
2195 ~~facilities are provided primarily for the use of patrons in~~  
2196 ~~consuming the products purchased at the location, even though~~  
2197 ~~such products are sold on a "take out" or "to go" order and are~~  
2198 ~~actually packaged or wrapped and taken from the premises of the~~  
2199 ~~dealer.~~

2200 ~~4. Sandwiches sold ready for immediate consumption on or~~  
2201 ~~off the seller's premises.~~

2202 ~~5. Food products sold ready for immediate consumption~~  
2203 ~~within a place, the entrance to which is subject to an admission~~  
2204 ~~charge.~~

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2205 1.6. Food and food ingredients sold as prepared food.  
2206 a. The term "prepared food" means:  
2207 (I) Food sold in a heated state or heated by the seller;  
2208 (II) Two or more food ingredients mixed or combined by the  
2209 seller for sale as a single item; or  
2210 (III) Food sold with eating utensils provided by the  
2211 seller, including plates, knives, forks, spoons, glasses, cups,  
2212 napkins, or straws. A plate does not include a container or  
2213 packaging used to transport food.  
2214 b. Prepared food does not include food that is only cut,  
2215 repackaged, or pasteurized by the seller, and eggs, fish, meat,  
2216 poultry and foods containing these raw animal foods requiring  
2217 cooking by the consumer as recommended by the Food and Drug  
2218 Administration in chapter 3, subpart 401.11 of its food code in  
2219 order to prevent food-borne illness. Food products sold as hot  
2220 prepared food products.  
2221 2.7. Soft drinks, including, but not limited to, any  
2222 nonalcoholic beverage, any preparation or beverage commonly  
2223 referred to as a "soft drink," or any noncarbonated drink made  
2224 from milk derivatives or tea, if sold in cans or similar  
2225 containers. The term "soft drinks" means nonalcoholic beverages  
2226 that contain natural or artificial sweeteners. Soft drinks do  
2227 not include beverages that contain milk or milk products; soy,  
2228 rice, or similar milk substitutes; or greater than 50 percent of  
2229 vegetable or fruit juice by volume.  
2230 8. Ice cream, frozen yogurt, and similar frozen dairy or  
2231 nondairy products in cones, small cups, or pints, popsicles,  
2232 frozen fruit bars, or other novelty items, whether or not sold  
2233 separately.

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2234 ~~9. Food that is prepared, whether on or off the premises,~~  
2235 ~~and sold for immediate consumption. This does not apply to food~~  
2236 ~~prepared off the premises and sold in the original sealed~~  
2237 ~~container, or the slicing of products into smaller portions.~~

2238 3.10. Food and food ingredients ~~products~~ sold through a  
2239 vending machine, ~~pusheart, motor vehicle, or any other form of~~  
2240 ~~vehicle.~~

2241 ~~4.11.~~ Candy and any similar products ~~product~~ regarded as  
2242 candy or confection, ~~based on its normal use, as indicated on~~  
2243 ~~the label or advertising thereof. The term "candy" means a~~  
2244 preparation of sugar, honey, or other natural or artificial  
2245 sweeteners in combination with chocolate, fruits, nuts, or other  
2246 ingredients or flavorings in the form of bars, drops, or pieces.  
2247 Candy does not include a preparation that contains flour and  
2248 does not require refrigeration.

2249 5. Tobacco.

2250 ~~12. Bakery products sold by bakeries, pastry shops, or like~~  
2251 ~~establishments having eating facilities, except when sold for~~  
2252 ~~consumption off the seller's premises.~~

2253 ~~13. Food products served, prepared, or sold in or by~~  
2254 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~  
2255 ~~other like places of business.~~

2256 ~~(d) As used in this subsection, the term:~~

2257 ~~1. "For consumption off the seller's premises" means that~~  
2258 ~~the food or drink is intended by the customer to be consumed at~~  
2259 ~~a place away from the dealer's premises.~~

2260 ~~2. "For consumption on the seller's premises" means that~~  
2261 ~~the food or drink sold may be immediately consumed on the~~  
2262 ~~premises where the dealer conducts his or her business. In~~

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2263 ~~determining whether an item of food is sold for immediate~~  
2264 ~~consumption, the customary consumption practices prevailing at~~  
2265 ~~the selling facility shall be considered.~~

2266 ~~3. "Premises" shall be construed broadly, and means, but is~~  
2267 ~~not limited to, the lobby, aisle, or auditorium of a theater;~~  
2268 ~~the seating, aisle, or parking area of an arena, rink, or~~  
2269 ~~stadium; or the parking area of a drive-in or outdoor theater.~~  
2270 ~~The premises of a caterer with respect to catered meals or~~  
2271 ~~beverages shall be the place where such meals or beverages are~~  
2272 ~~served.~~

2273 ~~4. "Hot prepared food products" means those products,~~  
2274 ~~items, or components which have been prepared for sale in a~~  
2275 ~~heated condition and which are sold at any temperature that is~~  
2276 ~~higher than the air temperature of the room or place where they~~  
2277 ~~are sold. "Hot prepared food products," for the purposes of this~~  
2278 ~~subsection, includes a combination of hot and cold food items or~~  
2279 ~~components where a single price has been established for the~~  
2280 ~~combination and the food products are sold in such combination,~~  
2281 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~  
2282 ~~sandwich or hot pizza, including cold components or side items.~~

2283 ~~(d)(e)1.~~ Food or drinks not exempt under paragraphs (a),  
2284 (b), and (c), ~~and (d)~~ are exempt if, notwithstanding those  
2285 ~~paragraphs~~, when purchased with food coupons or Special  
2286 Supplemental Food Program for Women, Infants, and Children  
2287 vouchers issued under authority of federal law.

2288 ~~1.2.~~ This paragraph is effective only while federal law  
2289 prohibits a state's participation in the federal food coupon  
2290 program or Special Supplemental Food Program for Women, Infants,  
2291 and Children if there is an official determination that state or

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2292 local sales taxes are collected within that state on purchases  
2293 of food or drinks with such coupons.

2294 ~~2.3.~~ This paragraph does ~~shall~~ not apply to any food or  
2295 drinks on which federal law allows ~~shall permit~~ sales taxes  
2296 without penalty, such as termination of the state's  
2297 participation.

2298 (e) Dietary supplements that are sold as prepared food are  
2299 not exempt.

2300 (2) EXEMPTIONS; MEDICAL.—

2301 (a) The following are ~~There shall be~~ exempt from the tax  
2302 imposed by this chapter:

2303 1. Drugs.

2304 2. Durable medical equipment, mobility-enhancing equipment,  
2305 or prosthetic devices ~~any medical products and supplies or~~  
2306 ~~medicine~~ dispensed according to an individual prescription. ~~or~~  
2307 ~~prescriptions written by a prescriber authorized by law to~~  
2308 ~~prescribe medicinal drugs;~~

2309 3. Hypodermic needles. ~~hypodermic syringes;~~

2310 4. Chemical compounds and test kits used for the diagnosis  
2311 or treatment of human disease, illness, or injury and intended  
2312 for one-time use. ~~;~~

2313 5. Over-the-counter drugs ~~and common household remedies~~  
2314 ~~recommended and generally sold for internal or external use in~~  
2315 ~~the cure, mitigation, treatment, or prevention of illness or~~  
2316 ~~disease in human beings, but not including~~ grooming and hygiene  
2317 products.

2318 6. Band-aids, gauze, bandages, and adhesive tape.

2319 7. Funerals. However, tangible personal property used by  
2320 funeral directors in their business is taxable. ~~cosmetics or~~



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2321 ~~toilet articles, notwithstanding the presence of medicinal~~  
2322 ~~ingredients therein, according to a list prescribed and approved~~  
2323 ~~by the Department of Business and Professional Regulation, which~~  
2324 ~~list shall be certified to the Department of Revenue from time~~  
2325 ~~to time and included in the rules promulgated by the Department~~  
2326 ~~of Revenue. There shall also be exempt from the tax imposed by~~  
2327 ~~this chapter artificial eyes and limbs; orthopedic shoes;~~  
2328 ~~prescription eyeglasses and items incidental thereto or which~~  
2329 ~~become a part thereof; dentures; hearing aids; crutches;~~  
2330 ~~prosthetic and orthopedic appliances; and funerals. In addition,~~  
2331 ~~any~~

2332 8. Items intended for one-time use which transfer essential  
2333 optical characteristics to contact lenses. ~~shall be exempt from~~  
2334 ~~the tax imposed by this chapter;~~ However, this exemption applies  
2335 ~~shall apply only~~ after \$100,000 of the tax imposed by this  
2336 chapter on such items has been paid in a any calendar year by a  
2337 taxpayer who claims the exemption in such year. ~~Funeral~~  
2338 ~~directors shall pay tax on all tangible personal property used~~  
2339 ~~by them in their business.~~

2340 (b) As used in ~~For the purposes of~~ this subsection, the  
2341 term:

2342 1. "Drug" means a compound, substance, or preparation, and  
2343 a component of a compound, substance, or preparation, other than  
2344 food and food ingredients, dietary supplements, and alcoholic  
2345 beverages, which is:

2346 a. Recognized in the official United States Pharmacopeia,  
2347 the Homeopathic Pharmacopoeia of the United States, or the  
2348 National Formulary, or the supplement to any of them;

2349 b. Intended for use in the diagnosis, cure, mitigation,

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2350 treatment, or prevention of disease; or

2351 c. Intended to affect the structure or a function of the  
2352 body.

2353 2. "Durable medical equipment" means equipment, including  
2354 repair and replacement parts to such equipment, but excluding  
2355 mobility-enhancing equipment, which can withstand repeated use,  
2356 is primarily and customarily used to serve a medical purpose,  
2357 generally is not useful to a person in the absence of illness or  
2358 injury, and is not worn on or in the body.

2359 3. "Mobility-enhancing equipment" means equipment,  
2360 including repair and replacement parts to such equipment, but  
2361 excluding durable medical equipment, which:

2362 a. Is primarily and customarily used to provide or increase  
2363 the ability to move from one place to another and which is  
2364 appropriate for use in a home or motor vehicle.

2365 b. Is not generally used by persons with normal mobility.

2366 c. Does not include a motor vehicle or equipment on a motor  
2367 vehicle normally provided by a motor vehicle manufacturer.

2368 4. "Prosthetic device" means a replacement, corrective, or  
2369 supportive device, including repair or replacement parts to such  
2370 equipment, which is worn on or in the body to:

2371 a. Artificially replace a missing portion of the body;

2372 b. Prevent or correct physical deformity or malfunction; or

2373 c. Support a weak or deformed portion of the body.

2374 5. "Grooming and hygiene products" mean soaps and cleaning  
2375 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and  
2376 suntan lotions and screens, regardless of whether the items meet  
2377 the definition of an over-the-counter drug.

2378 6. "Over-the-counter drug" means a drug whose packaging

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2379 contains a label that identifies the product as a drug as  
2380 required by 21 C.F.R. s. 201.66. The over-the-counter drug label  
2381 includes a drug-facts panel or a statement of the active  
2382 ingredients, with a list of those ingredients contained in the  
2383 compound, substance, or preparation. "Prosthetic and orthopedic  
2384 appliances" means any apparatus, instrument, device, or  
2385 equipment used to replace or substitute for any missing part of  
2386 the body, to alleviate the malfunction of any part of the body,  
2387 or to assist any disabled person in leading a normal life by  
2388 facilitating such person's mobility. Such apparatus, instrument,  
2389 device, or equipment shall be exempted according to an  
2390 individual prescription or prescriptions written by a physician  
2391 licensed under chapter 458, chapter 459, chapter 460, chapter  
2392 461, or chapter 466, or according to a list prescribed and  
2393 approved by the Department of Health, which list shall be  
2394 certified to the Department of Revenue from time to time and  
2395 included in the rules promulgated by the Department of Revenue.

2396 2. "Cosmetics" means articles intended to be rubbed,  
2397 poured, sprinkled, or sprayed on, introduced into, or otherwise  
2398 applied to the human body for cleansing, beautifying, promoting  
2399 attractiveness, or altering the appearance and also means  
2400 articles intended for use as a compound of any such articles,  
2401 including, but not limited to, cold creams, suntan lotions,  
2402 makeup, and body lotions.

2403 3. "Toilet articles" means any article advertised or held  
2404 out for sale for grooming purposes and those articles that are  
2405 eustomarily used for grooming purposes, regardless of the name  
2406 by which they may be known, including, but not limited to, soap,  
2407 toothpaste, hair spray, shaving products, colognes, perfumes,

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2408 ~~shampoo, deodorant, and mouthwash.~~

2409 7.4. "Prescription" means an order, formula, or recipe  
2410 issued in the form of oral, written, electronic, or other means  
2411 of transmission by a practitioner licensed under chapter 458,  
2412 chapter 459, chapter 460, chapter 461, or chapter 466. The term  
2413 also includes an orally transmitted order by the lawfully  
2414 designated agent of such practitioner, and an order written or  
2415 transmitted by a practitioner licensed to practice in a  
2416 jurisdiction other than this state, but only if the pharmacist  
2417 called upon to dispense the order determines, in the exercise of  
2418 his or her professional judgment, that the order is valid and  
2419 necessary for the treatment of a chronic or recurrent illness  
2420 ~~includes any order for drugs or medicinal supplies written or~~  
2421 ~~transmitted by any means of communication by a duly licensed~~  
2422 ~~practitioner authorized by the laws of the state to prescribe~~  
2423 ~~such drugs or medicinal supplies and intended to be dispensed by~~  
2424 ~~a pharmacist. The term also includes an orally transmitted order~~  
2425 ~~by the lawfully designated agent of such practitioner. The term~~  
2426 ~~also includes an order written or transmitted by a practitioner~~  
2427 ~~licensed to practice in a jurisdiction other than this state,~~  
2428 ~~but only if the pharmacist called upon to dispense such order~~  
2429 ~~determines, in the exercise of his or her professional judgment,~~  
2430 ~~that the order is valid and necessary for the treatment of a~~  
2431 ~~chronic or recurrent illness. The term also includes a~~  
2432 ~~pharmacist's order for a product selected from the formulary~~  
2433 ~~created pursuant to s. 465.186. A prescription may be retained~~  
2434 ~~in written form, or the pharmacist may cause it to be recorded~~  
2435 ~~in a data processing system, provided that such order can be~~  
2436 ~~produced in printed form upon lawful request.~~

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2437 (c) Chlorine is ~~shall~~ not ~~be~~ exempt from the tax imposed by  
2438 this chapter when used for the treatment of water in swimming  
2439 pools.

2440 ~~(d) Lithotripters are exempt.~~

2441 (d) ~~(e)~~ Human organs are exempt.

2442 ~~(f) Sales of drugs to or by physicians, dentists,~~  
2443 ~~veterinarians, and hospitals in connection with medical~~  
2444 ~~treatment are exempt.~~

2445 ~~(g) Medical products and supplies used in the cure,~~  
2446 ~~mitigation, alleviation, prevention, or treatment of injury,~~  
2447 ~~disease, or incapacity which are temporarily or permanently~~  
2448 ~~incorporated into a patient or client by a practitioner of the~~  
2449 ~~healing arts licensed in the state are exempt.~~

2450 ~~(h) The purchase by a veterinarian of commonly recognized~~  
2451 ~~substances possessing curative or remedial properties which are~~  
2452 ~~ordered and dispensed as treatment for a diagnosed health~~  
2453 ~~disorder by or on the prescription of a duly licensed~~  
2454 ~~veterinarian, and which are applied to or consumed by animals~~  
2455 ~~for alleviation of pain or the cure or prevention of sickness,~~  
2456 ~~disease, or suffering are exempt. Also exempt are the purchase~~  
2457 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~  
2458 ~~bandages, lotions, vitamins, and worm remedies.~~

2459 ~~(i) X-ray opaques, also known as opaque drugs and~~  
2460 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~  
2461 ~~when used in connection with medical X rays for treatment of~~  
2462 ~~bodies of humans and animals, are exempt.~~

2463 (e) ~~(j)~~ Parts, special attachments, special lettering, and  
2464 other like items that are added to or attached to tangible  
2465 personal property so that a handicapped person can use them are

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2466 exempt ~~if when~~ such items are purchased by a person pursuant to  
 2467 an individual prescription.

2468 (f) ~~(k)~~ This subsection shall be strictly construed and  
 2469 enforced.

2470 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

2471 (b) As used in this subsection, the term "overhead  
 2472 materials" means all tangible personal property, other than  
 2473 qualifying property as defined in s. 212.02(34) ~~s. 212.02(14)(a)~~  
 2474 and electricity, which is used or consumed in the performance of  
 2475 a qualifying contract, title to which property vests in or  
 2476 passes to the government under the contract.

2477 (c) As used in this subsection and in s. 212.02(34) ~~s.~~  
 2478 ~~212.02(14)(a)~~, the term "qualifying contract" means a contract  
 2479 with the United States Department of Defense or the National  
 2480 Aeronautics and Space Administration, or a subcontract  
 2481 thereunder, but does not include a contract or subcontract for  
 2482 the repair, alteration, improvement, or construction of real  
 2483 property, unless ~~except to the extent that~~ purchases made under  
 2484 such a contract would otherwise be exempt from the tax imposed  
 2485 by this chapter.

2486 Section 11. Section 212.094, Florida Statutes, is created  
 2487 to read:

2488 212.094 Purchaser request for refund or credit from  
 2489 dealer.—

2490 (1) If a purchaser seeks from a dealer a refund of or  
 2491 credit against a tax collected under this chapter by that  
 2492 dealer, the purchaser shall submit a written request for the  
 2493 refund or credit to the dealer in accordance with this section.  
 2494 The request must contain all information necessary for the

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2495 dealer to determine the validity of the purchaser's request.

2496 (2) The purchaser may not take other action against the  
2497 dealer with respect to the requested refund or credit until the  
2498 dealer has had 60 days to respond after receiving a completed  
2499 request.

2500 (3) This section does not affect a person's standing to  
2501 claim a refund.

2502 (4) This section does not apply to refunds resulting from  
2503 merchandise returned by a customer to a dealer.

2504 Section 12. Section 212.12, Florida Statutes, is amended to  
2505 read:

2506 212.12 Dealer's credit for collecting tax; penalties for  
2507 noncompliance; powers of department to deal ~~of Revenue in~~  
2508 ~~dealing with delinquents; brackets applicable to taxable~~  
2509 ~~transactions;~~ records required.-

2510 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose  
2511 of compensating persons granting licenses for and the lessors of  
2512 real and personal property taxed under this chapter hereunder,  
2513 ~~for the purpose of~~ compensating dealers in tangible personal  
2514 property, ~~for the purpose of~~ compensating dealers providing  
2515 communication services and taxable services, ~~for the purpose of~~  
2516 compensating owners of places where admissions are collected,  
2517 and ~~for the purpose of~~ compensating remitters of ~~any~~ taxes or  
2518 fees reported on the same documents used ~~utilized~~ for the sales  
2519 and use tax, as compensation for the keeping of prescribed  
2520 records, filing timely tax returns, and the proper accounting  
2521 and remitting of taxes by them, such seller, person, lessor,  
2522 dealer, owner, and remitter ~~(except dealers who make mail order~~  
2523 ~~sales)~~ who files the return required pursuant to s. 212.11 only

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2524 by electronic means and who pays the amount due on such return  
2525 only by electronic means shall be allowed 2.5 percent of the  
2526 amount of the tax due, accounted for, and remitted to the  
2527 department in the form of a deduction. However, if the amount of  
2528 the tax due and remitted to the department by electronic means  
2529 for the reporting period exceeds \$1,200, an allowance is not  
2530 allowed for all amounts in excess of \$1,200. For purposes of  
2531 this subparagraph, the term "electronic means" has the same  
2532 meaning as provided in s. 213.755(2)(c).

2533 ~~2. The executive director of the department is authorized~~  
2534 ~~to negotiate a collection allowance, pursuant to rules~~  
2535 ~~promulgated by the department, with a dealer who makes mail~~  
2536 ~~order sales. The rules of the department shall provide~~  
2537 ~~guidelines for establishing the collection allowance based upon~~  
2538 ~~the dealer's estimated costs of collecting the tax, the volume~~  
2539 ~~and value of the dealer's mail order sales to purchasers in this~~  
2540 ~~state, and the administrative and legal costs and likelihood of~~  
2541 ~~achieving collection of the tax absent the cooperation of the~~  
2542 ~~dealer. However, in no event shall the collection allowance~~  
2543 ~~negotiated by the executive director exceed 10 percent of the~~  
2544 ~~tax remitted for a reporting period.~~

2545 (b) The department ~~of Revenue~~ may deny the collection  
2546 allowance if a taxpayer files an incomplete return or if the  
2547 required tax return or tax is delinquent at the time of payment.

2548 1. An "incomplete return" is, for purposes of this chapter,  
2549 a return which is lacking such uniformity, completeness, and  
2550 arrangement that the physical handling, verification, review of  
2551 the return, or determination of other taxes and fees reported on  
2552 the return may not be readily accomplished.



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2553           2. The department shall adopt rules requiring such  
2554 information as it may deem necessary to ensure that the tax  
2555 levied ~~hereunder~~ is properly collected, reviewed, compiled,  
2556 reported, and enforced, including, ~~but not limited to~~: the  
2557 amount of gross sales; the amount of taxable sales; the amount  
2558 of tax collected or due; the amount of lawful refunds,  
2559 deductions, or credits claimed; the amount claimed as the  
2560 dealer's collection allowance; the amount of penalty and  
2561 interest; the amount due with the return; and such other  
2562 information as the department ~~of Revenue~~ may specify. The  
2563 department shall require that transient rentals and agricultural  
2564 equipment transactions be separately shown. Sales made through  
2565 vending machines as defined in s. 212.0515 must be separately  
2566 shown on the return. Sales made through coin-operated amusement  
2567 machines ~~as defined by s. 212.02~~ and the number of machines  
2568 operated must be separately shown on the return or on a form  
2569 prescribed by the department. If a separate form is required,  
2570 the same penalties for late filing, incomplete filing, or  
2571 failure to file as provided for the sales tax return ~~shall~~ apply  
2572 to the form.

2573           (c) The collection allowance and other credits or  
2574 deductions provided in this chapter shall be applied  
2575 proportionally to the ~~any~~ taxes or fees reported on the same  
2576 documents used for the sales and use tax.

2577           (d)~~1-~~ A dealer entitled to the collection allowance  
2578 provided in this section may elect to forego the collection  
2579 allowance and direct that the amount be transferred into the  
2580 Educational Enhancement Trust Fund. Such an election must be  
2581 made with the timely filing of a return and may not be rescinded

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2582 ~~once made~~. If a dealer who makes such an election files a  
2583 delinquent return, underpays the tax, or files an incomplete  
2584 return, the amount transferred into the Educational Enhancement  
2585 Trust Fund shall be the amount of the collection allowance  
2586 remaining after resolution of liability for all of the tax,  
2587 interest, and penalty due on that return or underpayment of tax.  
2588 The Department of Education shall distribute the remaining  
2589 amount from the trust fund to the school districts that have  
2590 adopted resolutions stating that those funds will be used to  
2591 ensure that up-to-date technology is purchased for the  
2592 classrooms in the district and that teachers are trained in the  
2593 use of that technology. Revenues collected in districts that do  
2594 not adopt such a resolution shall be equally distributed to  
2595 districts that have adopted such resolutions.

2596 1.2. This paragraph applies to all taxes, surtaxes, and any  
2597 local option taxes administered under this chapter and remitted  
2598 directly to the department. This paragraph does not apply to a  
2599 locally imposed and self-administered convention development  
2600 tax, tourist development tax, or tourist impact tax administered  
2601 under this chapter.

2602 2.3. Revenues from the dealer-collection allowances shall  
2603 be transferred quarterly from the General Revenue Fund to the  
2604 Educational Enhancement Trust Fund. The Department of Revenue  
2605 shall provide to the Department of Education quarterly  
2606 information about such revenues by county to which the  
2607 collection allowance was attributed.

2608  
2609 Notwithstanding any provision of chapter 120 to the contrary,  
2610 the Department of Revenue may adopt rules to carry out the

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2611 amendment made by chapter 2006-52, Laws of Florida, to this  
2612 section.

2613 (e) Notwithstanding paragraphs (b) and (c), a model 1  
2614 seller under the Streamlined Sales and Use Tax Agreement is not  
2615 entitled to the collection allowance described in paragraphs (a)  
2616 and (b).

2617 (f) In addition to a collection allowance that may be  
2618 provided under this subsection, the department may provide the  
2619 monetary allowances that must be provided by the state to  
2620 certified service providers and voluntary sellers pursuant to  
2621 Article VI of the Streamlined Sales and Use Tax Agreement, as  
2622 amended.

2623 1. Such monetary allowances must be in the form of  
2624 collection allowances that certified service providers or  
2625 voluntary sellers are permitted to retain from the tax revenues  
2626 collected on remote sales to be remitted to the state pursuant  
2627 to this chapter.

2628 2. As used in this paragraph, the term:

2629 a. "Voluntary seller" means a seller that is not required  
2630 to register in this state to collect a tax.

2631 b. "Remote sales" means revenues generated for this state  
2632 by a voluntary seller for which the seller is not required to  
2633 register to collect the tax imposed by this chapter.

2634 (2) (a) If a ~~When any~~ person required ~~hereunder~~ to make a  
2635 ~~any~~ return or to pay a ~~any~~ tax or fee imposed by this chapter  
2636 ~~either~~ fails to timely file such return or fails to pay the tax  
2637 or fee shown due on the return within the time required  
2638 ~~hereunder~~, in addition to all other penalties provided in this  
2639 section and under state law with ~~herein and by the laws of this~~

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2640 ~~state in~~ respect to such taxes or fees, a specific penalty shall  
2641 be added to the tax or fee in the amount of 10 percent of ~~either~~  
2642 the tax or fee shown on the return that is not timely filed or  
2643 the any tax or fee not paid timely. The penalty may not be less  
2644 than \$50 for failure to timely file a tax return required by s.  
2645 212.11(1) or timely pay the tax or fee shown due on the return  
2646 except as provided in s. 213.21(10). If a person fails to timely  
2647 file a return required by s. 212.11(1) and to timely pay the tax  
2648 or fee shown due on the return, only one penalty of 10 percent,  
2649 which may not be less than \$50, shall be imposed.

2650 (b) If a ~~When any~~ person required under this section to  
2651 make a return or to pay a tax or fee imposed by this chapter  
2652 fails to disclose the tax or fee on the return within the time  
2653 required, excluding a noncompliant filing event generated by  
2654 situations covered under ~~in~~ paragraph (a), in addition to all  
2655 other penalties provided in this section and under state law  
2656 with ~~by the laws of this state in~~ respect to such taxes or fees,  
2657 a specific penalty shall be added to the additional tax or fee  
2658 owed in the amount of 10 percent of ~~any~~ such unpaid tax or fee  
2659 not paid timely if the failure is for not more than 30 days,  
2660 with an additional 10 percent of ~~any~~ such unpaid tax or fee for  
2661 each additional 30 days, or fraction thereof, while the failure  
2662 continues, not to exceed a total penalty of 50 percent, in the  
2663 aggregate, of the any unpaid tax or fee.

2664 (c) A Any person who knowingly and with a willful intent to  
2665 evade a any tax imposed under this chapter fails to file six  
2666 consecutive returns as required by law commits a felony of the  
2667 third degree, punishable as provided in s. 775.082 or s.  
2668 775.083.

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2669 (d) A ~~Any~~ person who makes a false or fraudulent return  
2670 with a willful intent to evade payment of a ~~any~~ tax or fee  
2671 imposed under this chapter; a ~~any~~ person who, after the  
2672 department's delivery of a written notice to the person's last  
2673 known address specifically alerting the person of the  
2674 requirement to register the person's business as a dealer,  
2675 intentionally fails to register the business; and a ~~any~~ person  
2676 who, after the department's delivery of a written notice to the  
2677 person's last known address specifically alerting the person of  
2678 the requirement to collect tax on specific transactions,  
2679 intentionally fails to collect such tax, shall, in addition to  
2680 ~~the~~ other penalties provided by law, be liable for a specific  
2681 penalty of 100 percent of ~~any~~ unreported or ~~any~~ uncollected tax  
2682 or fee and, upon conviction, for fine and punishment as provided  
2683 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written  
2684 notice may be made by certified mail, or by the use of such  
2685 other method as is documented as being necessary and reasonable  
2686 under the circumstances. The civil and criminal penalties  
2687 imposed herein for failure to comply with a written notice  
2688 alerting the person of the requirement to register the person's  
2689 business as a dealer or to collect tax on specific transactions  
2690 does ~~shall~~ not apply if the person timely files a written  
2691 challenge to such notice in accordance with procedures  
2692 established by the department by rule or the notice fails to  
2693 clearly advise that failure to comply with or timely challenge  
2694 the notice will result in the imposition of the civil and  
2695 criminal penalties ~~imposed herein~~.

2696 1. If the total amount of unreported or uncollected taxes  
2697 or fees is less than \$300, the first offense resulting in

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2698 conviction is a misdemeanor of the second degree, the second  
2699 offense resulting in conviction is a misdemeanor of the first  
2700 degree, ~~and the third offense and all subsequent offenses~~  
2701 resulting in conviction is a misdemeanor of the first degree,  
2702 and the fourth ~~third~~ and all subsequent offenses resulting in  
2703 conviction are felonies of the third degree.

2704 2. If the total amount of unreported or uncollected taxes  
2705 or fees is \$300 or more but less than \$20,000, the offense is a  
2706 felony of the third degree.

2707 3. If the total amount of unreported or uncollected taxes  
2708 or fees is \$20,000 or more but less than \$100,000, the offense  
2709 is a felony of the second degree.

2710 4. If the total amount of unreported or uncollected taxes  
2711 or fees is \$100,000 or more, the offense is a felony of the  
2712 first degree.

2713 (e) A person who willfully attempts in any manner to evade  
2714 a any tax, surcharge, or fee imposed under this chapter or the  
2715 payment thereof is, in addition to ~~any~~ other penalties provided  
2716 by law, liable for a specific penalty in the amount of 100  
2717 percent of the tax, surcharge, or fee, and commits a felony of  
2718 the third degree, punishable as provided in s. 775.082, s.  
2719 775.083, or s. 775.084.

2720 (f) If a ~~When any~~ person, firm, or corporation fails to  
2721 timely remit the proper estimated payment required under s.  
2722 212.11, a specific penalty shall be added in an amount equal to  
2723 10 percent of any unpaid estimated tax. ~~Beginning with January~~  
2724 ~~1, 1985, returns,~~ The department, upon a showing of reasonable  
2725 cause, may ~~is authorized to~~ waive or compromise penalties  
2726 imposed by this paragraph. However, other penalties and interest

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2727 ~~are~~ shall be due and payable if the return on which the  
 2728 estimated payment was due ~~is~~ was not timely or properly filed.

2729 (g) A dealer who files a consolidated return pursuant to s.  
 2730 212.11(1)(e) is subject to the penalty established in paragraph  
 2731 (e) unless the dealer has paid the required estimated tax for  
 2732 his or her consolidated return as a whole without regard to each  
 2733 location. If the dealer fails to pay the required estimated tax  
 2734 for his or her consolidated return as a whole, each filing  
 2735 location stands ~~shall stand~~ on its own with respect to  
 2736 calculating penalties pursuant to paragraph (f).

2737 (3) If a ~~When any~~ dealer, or other person charged herein,  
 2738 fails to remit the tax, or a ~~any~~ portion thereof, on or before  
 2739 the day ~~when~~ such tax is required by law to be paid, ~~there shall~~  
 2740 ~~be added to the amount due~~ interest at the rate of 1 percent per  
 2741 month of the amount due from the date due until paid shall be  
 2742 added to the amount due. Interest on the delinquent tax shall be  
 2743 calculated beginning on the 21st day of the month following the  
 2744 month for which the tax is due, except as otherwise provided in  
 2745 this chapter.

2746 (4) All penalties and interest imposed by this chapter are  
 2747 ~~shall be~~ payable to and collectible by the department in the  
 2748 same manner as if they were a part of the tax imposed. The  
 2749 department may settle or compromise ~~any~~ such interest or  
 2750 penalties pursuant to s. 213.21.

2751 (5) (a) The department may ~~is authorized to~~ audit or inspect  
 2752 the records and accounts of dealers ~~defined herein, including~~  
 2753 ~~audits or inspections of dealers who make mail order sales to~~  
 2754 ~~the extent permitted by another state, and to correct by credit~~  
 2755 an ~~any~~ overpayment of tax, and, in the event of a deficiency, an

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2756 assessment shall be made and collected. No administrative  
2757 finding of fact is necessary before ~~prior to~~ the assessment of a  
2758 ~~any~~ tax deficiency.

2759 (b) If a ~~In the event any~~ dealer or other person charged  
2760 herein fails or refuses to make his or her records available for  
2761 inspection so that an ~~no~~ audit or examination ~~has been made~~ of  
2762 the books and records of such dealer or person is not made,  
2763 fails or refuses to register as a dealer, fails to make a report  
2764 and pay the tax as provided by this chapter, makes a grossly  
2765 incorrect report or makes a report that is false or fraudulent,  
2766 ~~then, in such event, it shall be the duty of the department~~  
2767 shall ~~to~~ make an assessment from an estimate based upon the best  
2768 information ~~then~~ available to it for the taxable period of  
2769 retail sales of such dealer, the gross proceeds from rentals,  
2770 the total admissions received, amounts received from leases of  
2771 tangible personal property by such dealer, or of the cost price  
2772 of all articles of tangible personal property imported by the  
2773 dealer for use or consumption or distribution or storage to be  
2774 used or consumed in this state, or of the sales or cost price of  
2775 all services the sale or use of which is taxable under this  
2776 chapter, together with interest, plus penalty, if such have  
2777 accrued, ~~as the case may be. Then~~ The department shall proceed  
2778 to collect such taxes, interest, and penalty on the basis of  
2779 such assessment which shall be considered prima facie correct,  
2780 and the burden to show the contrary shall rest upon the dealer,  
2781 seller, owner, or lessor, ~~as the case may be.~~

2782 (6) (a) The department may ~~is given the power to~~ prescribe  
2783 the records to be kept by all persons subject to taxes imposed  
2784 by this chapter. ~~It shall be the duty of~~ Every person required



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2785 to make a report and pay a ~~any~~ tax under this chapter, every  
2786 person receiving rentals or license fees, and owners of places  
2787 of admission, shall ~~to~~ keep and preserve suitable records of the  
2788 sales, leases, rentals, license fees, admissions, or purchases  
2789 that are, ~~as the case may be~~, taxable under this chapter; such  
2790 other books of account as may be necessary to determine the  
2791 amount of the tax due hereunder; and other information as may be  
2792 required by the department. ~~It shall be the duty of~~ Every such  
2793 person shall also ~~so charged with such duty, moreover, to~~ keep  
2794 and preserve as long as required by s. 213.35 all invoices and  
2795 other records of goods, wares, and merchandise; records of  
2796 admissions, leases, license fees and rentals; and records of all  
2797 other subjects of taxation under this chapter. All such books,  
2798 invoices, and other records must ~~shall~~ be open to examination at  
2799 all reasonable hours to the department or any of its ~~duly~~  
2800 authorized agents.

2801 (b) For the purpose of this subsection, if a dealer does  
2802 not have adequate records of his or her retail sales or  
2803 purchases, the department may, upon the basis of a test or  
2804 sampling of the dealer's available records or other information  
2805 relating to the sales or purchases made by such dealer for a  
2806 representative period, determine the proportion that taxable  
2807 retail sales bear to total retail sales or the proportion that  
2808 taxable purchases bear to total purchases. This subsection does  
2809 not affect the duty of the dealer to collect, or the liability  
2810 of a ~~any~~ consumer to pay, any tax imposed by or pursuant to this  
2811 chapter.

2812 (c)1. If the records of a dealer are adequate but  
2813 voluminous in nature and substance, the department may sample

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2814 such records and project the audit findings ~~derived therefrom~~  
2815 over the entire audit period to determine the proportion that  
2816 taxable retail sales bear to total retail sales or the  
2817 proportion that taxable purchases bear to total purchases. In  
2818 order to conduct such a sample, the department must first make a  
2819 good faith effort to reach an agreement with the dealer, which  
2820 ~~agreement~~ provides for the means and methods to be used in the  
2821 sampling process. If ~~In the event that~~ no agreement is reached,  
2822 the dealer is entitled to a review by the executive director. In  
2823 the case of fixed assets, a dealer may agree in writing with the  
2824 department for adequate but voluminous records to be  
2825 statistically sampled. Such an agreement shall provide ~~for~~ the  
2826 methodology to be used in the statistical sampling process. The  
2827 audit findings ~~derived therefrom~~ shall be projected over the  
2828 period represented by the sample in order to determine the  
2829 proportion that taxable purchases bear to total purchases. Once  
2830 an agreement has been signed, it is final and conclusive with  
2831 respect to the method of sampling fixed assets, ~~and~~ the  
2832 department may not conduct a detailed audit of fixed assets, and  
2833 the taxpayer may not request a detailed audit after the  
2834 agreement is reached.

2835 2. For the purposes of sampling pursuant to subparagraph  
2836 1., the department shall project any deficiencies and  
2837 overpayments ~~derived therefrom~~ over the entire audit period. In  
2838 determining the dealer's compliance, the department shall reduce  
2839 a any tax deficiency ~~as~~ derived from the sample by the amount of  
2840 the any overpayment derived from the sample. If ~~In the event~~ the  
2841 department determines from the sample results that the dealer  
2842 has a net tax overpayment, the department shall provide the

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2843 findings of ~~this overpayment~~ to the Chief Financial Officer for  
2844 repayment of funds paid into the State Treasury through error  
2845 pursuant to s. 215.26.

2846 3.a. A taxpayer is entitled, both in connection with an  
2847 audit and in connection with an application for refund filed  
2848 independently of an ~~any~~ audit, to establish the amount of a ~~any~~  
2849 refund or deficiency through statistical sampling if ~~when~~ the  
2850 taxpayer's records are adequate but voluminous. In the case of  
2851 fixed assets, a dealer may agree in writing with the department  
2852 for adequate but voluminous records to be statistically sampled.  
2853 Such ~~an~~ agreement must ~~shall~~ provide ~~for~~ the methodology to be  
2854 used in the statistical sampling process. The audit findings  
2855 ~~derived therefrom~~ shall be projected over the period represented  
2856 by the sample in order to determine the proportion that taxable  
2857 purchases bear to total purchases. Once an agreement has been  
2858 signed, it is final and conclusive with respect to the method of  
2859 sampling fixed assets, ~~and~~ the department may not conduct a  
2860 detailed audit of fixed assets, and the taxpayer may not request  
2861 a detailed audit after the agreement is reached.

2862 b. Alternatively, a taxpayer is entitled to establish a ~~any~~  
2863 refund or deficiency through any other sampling method agreed  
2864 upon by the taxpayer and the department if ~~when~~ the taxpayer's  
2865 records, other than those regarding fixed assets, are adequate  
2866 but voluminous. Whether done through statistical sampling or any  
2867 other sampling method agreed upon by the taxpayer and the  
2868 department, the completed sample must reflect both overpayments  
2869 and underpayments of taxes due. The sample shall be conducted  
2870 through:

2871 (I) A taxpayer request to perform the sampling through the

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2872 certified audit program pursuant to s. 213.285;

2873 (II) Attestation by a certified public accountant as to the  
2874 adequacy of the sampling method used ~~utilized~~ and the results  
2875 reached using such sampling method; or

2876 (III) A sampling method that has been submitted by the  
2877 taxpayer and approved by the department before a refund claim is  
2878 submitted. This sub-sub-subparagraph does not prohibit a  
2879 taxpayer from filing a refund claim prior to approval by the  
2880 department of the sampling method; however, a refund claim  
2881 submitted before the sampling method has been approved by the  
2882 department cannot be a complete refund application pursuant to  
2883 s. 213.255 until the sampling method has been approved by the  
2884 department.

2885 c. The department shall prescribe by rule the procedures to  
2886 be followed under each method of sampling. Such procedures shall  
2887 follow generally accepted auditing procedures for sampling. The  
2888 rule must ~~shall~~ also set forth other criteria regarding the use  
2889 of sampling, including, but not limited to, training  
2890 requirements that must be met before a sampling method may be  
2891 used ~~utilized~~ and the steps necessary for the department and the  
2892 taxpayer to reach agreement on a sampling method submitted by  
2893 the taxpayer for approval by the department.

2894 (7) If ~~In the event~~ the dealer has imported tangible  
2895 personal property and he or she fails to produce an invoice  
2896 showing the cost price of the articles that, ~~as defined in this~~  
2897 ~~chapter, which~~ are subject to tax, or the invoice does not  
2898 reflect the true or actual cost price ~~as defined herein~~, then  
2899 the department shall ascertain, in any manner feasible, the true  
2900 cost price, and assess and collect the tax ~~thereon~~ with interest

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2901 plus penalties, if such have accrued on the true cost price as  
2902 assessed by it. The assessment so made shall be considered prima  
2903 facie correct, and the duty is ~~shall be~~ on the dealer to show to  
2904 the contrary.

2905 (8) In the case of the lease or rental of tangible personal  
2906 property, or other rentals or license fees ~~as herein defined and~~  
2907 ~~taxed~~, if the consideration given or reported by the lessor,  
2908 person receiving rental or license fee, or dealer does not, in  
2909 the judgment of the department, represent the true or actual  
2910 consideration, then the department may ~~is authorized to~~  
2911 ascertain the same and assess and collect the tax ~~thereon~~ in the  
2912 same manner as above provided, with respect to imported tangible  
2913 property, together with interest, plus penalties, if such have  
2914 accrued.

2915 (9) Taxes imposed by this chapter upon the privilege of the  
2916 use, consumption, storage for consumption, or sale of tangible  
2917 personal property, admissions, license fees, rentals,  
2918 communication services, and upon the sale or use of services ~~as~~  
2919 ~~herein taxed~~ shall be collected by adding ~~upon the basis of an~~  
2920 ~~addition of~~ the tax imposed by this chapter to the total price  
2921 of such tangible personal property, admissions, license fees,  
2922 rentals, communication or other services, or sale price of such  
2923 article or articles that are purchased, sold, or leased at ~~any~~  
2924 one time by or to a customer or buyer. ~~‡~~ The dealer, or person  
2925 charged shall ~~herein, is required to~~ pay a privilege tax ~~in the~~  
2926 ~~amount of the tax imposed by this chapter~~ on the total of his or  
2927 her gross sales of tangible personal property, admissions,  
2928 license fees, rentals, and communication services or ~~to~~ collect  
2929 the ~~a~~ tax upon the sale or use of services, and such person or

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2930 dealer shall add the tax ~~imposed by this chapter~~ to the price,  
2931 license fee, rental, or admissions, and communication or other  
2932 services and collect the total sum from the purchaser, admittee,  
2933 licensee, lessee, or consumer. In computing the tax due or to be  
2934 collected as the result of a transaction, the seller may elect  
2935 to compute the tax due on a transaction on a per-item basis or  
2936 on an invoice basis. The tax rate shall be the sum of the  
2937 applicable state and local rates, if any, and the tax  
2938 computation shall be carried to the third decimal place.  
2939 Whenever the third decimal place is greater than four, the tax  
2940 shall be rounded to the next whole cent. ~~The department shall~~  
2941 ~~make available in an electronic format or otherwise the tax~~  
2942 ~~amounts and the following brackets applicable to all~~  
2943 ~~transactions taxable at the rate of 6 percent:~~

2944       ~~(a) On single sales of less than 10 cents, no tax shall be~~  
2945 ~~added.~~

2946       ~~(b) On single sales in amounts from 10 cents to 16 cents,~~  
2947 ~~both inclusive, 1 cent shall be added for taxes.~~

2948       ~~(c) On sales in amounts from 17 cents to 33 cents, both~~  
2949 ~~inclusive, 2 cents shall be added for taxes.~~

2950       ~~(d) On sales in amounts from 34 cents to 50 cents, both~~  
2951 ~~inclusive, 3 cents shall be added for taxes.~~

2952       ~~(e) On sales in amounts from 51 cents to 66 cents, both~~  
2953 ~~inclusive, 4 cents shall be added for taxes.~~

2954       ~~(f) On sales in amounts from 67 cents to 83 cents, both~~  
2955 ~~inclusive, 5 cents shall be added for taxes.~~

2956       ~~(g) On sales in amounts from 84 cents to \$1, both~~  
2957 ~~inclusive, 6 cents shall be added for taxes.~~

2958       ~~(h) On sales in amounts of more than \$1, 6 percent shall be~~

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2959 charged upon each dollar of price, plus the appropriate bracket  
2960 charge upon any fractional part of a dollar.

2961 ~~(10) In counties which have adopted a discretionary sales~~  
2962 ~~surtax at the rate of 1 percent, the department shall make~~  
2963 ~~available in an electronic format or otherwise the tax amounts~~  
2964 ~~and the following brackets applicable to all taxable~~  
2965 ~~transactions that would otherwise have been transactions taxable~~  
2966 ~~at the rate of 6 percent:~~

2967 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
2968 ~~added.~~

2969 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~  
2970 ~~both inclusive, 1 cent shall be added for taxes.~~

2971 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~  
2972 ~~inclusive, 2 cents shall be added for taxes.~~

2973 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~  
2974 ~~inclusive, 3 cents shall be added for taxes.~~

2975 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~  
2976 ~~inclusive, 4 cents shall be added for taxes.~~

2977 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~  
2978 ~~inclusive, 5 cents shall be added for taxes.~~

2979 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~  
2980 ~~inclusive, 6 cents shall be added for taxes.~~

2981 ~~(h) On sales in amounts from 86 cents to \$1, both~~  
2982 ~~inclusive, 7 cents shall be added for taxes.~~

2983 ~~(i) On sales in amounts from \$1 up to, and including, the~~  
2984 ~~first \$5,000 in price, 7 percent shall be charged upon each~~  
2985 ~~dollar of price, plus the appropriate bracket charge upon any~~  
2986 ~~fractional part of a dollar.~~

2987 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~

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2988 ~~percent shall be added upon the first \$5,000 in price, and 6~~  
2989 ~~percent shall be added upon each dollar of price in excess of~~  
2990 ~~the first \$5,000 in price, plus the bracket charges upon any~~  
2991 ~~fractional part of a dollar as provided for in subsection (9).~~

2992 ~~(11) The department shall make available in an electronic~~  
2993 ~~format or otherwise the tax amounts and brackets applicable to~~  
2994 ~~all taxable transactions that occur in counties that have a~~  
2995 ~~surtax at a rate other than 1 percent which transactions would~~  
2996 ~~otherwise have been transactions taxable at the rate of 6~~  
2997 ~~percent. Likewise, the department shall make available in an~~  
2998 ~~electronic format or otherwise the tax amounts and brackets~~  
2999 ~~applicable to transactions taxable at 7 percent pursuant to s.~~  
3000 ~~212.05(1)(c) and on transactions which would otherwise have been~~  
3001 ~~so taxable in counties which have adopted a discretionary sales~~  
3002 ~~surtax.~~

3003 ~~(10)(12)~~ It is hereby declared to be the legislative intent  
3004 that, whenever in the construction, administration, or  
3005 enforcement of this chapter there is a ~~may be any~~ question  
3006 respecting the ~~a~~ duplication of the tax, the end consumer, or  
3007 last retail sale, be the sale intended to be taxed and insofar  
3008 as is ~~may be~~ practicable there not be a ~~no~~ duplication or  
3009 pyramiding of the tax.

3010 ~~(11)(13)~~ In order to aid the administration and enforcement  
3011 of ~~the provisions of~~ this chapter with respect to the rentals  
3012 and license fees, each lessor or person granting the use of a  
3013 ~~any~~ hotel, apartment house, roominghouse, tourist or trailer  
3014 camp, real property, or ~~any~~ interest therein, or ~~any~~ portion  
3015 thereof, inclusive of owners; property managers; lessors;  
3016 landlords; hotel, apartment house, and roominghouse operators;



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3017 and all licensed real estate agents within the state leasing,  
3018 granting the use of, or renting such property, shall ~~be required~~  
3019 ~~to~~ keep a record of each and every such lease, license, or  
3020 rental transaction that ~~which~~ is taxable under this chapter, in  
3021 such a manner and upon such forms as the department may  
3022 prescribe, ~~and~~ to report such transaction to the department or  
3023 its designated agents, and to maintain such records as long as  
3024 required by s. 213.35, subject to the inspection of the  
3025 department and its agents. Upon the failure ~~by such owner;~~  
3026 ~~property manager; lessor; landlord; hotel, apartment house,~~  
3027 ~~roominghouse, tourist or trailer camp operator; or real estate~~  
3028 ~~agent~~ to keep and maintain such records and to make such reports  
3029 upon the forms and in the manner prescribed, such owner;  
3030 property manager; lessor; landlord; hotel, apartment house,  
3031 roominghouse, tourist or trailer camp operator; receiver of rent  
3032 or license fees; or real estate agent commits ~~is guilty of a~~  
3033 misdemeanor of the second degree, punishable as provided in s.  
3034 775.082 or s. 775.083, for the first offense; for subsequent  
3035 offenses, commits ~~they are each guilty of a~~ misdemeanor of the  
3036 first degree, punishable as provided in s. 775.082 or s.  
3037 775.083. If a, ~~however,~~ any subsequent offense involves  
3038 intentional destruction of such records with an intent to evade  
3039 payment of or deprive the state of ~~any~~ tax revenues, such  
3040 subsequent offense is ~~shall be~~ a felony of the third degree,  
3041 punishable as provided in s. 775.082 or s. 775.083.

3042 ~~(14) If it is determined upon audit that a dealer has~~  
3043 ~~collected and remitted taxes by applying the applicable tax rate~~  
3044 ~~to each transaction as described in subsection (9) and rounding~~  
3045 ~~the tax due to the nearest whole cent rather than applying the~~

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3046 ~~appropriate bracket system provided by law or department rule,~~  
3047 ~~the dealer shall not be held liable for additional tax, penalty,~~  
3048 ~~and interest resulting from such failure if:~~

3049 ~~(a) The dealer acted in a good faith belief that rounding~~  
3050 ~~to the nearest whole cent was the proper method of determining~~  
3051 ~~the amount of tax due on each taxable transaction.~~

3052 ~~(b) The dealer timely reported and remitted all taxes~~  
3053 ~~collected on each taxable transaction.~~

3054 ~~(c) The dealer agrees in writing to future compliance with~~  
3055 ~~the laws and rules concerning brackets applicable to the~~  
3056 ~~dealer's transactions.~~

3057 Section 13. Subsection (3) of section 212.17, Florida  
3058 Statutes, is amended to read:

3059 212.17 Credits for returned goods, rentals, or admissions;  
3060 goods acquired for dealer's own use and subsequently resold;  
3061 additional powers of department.-

3062 (3) A dealer who has paid the tax imposed by this chapter  
3063 on tangible personal property or services may take a credit or  
3064 obtain a refund for the any tax paid by the dealer on the unpaid  
3065 balance due on worthless accounts within 12 months following the  
3066 month in which the bad debt has been charged off for federal  
3067 income tax purposes. A dealer that has paid the tax imposed by  
3068 this chapter on tangible personal property or services and that  
3069 is not required to file federal income tax returns may take a  
3070 credit against or obtain a refund for the tax paid on the unpaid  
3071 balance due on worthless accounts within 12 months after the  
3072 month in which the bad debt is written off as uncollectible in  
3073 the dealer's books and records and would be eligible for a bad-  
3074 debt deduction for federal income tax purposes if the dealer was

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3075 required to file a federal income tax return.

3076 (a) A dealer that is taking a credit against or obtaining a  
3077 refund on worthless accounts shall base the bad-debt-recovery  
3078 calculation in accordance with 26 U.S.C. s. 166.

3079 (b) If the amount of bad debt exceeds the amount of taxable  
3080 sales for the period during which the bad debt is written off, a  
3081 refund claim must be filed, notwithstanding s. 215.26(2), within  
3082 3 years after the due date of the return on which the bad debt  
3083 could first be claimed.

3084 (c) If ~~any~~ accounts so charged off for which a credit or  
3085 refund has been obtained are thereafter in whole or in part paid  
3086 to the dealer, the amount ~~so~~ paid shall be included in the first  
3087 return filed after such collection and the tax paid accordingly.

3088 (d) If filing responsibilities have been assumed by a  
3089 certified service provider, the certified service provider shall  
3090 claim, on behalf of the seller, a bad-debt allowance provided by  
3091 this subsection. The certified service provider shall credit or  
3092 refund to the seller the full amount of a bad-debt allowance or  
3093 refund received.

3094 (e) For the purposes of reporting a payment received on a  
3095 previously claimed bad debt, the payments made on a debt or  
3096 account must first be applied proportionally to the taxable  
3097 price of the property or service and the sales tax on such  
3098 property, and second to interest, service charges, and other  
3099 charges.

3100 (f) If the books and records of the party claiming the bad-  
3101 debt allowance support an allocation of the bad debts among  
3102 states that are members of the Streamlined Sales and Use Tax  
3103 Agreement, the allocation is permitted among those states.

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3104 Section 14. Paragraphs (a) and (e) of subsection (3) of  
3105 section 212.18, Florida Statutes, are amended to read:

3106 212.18 Administration of law; registration of dealers;  
3107 rules.—

3108 (3) (a) A ~~Every~~ person desiring to engage in or conduct  
3109 business in this state as a dealer, ~~as defined in this chapter,~~  
3110 or to lease, rent, or let or grant licenses in living quarters  
3111 or sleeping or housekeeping accommodations in hotels, apartment  
3112 houses, roominghouses, or tourist or trailer camps that are  
3113 subject to tax under s. 212.03, or to lease, rent, or let or  
3114 grant licenses in real property, ~~as defined in this chapter,~~ and  
3115 a ~~every~~ person who sells or receives anything of value by way of  
3116 admissions, must file with the department an application for a  
3117 certificate of registration for each place of business, showing  
3118 the names of the persons who have interests in such business and  
3119 their residences, the address of the business, and such other  
3120 data as the department may reasonably require. However, owners  
3121 and operators of vending machines or newspaper rack machines  
3122 shall ~~are required to~~ obtain only one certificate of  
3123 registration for each county in which such machines are located.  
3124 The department, by rule, may authorize a dealer that uses  
3125 independent sellers to sell its merchandise to remit tax on the  
3126 retail sales price charged to the ultimate consumer in lieu of  
3127 having the independent seller register as a dealer and remit the  
3128 tax. The department may appoint the county tax collector as the  
3129 department's agent to accept applications for registrations. The  
3130 application, plus a registration fee of \$5, must be made to the  
3131 department before the person, firm, copartnership, or  
3132 corporation may engage in such business, ~~and it must be~~

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3133 ~~accompanied by a registration fee of \$5. However, a registration~~  
3134 ~~fee is not required to accompany an application to engage in or~~  
3135 ~~conduct business to make mail order sales.~~ The department may  
3136 waive the registration fee for applications submitted through  
3137 the department's Internet registration process or central  
3138 electronic registration system provided by member states of the  
3139 Streamlined Sales and Use Tax Agreement.

3140 (e) As used in this paragraph, the term "exhibitor" means a  
3141 person who enters into an agreement authorizing the display of  
3142 tangible personal property or services at a convention or a  
3143 trade show. The following provisions apply to the registration  
3144 of exhibitors as dealers under this chapter:

3145 1. An exhibitor whose agreement prohibits the sale of  
3146 tangible personal property or services subject to the tax  
3147 imposed in this chapter is not required to register as a dealer.

3148 2. An exhibitor whose agreement provides for the sale at  
3149 wholesale only of tangible personal property or services subject  
3150 to the tax imposed in this chapter must obtain a resale  
3151 certificate from the purchasing dealer but is not required to  
3152 register as a dealer.

3153 3. An exhibitor whose agreement authorizes the retail sale  
3154 of tangible personal property or services subject to the tax  
3155 imposed in this chapter must register as a dealer and collect  
3156 the tax imposed under this chapter on such sales.

3157 ~~4. Any exhibitor who makes a mail order sale pursuant to s.~~  
3158 ~~212.0596 must register as a dealer.~~

3159  
3160 A ~~Any~~ person who conducts a convention or a trade show must make  
3161 their exhibitor's agreements available to the department for

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3162 inspection and copying.

3163 Section 15. Section 212.20, Florida Statutes, is amended to  
3164 read:

3165 212.20 Funds collected, disposition; ~~additional powers of~~  
3166 ~~department;~~ operational expense; refund of taxes adjudicated  
3167 unconstitutionally collected.—

3168 (1) The department shall pay ~~over~~ to the Chief Financial  
3169 Officer ~~of the state~~ all funds received and collected by it  
3170 under ~~the provisions of~~ this chapter, to be credited to the  
3171 ~~account of the~~ General Revenue Fund ~~of the state~~.

3172 (2) The department may ~~is authorized to~~ employ all  
3173 necessary assistants to administer this chapter properly and may  
3174 ~~is also authorized to~~ purchase all necessary supplies and  
3175 equipment which may be required for this purpose.

3176 (3) The estimated amount of money needed for the  
3177 administration of this chapter shall be included by the  
3178 department in its annual legislative budget request for the  
3179 operation of its office.

3180 ~~(4) When there has been a final adjudication that any tax~~  
3181 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~  
3182 ~~to the Constitution of the United States or the State~~  
3183 ~~Constitution, the department shall, in accordance with rules,~~  
3184 ~~determine, based upon claims for refund and other evidence and~~  
3185 ~~information, who paid such tax or taxes, and refund to each such~~  
3186 ~~person the amount of tax paid. For purposes of this subsection,~~  
3187 ~~a "final adjudication" is a decision of a court of competent~~  
3188 ~~jurisdiction from which no appeal can be taken or from which the~~  
3189 ~~official or officials of this state with authority to make such~~  
3190 ~~decisions has or have decided not to appeal.~~

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3191 (4)~~(5)~~ As used in ~~For the purposes of~~ this section, the  
3192 term:

3193 (a) "Proceeds" means all tax or fee revenue collected or  
3194 received by the department, including interest and penalties.

3195 (b) "Reallocate" means reduction of the accounts of initial  
3196 deposit and redeposit into the indicated account.

3197 (5)~~(6)~~ Distribution of all proceeds under this chapter and  
3198 s. 202.18(1)(b) and (2)(b) shall be as follows:

3199 (a) Proceeds from the convention development taxes  
3200 authorized under s. 212.0305 shall be reallocated to the  
3201 Convention Development Tax Clearing Trust Fund.

3202 (b) Proceeds from discretionary sales surtaxes imposed  
3203 pursuant to ss. 212.054 and 212.055 shall be reallocated to the  
3204 Discretionary Sales Surtax Clearing Trust Fund.

3205 (c) Proceeds from the fees imposed under ss. 212.05(1)(h)3.  
3206 and 212.18(3) shall remain with the General Revenue Fund.

3207 (d) The proceeds of all other taxes and fees imposed  
3208 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
3209 and (2)(b) shall be distributed as follows:

3210 1. In any fiscal year, the greater of \$500 million, minus  
3211 an amount equal to 4.6 percent of the proceeds of the taxes  
3212 collected pursuant to chapter 201, or 5.2 percent of all other  
3213 taxes and fees imposed pursuant to this chapter or remitted  
3214 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
3215 monthly installments into the General Revenue Fund.

3216 2. After the distribution under subparagraph 1., 8.814  
3217 percent of the amount remitted by a sales tax dealer located  
3218 within a participating county pursuant to s. 218.61 shall be  
3219 transferred into the Local Government Half-cent Sales Tax

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3220 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
3221 transferred shall be reduced by 0.1 percent, and the department  
3222 shall distribute this amount to the Public Employees Relations  
3223 Commission Trust Fund less \$5,000 each month, which shall be  
3224 added to the amount calculated in subparagraph 3. and  
3225 distributed accordingly.

3226 3. After the distribution under subparagraphs 1. and 2.,  
3227 0.095 percent shall be transferred to the Local Government Half-  
3228 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
3229 s. 218.65.

3230 4. After the distributions under subparagraphs 1., 2., and  
3231 3., 2.0440 percent of the available proceeds shall be  
3232 transferred monthly to the Revenue Sharing Trust Fund for  
3233 Counties pursuant to s. 218.215.

3234 5. After the distributions under subparagraphs 1., 2., and  
3235 3., 1.3409 percent of the available proceeds shall be  
3236 transferred monthly to the Revenue Sharing Trust Fund for  
3237 Municipalities pursuant to s. 218.215. If the total revenue to  
3238 be distributed pursuant to this subparagraph is at least as  
3239 great as the amount due from the Revenue Sharing Trust Fund for  
3240 Municipalities and the former Municipal Financial Assistance  
3241 Trust Fund in state fiscal year 1999-2000, no municipality shall  
3242 receive less than the amount due from the Revenue Sharing Trust  
3243 Fund for Municipalities and the former Municipal Financial  
3244 Assistance Trust Fund in state fiscal year 1999-2000. If the  
3245 total proceeds to be distributed are less than the amount  
3246 received in combination from the Revenue Sharing Trust Fund for  
3247 Municipalities and the former Municipal Financial Assistance  
3248 Trust Fund in state fiscal year 1999-2000, each municipality



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3249 shall receive an amount proportionate to the amount it was due  
3250 in state fiscal year 1999-2000.

3251 6. Of the remaining proceeds:

3252 a. In each fiscal year, the sum of \$29,915,500 shall be  
3253 divided into as many equal parts as there are counties in the  
3254 state, and one part shall be distributed to each county. The  
3255 distribution among the several counties must begin each fiscal  
3256 year on or before January 5th and continue monthly for ~~a total~~  
3257 ~~of~~ 4 months. If a local or special law required ~~that any~~ moneys  
3258 accruing to a county in fiscal year 1999-2000 under the then-  
3259 existing provisions of s. 550.135 be paid directly to the  
3260 district school board, special district, or a municipal  
3261 government, such payment must continue until the local or  
3262 special law is amended or repealed. The state covenants with  
3263 holders of bonds or other instruments of indebtedness issued by  
3264 local governments, special districts, or district school boards  
3265 before July 1, 2000, that it is not the intent of this  
3266 subparagraph to adversely affect the rights of those holders or  
3267 relieve local governments, special districts, or district school  
3268 boards of the duty to meet their obligations as a result of  
3269 previous pledges or assignments or trusts entered into which  
3270 obligated funds received from the distribution to county  
3271 governments under then-existing s. 550.135. This distribution  
3272 specifically is in lieu of funds distributed under s. 550.135  
3273 before July 1, 2000.

3274 b. The department shall distribute \$166,667 monthly  
3275 ~~pursuant to s. 288.1162~~ to each applicant certified as a  
3276 facility for a new or retained professional sports franchise  
3277 pursuant to s. 288.1162. Up to \$41,667 shall be distributed

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3278 monthly by the department to each certified applicant as defined  
3279 in s. 288.11621 for a facility for a spring training franchise.  
3280 However, not more than \$416,670 may be distributed monthly in  
3281 the aggregate to all certified applicants for facilities for  
3282 spring training franchises. Distributions begin 60 days after  
3283 such certification and continue for not more than 30 years,  
3284 except as otherwise provided in s. 288.11621. A certified  
3285 applicant identified in this sub-subparagraph may not receive  
3286 more in distributions than expended by the applicant for the  
3287 public purposes provided for under ~~in~~ s. 288.1162(5) or s.  
3288 288.11621(3).

3289 c. Beginning 30 days after notice by the Department of  
3290 Economic Opportunity to the Department of Revenue that an  
3291 applicant has been certified as the professional golf hall of  
3292 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
3293 shall be distributed monthly, for up to 300 months, to the  
3294 applicant.

3295 d. Beginning 30 days after notice by the Department of  
3296 Economic Opportunity to the Department of Revenue that the  
3297 applicant has been certified as the International Game Fish  
3298 Association World Center facility pursuant to s. 288.1169, and  
3299 the facility is open to the public, \$83,333 shall be distributed  
3300 monthly, for up to 168 months, to the applicant. This  
3301 distribution is subject to reduction pursuant to s. 288.1169. A  
3302 lump sum payment of \$999,996 shall be made, after certification  
3303 and before July 1, 2000.

3304 e. The department shall distribute up to \$55,555 monthly to  
3305 each certified applicant as defined in s. 288.11631 for a  
3306 facility used by a single spring training franchise, or up to

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3307 \$111,110 monthly to each certified applicant ~~as defined in s.~~  
3308 ~~288.11631~~ for a facility used by more than one spring training  
3309 franchise. Monthly distributions begin 60 days after such  
3310 certification or July 1, 2016, whichever is later, and continue  
3311 for not more than 30 years, except as otherwise provided in s.  
3312 288.11631. A certified applicant identified in this sub-  
3313 subparagraph may not receive more in distributions than expended  
3314 by the applicant for the public purposes provided in s.  
3315 288.11631(3).

3316 7. All other proceeds must remain in the General Revenue  
3317 Fund.

3318 Section 16. Section 213.052, Florida Statutes, is created  
3319 to read:

3320 213.052 State sales and use tax rate changes.-

3321 (1) A sales or use tax rate change imposed under chapter  
3322 212 is effective on January 1, April 1, July 1, or October 1.

3323 (2) The Department of Revenue shall provide notice of such  
3324 rate change to all affected sellers 60 days before the effective  
3325 date of the rate change. Failure of a seller to receive notice  
3326 does not relieve the seller of its obligation to collect sales  
3327 or use tax.

3328 Section 17. Section 213.0521, Florida Statutes, is created  
3329 to read:

3330 213.0521 Effective date of state sales and use tax rate  
3331 changes.-The effective date for services starting before and  
3332 ending after the effective date of a legislative act is as  
3333 follows:

3334 (1) For a rate increase, the new rate applies to the first  
3335 billing period starting on or after the effective date.

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3336 (2) For a rate decrease, the new rate applies to bills  
3337 rendered on or after the effective date.

3338 Section 18. Section 213.215, Florida Statutes, is created  
3339 to read:

3340 213.215 Sales and use tax amnesty upon registration in  
3341 accordance with the Streamlined Sales and Use Tax Agreement.—

3342 (1) Amnesty shall be provided for uncollected or unpaid  
3343 sales or use tax to a seller who registers to pay or to collect  
3344 and remit applicable sales or use tax in accordance with the  
3345 Streamlined Sales and Use Tax Agreement authorized under s.  
3346 213.256 if the seller was not registered with the Department of  
3347 Revenue during the 12 months before the effective date of  
3348 participation in the agreement by this state.

3349 (2) Amnesty precludes assessment for uncollected or unpaid  
3350 sales or use tax, together with penalty or interest for sales  
3351 made during the period the seller was not registered with the  
3352 Department of Revenue, if registration occurs within 12 months  
3353 after the effective date of this state's participation in the  
3354 agreement.

3355 (3) Amnesty is not available to a seller with respect to a  
3356 matter for which the seller received notice of the commencement  
3357 of an audit if the audit is not finally resolved, including  
3358 related administrative and judicial processes.

3359 (4) Amnesty is not available for sales or use taxes already  
3360 paid or remitted to the state or to taxes collected by the  
3361 seller.

3362 (5) Absent the seller's fraud or intentional  
3363 misrepresentation of a material fact, amnesty is fully effective  
3364 as long as the seller continues registration and continues

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3365 payment or collection and remittance of applicable sales or use  
3366 taxes for at least 36 months.

3367 (6) The amnesty applies only to sales or use taxes due from  
3368 a seller in its capacity as a seller and not to sales or use  
3369 taxes due from a seller in its capacity as a buyer.

3370 Section 19. Subsections (1) and (2) of section 213.256,  
3371 Florida Statutes, are amended to read:

3372 213.256 Simplified Sales and Use Tax Administration Act.—

3373 (1) As used in this section and ss. 213.2562 and 213.2567,  
3374 the term:

3375 (a) "Agent" means, for purposes of carrying out the  
3376 responsibilities placed on a dealer, a person appointed by the  
3377 seller to represent the seller before the department.

3378 ~~"Department" means the Department of Revenue.~~

3379 (b) "Agreement" means the Streamlined Sales and Use Tax  
3380 Agreement ~~as amended and adopted on January 27, 2001, by the~~  
3381 ~~Executive Committee of the National Conference of State~~  
3382 ~~Legislatures.~~

3383 (c) "Certified automated system" means software certified  
3384 jointly by the state ~~states that are signatories to the~~  
3385 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a  
3386 transaction, determine the amount of tax to remit to the  
3387 appropriate state, and maintain a record of the transaction.

3388 (d) "Certified service provider" means an agent certified  
3389 jointly by the ~~states that are signatories to the agreement to~~  
3390 perform all of the seller's sales tax functions other than the  
3391 seller's obligation to remit tax on its own purchases.

3392 (e) "Department" means the Department of Revenue.

3393 (f) "Governing board" means the governing board of the

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3394 agreement.

3395 (g)1. "Model 1 seller" means a seller that has selected a  
3396 certified service provider as the seller's agent to perform all  
3397 of the seller's sales and use tax functions other than the  
3398 seller's obligation to remit tax on the seller's purchases.

3399 2. "Model 2 seller" means a seller that has selected a  
3400 certified automated system to perform part of the seller's sales  
3401 and use tax functions, but retains responsibility for remitting  
3402 the tax.

3403 3. "Model 3 seller" means a seller that has sales in at  
3404 least 5 member states, has total annual sales revenue of at  
3405 least \$500 million, has a proprietary system that calculates the  
3406 amount of tax due each jurisdiction, and has entered into a  
3407 performance agreement with the member states which establishes a  
3408 tax performance standard for the seller.

3409  
3410 As used in this paragraph, a seller includes an affiliated group  
3411 of sellers using the same proprietary system.

3412 (h)~~(e)~~ "Person" means an individual, trust, estate,  
3413 fiduciary, partnership, limited liability company, limited  
3414 liability partnership, corporation, or ~~any~~ other legal entity.

3415 (i) "Registered under this agreement" means registration by  
3416 a seller with the member states under the central registration  
3417 system.

3418 (j)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

3419 (k)~~(g)~~ "Seller" means a ~~any~~ person making sales, leases, or  
3420 rentals of personal property or services.

3421 (l)~~(h)~~ "State" means a ~~any~~ state of the United States and  
3422 the District of Columbia.

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3423        (m) ~~(i)~~ "Use tax" means the tax levied under chapter 212.

3424        (2) (a) The executive director of the department may ~~shall~~

3425 enter into an agreement ~~the Streamlined Sales and Use Tax~~

3426 ~~Agreement~~ with one or more states to simplify and modernize

3427 sales and use tax administration in order to substantially

3428 reduce the burden of tax compliance for all sellers and ~~for~~ all

3429 types of commerce. In furtherance of the agreement, the

3430 executive director of the department or his or her designee

3431 shall act jointly with other states that are members of the

3432 agreement to establish standards for certification of a

3433 certified service provider and certified automated systems

3434 ~~system~~ and central registration systems ~~establish performance~~

3435 ~~standards for multistate sellers.~~

3436        (b) The executive director of the department or his or her

3437 designee shall take other actions reasonably required to

3438 administer this section. Other actions authorized by this

3439 section include, but are not limited to, the adoption of rules

3440 and the joint procurement, with other member states, of goods

3441 and services in furtherance of the cooperative agreement.

3442        (c) The executive director of the department or his or her

3443 designee may represent this state before the other states that

3444 are signatories to the agreement.

3445        (d) The executive director of the department or his or her

3446 designee may prepare and submit such reports and certifications

3447 as determined necessary according to the terms of an agreement

3448 and to enter into such other agreements with the governing

3449 board, member states, and service providers as are determined by

3450 the executive director to facilitate the administration of the

3451 tax laws of this state.

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3452 Section 20. Section 213.2562, Florida Statutes, is created  
3453 to read:

3454 213.2562 Approval of software to calculate tax.—The  
3455 department shall review software submitted to the governing  
3456 board for certification as a certified automated system. If the  
3457 software accurately reflects the taxability of product  
3458 categories included in the program, the department shall certify  
3459 the approval of the software to the governing board.

3460 Section 21. Section 213.2567, Florida Statutes, is created  
3461 to read:

3462 213.2567 Simplified Sales and Use Tax Agreement  
3463 registration, certification, liability, and audit.—

3464 (1) A seller that registers under the agreement agrees to  
3465 collect and remit sales and use taxes for all taxable sales into  
3466 the member states, including member states joining after the  
3467 seller's registration. Withdrawal or revocation of this state  
3468 does not relieve a seller of its responsibility to remit taxes  
3469 previously or subsequently collected on behalf of the state.

3470 (a) When registering, the seller may select a model 1,  
3471 model 2, or model 3 method of remittance or other method allowed  
3472 by state law to remit the taxes collected.

3473 (b) A seller may be registered by an agent. Such  
3474 appointment must be in writing and submitted to a member state.

3475 (2) (a) A certified service provider is the agent of a model  
3476 1 seller with whom the certified service provider has contracted  
3477 for the collection and remittance of sales and use taxes. As the  
3478 model 1 seller's agent, the certified service provider is liable  
3479 for sales and use tax due this state on all sales transactions  
3480 it processes for the model 1 seller, except as set out in



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3481 paragraph (b).

3482 (b) A model 1 seller is not liable to the state for sales  
3483 or use tax due on transactions processed by the certified  
3484 service provider unless the model 1 seller has misrepresented  
3485 the type of items it sells or has committed fraud. In the  
3486 absence of probable cause to believe that the model 1 seller has  
3487 committed fraud or made a material misrepresentation, the model  
3488 1 seller is not subject to audit on the transactions processed  
3489 by the certified service provider. A model 1 seller is subject  
3490 to audit for transactions that have not been processed by the  
3491 certified service provider. The member states acting jointly may  
3492 perform a system check of the model 1 seller and review the  
3493 model 1 seller's procedures to determine if the certified  
3494 service provider's system is functioning properly and to  
3495 determine the extent to which the model 1 seller's transactions  
3496 are being processed by the certified service provider.

3497 (3) A model 2 seller that uses a certified automated system  
3498 remains responsible and is liable to this state for reporting  
3499 and remitting tax. However, a model 2 seller is not responsible  
3500 for errors in reliance on a certified automated system.

3501 (4) A model 3 seller is liable for the failure of the  
3502 proprietary system to meet the performance standard.

3503 (5) A person who provides a certified automated system is  
3504 not liable for errors contained in software that was approved by  
3505 the department and certified to the governing board. However,  
3506 such person:

3507 (a) Is responsible for the proper functioning of that  
3508 system;

3509 (b) Is liable to this state for underpayments of tax

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3510 attributable to errors in the functioning of the certified  
3511 automated system; and

3512 (c) Is liable for the misclassification of an item or  
3513 transaction that is not corrected within 10 days after the  
3514 receipt of notice from the department.

3515 (6) The executive director of the department or his or her  
3516 designee may certify a person as a certified service provider if  
3517 the person meets all of the following requirements:

3518 (a) Uses a certified automated system;

3519 (b) Integrates its certified automated system with the  
3520 system of a seller for whom the person collects tax so that the  
3521 tax due on a sale is determined at the time of the sale;

3522 (c) Agrees to remit the taxes it collects at the time and  
3523 in the manner specified by chapter 212;

3524 (d) Agrees to file returns on behalf of the sellers for  
3525 whom it collects tax;

3526 (e) Agrees to protect the privacy of tax information it  
3527 obtains in accordance with s. 213.053; and

3528 (f) Enters into a contract with the department and agrees  
3529 to comply with the terms of the contract.

3530 (7) The department shall review software submitted to the  
3531 governing board for certification as a certified automated  
3532 system. The executive director of the department shall certify  
3533 the approval of the software to the governing board if the  
3534 software:

3535 (a) Determines the applicable state and local sales and use  
3536 tax rate for a transaction in accordance with s. 212.06(3) and  
3537 (4);

3538 (b) Determines whether an item is exempt from tax;

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3539 (c) Determines the amount of tax to be remitted for each  
3540 taxpayer for a reporting period; and

3541 (d) Can generate reports and returns as required by the  
3542 governing board.

3543 (8) The department may by rule establish one or more sales  
3544 tax performance standards for model 3 sellers.

3545 (9) Disclosure of information necessary under this section  
3546 must be made according to a written agreement between the  
3547 executive director of the department or his or her designee and  
3548 the certified service provider. The certified service provider  
3549 is bound by the same requirements of confidentiality as the  
3550 department employees. Breach of confidentiality is a misdemeanor  
3551 of the first degree, punishable as provided in s. 775.082 or s.  
3552 775.083.

3553 Section 22. It is the intent of the Legislature to urge the  
3554 United States Congress to consider adequate protections for  
3555 small businesses engaging in both offline and online  
3556 transactions from added costs, administrative burdens, and  
3557 requirements imposed on intermediaries relating to the  
3558 collection and remittance of sales and use tax.

3559 Section 23. The executive director of the Department of  
3560 Revenue may adopt emergency rules to implement this act.  
3561 Notwithstanding any other law, the emergency rules shall remain  
3562 effective for 6 months after the date of adoption and may be  
3563 renewed during the pendency of procedures to adopt rules  
3564 addressing the subject of the emergency rules.

3565 Section 24. Paragraph (a) of subsection (5) of section  
3566 11.45, Florida Statutes, is amended to read:

3567 11.45 Definitions; duties; authorities; reports; rules.-

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3568 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

3569 (a) The Legislative Auditing Committee shall direct the  
 3570 Auditor General to make an audit of a any municipality if  
 3571 ~~whenever~~ petitioned to do so by at least 20 percent of the  
 3572 registered electors in the last general election of that  
 3573 municipality pursuant to this subsection. The supervisor of  
 3574 elections of the county in which the municipality is located  
 3575 shall certify whether or not the petition contains the  
 3576 signatures of at least 20 percent of the registered electors of  
 3577 the municipality. After the completion of the audit, the Auditor  
 3578 General shall determine whether the municipality has the fiscal  
 3579 resources necessary to pay the cost of the audit. The  
 3580 municipality shall pay the cost of the audit within 90 days  
 3581 after the Auditor General's determination that the municipality  
 3582 has the available resources. If the municipality fails to pay  
 3583 ~~the cost of the audit~~, the Department of Revenue shall, upon  
 3584 certification of the Auditor General, withhold from that portion  
 3585 of the distribution pursuant to s. 212.20(5)(d)5. ~~s.~~  
 3586 ~~212.20(6)(d)5.~~ which is distributable to such municipality, a  
 3587 sum sufficient to pay the cost of the audit and ~~shall~~ deposit  
 3588 that sum into the General Revenue Fund of the state.

3589 Section 25. Subsection (6) of section 196.012, Florida  
 3590 Statutes, is amended to read:

3591 196.012 Definitions.—For the purpose of this chapter, the  
 3592 following terms are defined as follows, except where the context  
 3593 clearly indicates otherwise:

3594 (6) Governmental, municipal, or public purpose or function  
 3595 is ~~shall be~~ deemed to be served or performed when the lessee  
 3596 under a any leasehold interest created in property of the United

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3597 States, the state or ~~any~~ of its political subdivisions, or a ~~any~~  
3598 municipality, agency, special district, authority, or other  
3599 public body corporate of the state is demonstrated to perform a  
3600 function or serve a governmental purpose that ~~which~~ could  
3601 properly be performed or served by an appropriate governmental  
3602 unit or which is demonstrated to perform a function or serve a  
3603 purpose which would otherwise be a valid subject for the  
3604 allocation of public funds. For purposes of the preceding  
3605 sentence, an activity undertaken by a lessee which is permitted  
3606 under the terms of its lease of real property designated as an  
3607 aviation area on an airport layout plan that ~~which~~ has been  
3608 approved by the Federal Aviation Administration and which real  
3609 property is used for the administration, operation, business  
3610 offices and activities related specifically thereto in  
3611 connection with the conduct of an aircraft full service fixed  
3612 base operation which provides goods and services to the general  
3613 aviation public in the promotion of air commerce is ~~shall be~~  
3614 deemed an activity that ~~which~~ serves a governmental, municipal,  
3615 or public purpose or function. An ~~Any~~ activity undertaken by a  
3616 lessee which is permitted under the terms of its lease of real  
3617 property designated as a public-use ~~public~~ airport as defined in  
3618 s. 332.004(14) by municipalities, agencies, special districts,  
3619 authorities, or other public bodies corporate and public bodies  
3620 politic of the state, a spaceport as defined in s. 331.303, or  
3621 which is located in a deepwater port identified in s.  
3622 403.021(9) (b) and owned by one of the foregoing governmental  
3623 units, subject to a leasehold or other possessory interest of a  
3624 nongovernmental lessee that is deemed to perform an aviation,  
3625 airport, aerospace, maritime, or port purpose or operation is

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3626 ~~shall be~~ deemed an activity that serves a governmental,  
3627 municipal, or public purpose. The use by a lessee, licensee, or  
3628 management company of real property or a portion thereof as a  
3629 convention center, visitor center, sports facility with  
3630 permanent seating, concert hall, arena, stadium, park, or beach  
3631 is deemed a use that serves a governmental, municipal, or public  
3632 purpose or function when access to the property is open to the  
3633 general public with or without a charge for admission. If  
3634 property deeded to a municipality by the United States is  
3635 subject to a requirement that the Federal Government, through a  
3636 schedule established by the Secretary of the Interior, determine  
3637 that the property is being maintained for public historic  
3638 preservation, park, or recreational purposes and if those  
3639 conditions are not met the property reverts ~~will revert~~ back to  
3640 the Federal Government, then such property shall be deemed to  
3641 serve a municipal or public purpose. The term "~~governmental~~  
3642 ~~purpose~~" also includes a direct use of property on federal lands  
3643 in connection with the Federal Government's Space Exploration  
3644 Program or spaceport activities as defined in s. 212.02(22).  
3645 Real property and tangible personal property owned by the  
3646 Federal Government or Space Florida and used for defense and  
3647 space exploration purposes or which is put to a use in support  
3648 thereof is ~~shall be~~ deemed to perform an essential national  
3649 governmental purpose and is ~~shall be~~ exempt. The term "owned by  
3650 the lessee" as used in this chapter does not include personal  
3651 property, buildings, or other real property improvements used  
3652 for the administration, operation, business offices and  
3653 activities related specifically thereto in connection with the  
3654 conduct of an aircraft full service fixed based operation which

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3655 provides goods and services to the general aviation public in  
3656 the promotion of air commerce provided that the real property is  
3657 designated as an aviation area on an airport layout plan  
3658 approved by the Federal Aviation Administration. For purposes of  
3659 determining ~~determination of~~ "ownership," buildings and other  
3660 real property improvements that ~~which~~ will revert to the airport  
3661 authority or other governmental unit upon expiration of the term  
3662 of the lease are ~~shall be deemed~~ "owned" by the governmental  
3663 unit and not the lessee. Providing two-way telecommunications  
3664 services to the public for hire by the use of a  
3665 telecommunications facility, as defined in s. 364.02~~(14)~~, and  
3666 for which a certificate is required under chapter 364 does not  
3667 constitute an exempt use for purposes of s. 196.199, unless the  
3668 telecommunications services are provided by the operator of a  
3669 public-use airport, as defined in s. 332.004, for the operator's  
3670 provision of telecommunications services for the airport or its  
3671 tenants, concessionaires, or licensees, or unless the  
3672 telecommunications services are provided by a public hospital.

3673 Section 26. Paragraph (b) of subsection (1) and paragraph  
3674 (b) of subsection (2) of section 202.18, Florida Statutes, are  
3675 amended to read:

3676 202.18 Allocation and disposition of tax proceeds.—The  
3677 proceeds of the communications services taxes remitted under  
3678 this chapter shall be treated as follows:

3679 (1) The proceeds of the taxes remitted under s.

3680 202.12(1)(a) shall be divided as follows:

3681 (b) The remaining portion shall be distributed according to  
3682 s. 212.20(5) ~~s. 212.20(6)~~.

3683 (2) The proceeds of the taxes remitted under s.

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3684 202.12(1)(b) shall be divided as follows:

3685 (b) Sixty-three percent of the remainder shall be allocated  
3686 to the state and distributed pursuant to s. 212.20(5) ~~s.~~  
3687 ~~212.20(6)~~, except that the proceeds allocated pursuant to s.  
3688 212.20(5)(d)2. ~~s. 212.20(6)(d)2.~~ shall be prorated to the  
3689 participating counties in the same proportion as that month's  
3690 collection of the taxes and fees imposed pursuant to chapter 212  
3691 and paragraph (1)(b).

3692 Section 27. Paragraphs (f), (g), (h), and (i) of subsection  
3693 (1) of section 203.01, Florida Statutes, are amended to read:

3694 203.01 Tax on gross receipts for utility and communications  
3695 services.—

3696 (1)

3697 (f) A ~~Any~~ person who imports into this state electricity,  
3698 natural gas, or manufactured gas, or severs natural gas, for  
3699 that person's own use or consumption as a substitute for  
3700 purchasing utility, transportation, or delivery services taxable  
3701 under this chapter and who cannot demonstrate payment of the tax  
3702 ~~imposed by this chapter~~ must register with the Department of  
3703 Revenue and pay into the State Treasury each month an amount  
3704 equal to the cost price, as defined in s. 212.02, of such  
3705 electricity, natural gas, or manufactured gas times the rate set  
3706 forth in paragraph (b), reduced by the amount of a ~~any~~ like tax  
3707 lawfully imposed on and paid by the person from whom the  
3708 electricity, natural gas, or manufactured gas was purchased, or  
3709 a ~~any~~ person who provided delivery service or transportation  
3710 service in connection with the electricity, natural gas, or  
3711 manufactured gas. ~~For purposes of this paragraph, the term "cost~~  
3712 ~~price" has the meaning ascribed in s. 212.02(4).~~ The methods of



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3713 demonstrating proof of payment and the amount of such reductions  
3714 in tax shall be made according to rules of the Department of  
3715 Revenue.

3716 (g) Electricity produced by cogeneration or by small power  
3717 producers which is transmitted and distributed by a public  
3718 utility between two locations of a customer of the utility  
3719 pursuant to s. 366.051 is subject to the tax imposed by this  
3720 section. The tax shall be applied to the cost price, as defined  
3721 in s. 212.02, of such electricity ~~as provided in s. 212.02(4)~~  
3722 and shall be paid each month by the producer of such  
3723 electricity.

3724 (h) Electricity produced by cogeneration or by small power  
3725 producers during the 12-month period ending June 30 of each  
3726 year, which is in excess of nontaxable electricity produced  
3727 during the 12-month period ending June 30, 1990, is subject to  
3728 the tax imposed by this section. The tax shall be applied to the  
3729 cost price, as defined in s. 212.02, of such electricity ~~as~~  
3730 ~~provided in s. 212.02(4)~~ and shall be paid each month, beginning  
3731 with the month in which total production exceeds the production  
3732 of nontaxable electricity for the 12-month period ending June  
3733 30, 1990. As used in ~~For purposes of~~ this paragraph, "nontaxable  
3734 electricity" means electricity produced by cogeneration or by  
3735 small power producers which is not subject to tax under  
3736 paragraph (g). Taxes paid pursuant to paragraph (g) may be  
3737 credited against taxes due under this paragraph. Electricity  
3738 generated as part of an industrial manufacturing process that  
3739 ~~which~~ manufactures products from phosphate rock, raw wood fiber,  
3740 paper, citrus, or an any agricultural product is ~~shall not be~~  
3741 subject to the tax imposed by this paragraph. The term

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3742 "industrial manufacturing process" means the entire process  
3743 conducted at the location where the process takes place.

3744 (i) A ~~Any~~ person other than a cogenerator or small power  
3745 producer described in paragraph (h) who produces for his or her  
3746 own use electrical energy which is a substitute for electrical  
3747 energy produced by an electric utility as defined in s. 366.02  
3748 is subject to the tax imposed by this section. The tax shall be  
3749 applied to the cost price, as defined in s. 212.02, of such  
3750 electrical energy ~~as provided in s. 212.02(4)~~ and shall be paid  
3751 each month. ~~The provisions of~~ This paragraph does ~~de~~ not apply  
3752 to ~~any~~ electrical energy produced and used by an electric  
3753 utility.

3754 Section 28. Paragraph (a) of subsection (1) of section  
3755 212.031, Florida Statutes, is amended to read:

3756 212.031 Tax on rental or license fee for use of real  
3757 property.—

3758 (1) (a) It is ~~declared to be~~ the legislative intent that  
3759 every person is exercising a taxable privilege who engages in  
3760 the business of renting, leasing, letting, or granting a license  
3761 for the use of ~~any~~ real property unless such property is:

- 3762 1. Assessed as agricultural property under s. 193.461.
- 3763 2. Used exclusively as dwelling units.
- 3764 3. Property subject to tax on parking, docking, or storage  
3765 spaces under s. 212.03(6).

3766 4. Recreational property or the common elements of a  
3767 condominium if ~~when~~ subject to a lease between the developer or  
3768 owner thereof and the condominium association in its own right  
3769 or as agent for the owners of individual condominium units or  
3770 the owners of individual condominium units. However, only the

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3771 lease payments on such property are ~~shall be~~ exempt from the tax  
3772 imposed by this chapter, and any other use made by the owner or  
3773 the condominium association is ~~shall be~~ fully taxable under this  
3774 chapter.

3775 5. A public or private street or right-of-way and poles,  
3776 conduits, fixtures, and similar improvements located on such  
3777 streets or rights-of-way, occupied or used by a utility or  
3778 provider of communications services, as defined by s. 202.11,  
3779 for utility or communications or television purposes. As used in  
3780 ~~For purposes of~~ this subparagraph, the term "utility" means a  
3781 ~~any~~ person providing utility services as defined in s. 203.012.  
3782 This exception also applies to property, wherever located, on  
3783 which ~~the following~~ are placed: towers, antennas, cables,  
3784 accessory structures, or equipment, not including switching  
3785 equipment, used in the provision of mobile communications  
3786 services as defined in s. 202.11. For purposes of this chapter,  
3787 towers used in the provision of mobile communications services,  
3788 ~~as defined in s. 202.11,~~ are considered to be fixtures.

3789 6. A public street or road that ~~which~~ is used for  
3790 transportation purposes.

3791 7. Property used at an airport exclusively for ~~the purpose~~  
3792 ~~of~~ aircraft landing or aircraft taxiing or property used by an  
3793 airline for ~~the purpose of~~ loading or unloading passengers or  
3794 property onto or from aircraft or for fueling aircraft.

3795 8.~~a~~. Property used at a port authority, as defined in s.  
3796 315.02~~(2)~~, exclusively for ~~the purpose of~~ oceangoing vessels or  
3797 tugs docking, or such vessels mooring on property used by a port  
3798 authority for ~~the purpose of~~ loading or unloading passengers or  
3799 cargo onto or from such a vessel, or property used at a port

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3800 authority for fueling such vessels, or to the extent that the  
3801 amount paid for the use of ~~any~~ property at the port is based on  
3802 the charge for the amount of tonnage actually imported or  
3803 exported through the port by a tenant.

3804 ~~b.~~ The amount charged for the use of ~~any~~ property at the  
3805 port in excess of the amount charged for tonnage actually  
3806 imported or exported remains ~~shall remain~~ subject to tax except  
3807 as provided in sub-subparagraph a.

3808 9. Property used as an integral part of the performance of  
3809 qualified production services. As used in this subparagraph, the  
3810 term "qualified production services" means an ~~any~~ activity or  
3811 service performed directly in connection with the production of  
3812 a qualified motion picture, as defined in s. 212.06(1)(b), and  
3813 includes:

3814 a. Photography, sound and recording, casting, location  
3815 managing and scouting, shooting, creation of special and optical  
3816 effects, animation, adaptation (language, media, electronic, or  
3817 otherwise), technological modifications, computer graphics, set  
3818 and stage support (such as electricians, lighting designers and  
3819 operators, greensmen, prop managers and assistants, and grips),  
3820 wardrobe (design, preparation, and management), hair and makeup  
3821 (design, production, and application), performing (such as  
3822 acting, dancing, and playing), designing and executing stunts,  
3823 coaching, consulting, writing, scoring, composing,  
3824 choreographing, script supervising, directing, producing,  
3825 transmitting dailies, dubbing, mixing, editing, cutting,  
3826 looping, printing, processing, duplicating, storing, and  
3827 distributing;

3828 b. The design, planning, engineering, construction,

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3829 alteration, repair, and maintenance of real or personal property  
3830 including stages, sets, props, models, paintings, and facilities  
3831 principally required for the performance of those services  
3832 listed in sub-subparagraph a.; and

3833 c. Property management services directly related to  
3834 property used in connection with the services described in sub-  
3835 subparagraphs a. and b.

3836

3837 This exemption inures ~~will inure~~ to the taxpayer upon  
3838 presentation of the certificate of exemption issued to the  
3839 taxpayer under ~~the provisions of~~ s. 288.1258.

3840 10. Leased, subleased, licensed, or rented to a person  
3841 providing food and drink concessionaire services within the  
3842 premises of a convention hall, exhibition hall, auditorium,  
3843 stadium, theater, arena, civic center, performing arts center,  
3844 publicly owned recreational facility, or a ~~any~~ business operated  
3845 under a permit issued pursuant to chapter 550. A person  
3846 providing retail concessionaire services involving the sale of  
3847 food and drink or other tangible personal property within the  
3848 premises of an airport shall be subject to tax on the rental of  
3849 real property used for that purpose, but shall not be subject to  
3850 the tax on a ~~any~~ license to use the property. For purposes of  
3851 this subparagraph, the term "sale" does ~~shall~~ not include the  
3852 leasing of tangible personal property.

3853 11. Property occupied pursuant to an instrument calling for  
3854 payments which the department has declared, in a Technical  
3855 Assistance Advisement issued on or before March 15, 1993, to be  
3856 nontaxable pursuant to rule 12A-1.070(19)(c), Florida  
3857 Administrative Code. ~~;~~ ~~provided that~~ This subparagraph applies

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3858 ~~shall only apply~~ to property occupied by the same person before  
3859 and after the execution of the subject instrument and only to  
3860 those payments made pursuant to such instrument, exclusive of  
3861 renewals and extensions ~~thereof~~ occurring after March 15, 1993.

3862 12. Property used or occupied predominantly for space  
3863 flight business purposes. As used in this subparagraph the term,  
3864 "space flight business" means the manufacturing, processing, or  
3865 assembly of a space facility, space propulsion system, space  
3866 vehicle, satellite, or station of any kind possessing the  
3867 capacity for space flight, as defined by s. 212.02(23), or  
3868 components thereof, and also means the following activities  
3869 supporting space flight: vehicle launch activities, flight  
3870 operations, ground control or ground support, and all  
3871 administrative activities directly related thereto. Property  
3872 shall be deemed to be used or occupied predominantly for space  
3873 flight business purposes if more than 50 percent of the  
3874 property, or improvements thereon, is used for one or more space  
3875 flight business purposes. Possession by a landlord, lessor, or  
3876 licensor of a signed written statement from the tenant, lessee,  
3877 or licensee claiming the exemption relieves ~~shall relieve~~ the  
3878 landlord, lessor, or licensor from the responsibility of  
3879 collecting the tax, and the department shall look solely to the  
3880 tenant, lessee, or licensee for recovery of such tax if it  
3881 determines that the exemption is ~~was~~ not applicable.

3882 13. Rented, leased, subleased, or licensed to a person  
3883 providing telecommunications, data systems management, or  
3884 Internet services at a publicly or privately owned convention  
3885 hall, civic center, or meeting space at a public lodging  
3886 establishment as defined in s. 509.013. This subparagraph

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3887 applies only to that portion of the rental, lease, or license  
3888 payment that is based on ~~upon~~ a percentage of sales, revenue  
3889 sharing, or royalty payments and not based on ~~upon~~ a fixed  
3890 price. This subparagraph is intended to be clarifying and  
3891 remedial in nature and applies ~~shall apply~~ retroactively. This  
3892 subparagraph does not provide a basis for an assessment of any  
3893 tax not paid, or create a right to a refund of any tax paid,  
3894 pursuant to this section before July 1, 2010.

3895 Section 29. Paragraph (b) of subsection (1) of section  
3896 212.052, Florida Statutes, is amended to read:

3897 212.052 Research or development costs; exemption.—

3898 (1) For the purposes of the exemption provided in this  
3899 section:

3900 (b) The term "costs" means cost price as defined in s.  
3901 212.02~~(4)~~.

3902 Section 30. Paragraph (c) of subsection (2), paragraph (c)  
3903 of subsection (3), and paragraphs (c) and (i) of subsection (8)  
3904 of section 212.055, Florida Statutes, are amended to read:

3905 212.055 Discretionary sales surtaxes; legislative intent;  
3906 authorization and use of proceeds.—It is the legislative intent  
3907 that an ~~any~~ authorization for imposition of a discretionary  
3908 sales surtax shall be published in the Florida Statutes as a  
3909 subsection of this section, regardless ~~irrespective~~ of the  
3910 duration of the levy. Each enactment must ~~shall~~ specify the  
3911 types of counties authorized to levy; the rate or rates that  
3912 ~~which~~ may be imposed; the maximum length of time the surtax may  
3913 be imposed, if any; the procedure that ~~which~~ must be followed to  
3914 secure voter approval, if required; the purpose for which the  
3915 proceeds may be expended; and such other requirements as the

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3916 Legislature may provide. Taxable transactions and administrative  
3917 procedures shall be as provided in s. 212.054.

3918 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

3919 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
3920 levied under this subsection shall be distributed to the county  
3921 and the municipalities within such county in which the surtax  
3922 was collected, according to:

3923 1. An interlocal agreement between the county governing  
3924 authority and the governing bodies of the municipalities  
3925 representing a majority of the county's municipal population,  
3926 which agreement may include a school district with the consent  
3927 of the county governing authority and the governing bodies of  
3928 the municipalities representing a majority of the county's  
3929 municipal population; or

3930 2. If there is no interlocal agreement, according to the  
3931 formula provided in s. 218.62.

3932

3933 A ~~Any~~ change in the distribution formula must take effect on the  
3934 first day of the ~~any~~ month that begins at least 60 days after  
3935 written notification of that change has been made to the  
3936 department.

3937 (3) SMALL COUNTY SURTAX.—

3938 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
3939 levied under this subsection shall be distributed to the county  
3940 and the municipalities within the county in which the surtax was  
3941 collected, according to:

3942 1. An interlocal agreement between the county governing  
3943 authority and the governing bodies of the municipalities  
3944 representing a majority of the county's municipal population,



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3945 which agreement may include a school district with the consent  
3946 of the county governing authority and the governing bodies of  
3947 the municipalities representing a majority of the county's  
3948 municipal population; or

3949 2. If there is no interlocal agreement, according to the  
3950 formula provided in s. 218.62.

3951  
3952 A ~~Any~~ change in the distribution formula shall take effect on  
3953 the first day of the ~~any~~ month that begins at least 60 days  
3954 after written notification of that change has been made to the  
3955 department.

3956 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

3957 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the  
3958 discretionary sales surtax collected under this subsection, less  
3959 an administrative fee that may be retained by the Department of  
3960 Revenue, shall be distributed by the department to the county.  
3961 The county shall distribute the proceeds it receives from the  
3962 department to the participating jurisdictions that have entered  
3963 into an interlocal agreement with the county under this  
3964 subsection. The county may also charge an administrative fee for  
3965 receiving and distributing the surtax in the amount of the  
3966 actual costs incurred, not to exceed 2 percent of the surtax  
3967 collected.

3968 (i) Surtax collections shall be initiated on January 1 of  
3969 the year following a successful referendum ~~in order to coincide~~  
3970 ~~with s. 212.054(5)~~.

3971 Section 31. Subsection (3) of section 212.13, Florida  
3972 Statutes, is amended to read:

3973 212.13 Records required to be kept; power to inspect; audit

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3974 procedure.—

3975 (3) For the purpose of enforcing ~~enforcement~~ of this  
3976 chapter, a every manufacturer and seller of tangible personal  
3977 property or services licensed within this state shall allow ~~is~~  
3978 ~~required to permit~~ the department to examine his or her books  
3979 and records at all reasonable hours, and, upon ~~his or her~~  
3980 refusal, the department may require him or her to permit such  
3981 examination by resort to the circuit courts of this state,  
3982 subject however to the right of removal of the cause to the  
3983 judicial circuit wherein such person's business is located or  
3984 ~~wherein~~ such person's books and records are kept if, ~~provided~~  
3985 ~~further that~~ such person's books and records are kept within the  
3986 state. If ~~When~~ the dealer has made an allocation or attribution  
3987 pursuant to the definition of sales price in s. 212.02(16), the  
3988 department may prescribe by rule the books and records that must  
3989 be made available during an audit of the dealer's books and  
3990 records and examples of methods for determining the  
3991 reasonableness thereof. Books and records kept in the regular  
3992 course of business include, ~~but are not limited to,~~ general  
3993 ledgers, price lists, cost records, customer billings, billing  
3994 system reports, tariffs, and other regulatory filings and rules  
3995 of regulatory authorities. Such record may be required to be  
3996 made available to the department in an electronic format when so  
3997 kept by the dealer. The dealer may support the allocation of  
3998 charges with books and records kept in the regular course of  
3999 business covering the dealer's entire service area, including  
4000 territories outside this state. During an audit, the department  
4001 may reasonably require production of ~~any~~ additional books and  
4002 records found necessary to assist in its determination.

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4003 Section 32. Subsection (1) of section 212.15, Florida  
4004 Statutes, is amended to read:

4005 212.15 Taxes declared state funds; penalties for failure to  
4006 remit taxes; due and delinquent dates; judicial review.—

4007 (1) The taxes imposed by this chapter ~~shall, except as~~  
4008 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the  
4009 moment of collection and are ~~shall for each month be~~ due to the  
4010 department on the first day of the succeeding month and ~~be~~  
4011 delinquent on the 21st day of such month. All returns postmarked  
4012 after the 20th day of such month are delinquent.

4013 Section 33. Subsection (3) of section 213.015, Florida  
4014 Statutes, is amended to read:

4015 213.015 Taxpayer rights.—There is created a Florida  
4016 Taxpayer's Bill of Rights to guarantee that the rights, privacy,  
4017 and property of Florida taxpayers are adequately safeguarded and  
4018 protected during tax assessment, collection, and enforcement  
4019 processes administered under the revenue laws of this state. The  
4020 Taxpayer's Bill of Rights compiles, in one document, brief but  
4021 comprehensive statements which explain, in simple, nontechnical  
4022 terms, the rights and obligations of the Department of Revenue  
4023 and taxpayers. Section 192.0105 provides additional rights  
4024 afforded to payors of property taxes and assessments. The rights  
4025 afforded taxpayers to ensure that their privacy and property are  
4026 safeguarded and protected during tax assessment and collection  
4027 are available only insofar as they are implemented in other  
4028 parts of the Florida Statutes or rules of the Department of  
4029 Revenue. The rights so guaranteed Florida taxpayers in the  
4030 Florida Statutes and the departmental rules are:

4031 (3) The right to be represented or advised by counsel or

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4032 other qualified representatives at any time in administrative  
4033 interactions with the department, the right to procedural  
4034 safeguards with respect to recording of interviews during tax  
4035 determination or collection processes conducted by the  
4036 department, the right to be treated in a professional manner by  
4037 department personnel, and the right to have audits, inspections  
4038 of records, and interviews conducted at a reasonable time and  
4039 place except in criminal and internal investigations (see ss.  
4040 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),  
4041 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11) ~~(13)~~,  
4042 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

4043 Section 34. Subsection (3) of section 218.245, Florida  
4044 Statutes, is amended to read:

4045 218.245 Revenue sharing; apportionment.—

4046 (3) Revenues attributed to the increase in distribution to  
4047 the Revenue Sharing Trust Fund for Municipalities pursuant to s.  
4048 212.20(5)(d)5. ~~s. 212.20(6)(d)5.~~ from 1.0715 percent to 1.3409  
4049 percent provided in chapter 2003-402, Laws of Florida, shall be  
4050 distributed to each eligible municipality and ~~any~~ unit of local  
4051 government that is consolidated as provided by s. 9, Art. VIII  
4052 of the State Constitution of 1885, as preserved by s. 6(e), Art.  
4053 VIII, 1968 revised constitution, as follows: each eligible local  
4054 government's allocation shall be based on the amount it received  
4055 from the half-cent sales tax under s. 218.61 in the prior state  
4056 fiscal year divided by the total receipts under s. 218.61 in the  
4057 prior state fiscal year for all eligible local governments.  
4058 However, for the purpose of calculating this distribution, the  
4059 amount received from the half-cent sales tax under s. 218.61 in  
4060 the prior state fiscal year by a unit of local government which

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4061 is consolidated as provided by s. 9, Art. VIII of the State  
 4062 Constitution of 1885, as amended, and as preserved by s. 6(e),  
 4063 Art. VIII, of the Constitution as revised in 1968, shall be  
 4064 reduced by 50 percent for such local government and for the  
 4065 total receipts. For eligible municipalities that began  
 4066 participating in the allocation of half-cent sales tax under s.  
 4067 218.61 in the previous state fiscal year, their annual receipts  
 4068 shall be calculated by dividing their actual receipts by the  
 4069 number of months they participated, and the result multiplied by  
 4070 12.

4071 Section 35. Subsections (5) through (7) of section 218.65,  
 4072 Florida Statutes, are amended to read:

4073 218.65 Emergency distribution.—

4074 (5) At the beginning of each fiscal year, the Department of  
 4075 Revenue shall calculate a base allocation for each eligible  
 4076 county equal to the difference between the current per capita  
 4077 limitation times the county's population, minus prior year  
 4078 ordinary distributions to the county pursuant to ss.  
 4079 212.20 (5) (d) 2. ~~212.20 (6) (d) 2.~~, 218.61, and 218.62. If moneys  
 4080 deposited into the Local Government Half-cent Sales Tax Clearing  
 4081 Trust Fund pursuant to s. 212.20 (5) (d) 3. ~~s. 212.20 (6) (d) 3.~~,  
 4082 excluding moneys appropriated for supplemental distributions  
 4083 pursuant to subsection (8), for the current year are less than  
 4084 or equal to the sum of the base allocations, each eligible  
 4085 county must ~~shall~~ receive a share of the appropriated amount  
 4086 proportional to its base allocation. If the deposited amount  
 4087 exceeds the sum of the base allocations, each county must ~~shall~~  
 4088 receive its base allocation, and the excess appropriated amount,  
 4089 less any amounts distributed under subsection (6), shall be

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4090 distributed equally on a per capita basis among the eligible  
4091 counties.

4092 (6) If moneys deposited in the Local Government Half-cent  
4093 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(d)3. ~~s.~~  
4094 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base  
4095 allocation to each eligible county, the moneys in the trust fund  
4096 may be used to provide a transitional distribution, ~~as specified~~  
4097 ~~in this subsection,~~ to certain counties whose population has  
4098 increased. The transitional distribution shall be made available  
4099 to each county that qualified for a distribution under  
4100 subsection (2) in the prior year but does not, because of the  
4101 requirements of paragraph (2)(a), qualify for a distribution in  
4102 the current year. Beginning on July 1 of the year following the  
4103 year in which the county no longer qualifies for a distribution  
4104 under subsection (2), the county shall receive two-thirds of the  
4105 amount received in the prior year, and beginning July 1 of the  
4106 second year following the year in which the county no longer  
4107 qualifies for a distribution under subsection (2), the county  
4108 shall receive one-third of the amount it received in the last  
4109 year it qualified for the distribution under subsection (2). If  
4110 insufficient moneys are available in the Local Government Half-  
4111 cent Sales Tax Clearing Trust Fund to fully provide such a  
4112 transitional distribution to each county that meets the  
4113 eligibility criteria in this section, each eligible county shall  
4114 receive a share of the available moneys proportional to the  
4115 amount it would have received had moneys been sufficient to  
4116 fully provide such a transitional distribution to each eligible  
4117 county.

4118 (7) The distribution provided in s. 212.20(5)(d)3. ~~There is~~

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4119 hereby annually appropriated from the Local Government Half-cent  
 4120 Sales Tax Clearing Trust Fund ~~the distribution provided in s.~~  
 4121 ~~212.20(6)(d)3.~~ to be used for emergency and supplemental  
 4122 distributions pursuant to this section.

4123 Section 36. Paragraph (q) of subsection (1) of section  
 4124 288.1045, Florida Statutes, is amended to read:

4125 288.1045 Qualified defense contractor and space flight  
 4126 business tax refund program.—

4127 (1) DEFINITIONS.—As used in this section:

4128 (q) "Space flight business" means the manufacturing,  
 4129 processing, or assembly of space flight technology products,  
 4130 space flight facilities, space flight propulsion systems, or  
 4131 space vehicles, satellites, or stations of any kind possessing  
 4132 the capability for space flight, as defined by s. 212.02~~(23)~~, or  
 4133 components thereof, and includes, in supporting space flight,  
 4134 vehicle launch activities, flight operations, ground control or  
 4135 ground support, and all administrative activities directly  
 4136 related to such activities. The term does not include products  
 4137 that are designed or manufactured for general commercial  
 4138 aviation or other uses even if those products may also serve an  
 4139 incidental use in space flight applications.

4140 Section 37. Paragraphs (a) and (d) of subsection (3) of  
 4141 section 288.11621, Florida Statutes, are amended to read:

4142 288.11621 Spring training baseball franchises.—

4143 (3) USE OF FUNDS.—

4144 (a) A certified applicant may use funds provided under s.  
 4145 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ only to:

4146 1. Serve the public purpose of acquiring, constructing,  
 4147 reconstructing, or renovating a facility for a spring training

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4148 franchise.

4149           2. Pay or pledge for the payment of debt service on, or to  
4150 fund debt service reserve funds, arbitrage rebate obligations,  
4151 or other amounts payable with respect thereto, bonds issued for  
4152 the acquisition, construction, reconstruction, or renovation of  
4153 such facility, or for the reimbursement of such costs or the  
4154 refinancing of bonds issued for such purposes.

4155           3. Assist in the relocation of a spring training franchise  
4156 from one unit of local government to another only if the  
4157 governing board of the current host local government by a  
4158 majority vote agrees to relocation.

4159           (d)1. All certified applicants must place unexpended state  
4160 funds received pursuant to s. 212.20(5)(d)6.b. ~~s.~~  
4161 ~~212.20(6)(d)6.b.~~ in a trust fund or separate account for use  
4162 only as authorized in this section.

4163           2. A certified applicant may request that the Department of  
4164 Revenue suspend further distributions of state funds made  
4165 available under s. 212.20(5)(d)6.b. ~~s. 212.20(6)(d)6.b.~~ for 12  
4166 months after expiration of an existing agreement with a spring  
4167 training franchise to provide the certified applicant with an  
4168 opportunity to enter into a new agreement with a spring training  
4169 franchise, at which time the distributions shall resume.

4170           3. The expenditure of state funds distributed to an  
4171 applicant certified before July 1, 2010, must begin within 48  
4172 months after the initial receipt of the state funds. In  
4173 addition, the construction of, or capital improvements to, a  
4174 spring training facility must be completed within 24 months  
4175 after the project's commencement.

4176           Section 38. Subsection (6) of section 288.1169, Florida



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4177 Statutes, is amended to read:

4178       288.1169 International Game Fish Association World Center  
4179 facility.—

4180       (6) The department shall ~~must~~ recertify every 10 years that  
4181 the facility is open, that the International Game Fish  
4182 Association World Center continues to be the only international  
4183 administrative headquarters, fishing museum, and Hall of Fame in  
4184 the United States recognized by the International Game Fish  
4185 Association, and that the project is meeting the minimum  
4186 projections for attendance or sales tax revenues as required at  
4187 the time of original certification. If the facility is not  
4188 recertified during this 10-year review as meeting the minimum  
4189 projections, ~~then~~ funding shall be abated until the  
4190 certification criteria are met. If the project fails to generate  
4191 \$1 million of annual revenues pursuant to paragraph (2) (e), the  
4192 distribution of revenues pursuant to s. 212.20(5)(d)6.d. ~~s.~~  
4193 ~~212.20(6)(d)6.d.~~ shall be reduced to an amount equal to \$83,333  
4194 multiplied by a fraction, the numerator of which is the actual  
4195 revenues generated and the denominator of which is \$1 million.  
4196 Such reduction remains in effect until revenues generated by the  
4197 project in a 12-month period equal or exceed \$1 million.

4198       Section 39. Subsection (8) of section 551.102, Florida  
4199 Statutes, is amended to read:

4200       551.102 Definitions.—As used in this chapter, the term:

4201       (8) "Slot machine" means a ~~any~~ mechanical or electrical  
4202 contrivance, terminal that may or may not be capable of  
4203 downloading slot games from a central server system, machine, or  
4204 other device that, upon insertion of a coin, bill, ticket,  
4205 token, or similar object or upon payment of any consideration

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4206 ~~whatsoever~~, including the use of an ~~any~~ electronic payment  
 4207 system except a credit card or debit card, is available to play  
 4208 or operate, the play or operation of which, whether by reason of  
 4209 skill or application of the element of chance or both, may  
 4210 deliver or entitle the person or persons playing or operating  
 4211 the contrivance, terminal, machine, or other device to receive  
 4212 cash, billets, tickets, tokens, or electronic credits to be  
 4213 exchanged for cash or to receive merchandise or anything of  
 4214 value ~~whatsoever~~, whether the payoff is made automatically from  
 4215 the machine or manually. The term includes associated equipment  
 4216 necessary to conduct the operation of the contrivance, terminal,  
 4217 machine, or other device. Slot machines may use spinning reels,  
 4218 video displays, or both. A slot machine is not a "coin-operated  
 4219 amusement machine" as defined in s. 212.02(24) or an amusement  
 4220 game or machine as described in s. 849.161, and slot machines  
 4221 are not subject to the tax imposed by s. 212.05(1)(h).

4222 Section 40. Paragraph (a) of subsection (1) of section  
 4223 790.0655, Florida Statutes, is amended to read:

4224 790.0655 Purchase and delivery of handguns; mandatory  
 4225 waiting period; exceptions; penalties.—

4226 (1)(a) There is ~~shall be~~ a mandatory 3-day waiting period,  
 4227 ~~which shall be 3 days~~, excluding weekends and legal holidays,  
 4228 between the purchase and the delivery at retail of a ~~any~~  
 4229 handgun. The term "purchase" means the transfer of money or  
 4230 other valuable consideration to the retailer. The term "handgun"  
 4231 means a firearm capable of being carried and used by one hand,  
 4232 such as a pistol or revolver. The term "retailer" means and  
 4233 includes every person engaged in the business of making sales at  
 4234 retail or for distribution, or use, or consumption, or storage

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4235 to be used or consumed in this state, as defined in s.  
4236 212.02~~(13)~~.

4237 Section 41. Section 212.0596, Florida Statutes, is  
4238 repealed.

4239 Section 42. This act shall take effect January 1, 2015.

4240