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LEGISLATIVE ACTION

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Senator Gruters moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Park Randall 'Randy' Miller Act."

Section 2. Paragraph (e) of subsection (14) of section 212.02, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this


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section, except where the context clearly indicates a different meaning:

(14)

(e) The term "retail sale" includes a remote ~~mail order~~ sale~~,~~ as defined in s. 212.0596(1).

(f) The term "retail sale" includes a sale facilitated through a marketplace as defined in s. 212.05965(1).

Section 3. Section 212.05, Florida Statutes, is amended to read:

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

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

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

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is


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required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

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


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

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and


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(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 90 days from the date of departure, provides the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 90 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 30 days after removing the boat or aircraft from Florida, furnishes the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 30 days after the date of sale, provides to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

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

f. Unless the nonresident purchaser of a boat of 5 net tons


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of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before delivery of the boat.

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

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

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

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


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subject to inspection by the department.

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

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

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

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

If the purchaser fails to remove the qualifying boat from this

state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

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

paid by the owner.

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

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

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

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

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

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(13)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or


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part of an established business or the same is incidental or germane to such business.

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

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

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

(I) "Prepaid calling arrangement" has the same meaning as provided in s. 202.11.

(II) If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to have taken place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

(III) The sale or recharge of a prepaid calling arrangement shall be treated as a sale of tangible personal property for purposes of this chapter, regardless of whether a tangible item evidencing such arrangement is furnished to the purchaser, and such sale within this state subjects the selling dealer to the jurisdiction of this state for purposes of this subsection.

(IV) No additional tax under this chapter or chapter 202 is due or payable if a purchaser of a prepaid calling arrangement who has paid tax under this chapter on the sale or recharge of such arrangement applies one or more units of the prepaid calling arrangement to obtain communications services as

described in s. 202.11(9)(b)3., other services that are not communications services, or products.

b. The installation of telecommunication and telegraphic equipment.

c. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 4.35 percent. Charges for electrical power and energy do not include taxes imposed under ss. 166.231 and 203.01(1)(a)3.

2. Section 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, is equally applicable to any tax paid under this section on charges for prepaid calling arrangements, telecommunication or telegraph services, or electric power subsequently found to be uncollectible. As used in this paragraph, the term "charges" does not include any excise or similar tax levied by the Federal Government, a political subdivision of this state, or a municipality upon the purchase, sale, or recharge of prepaid calling arrangements or upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

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

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


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2. Notwithstanding other provisions of this chapter, inserts of printed materials which are distributed with a newspaper or magazine are a component part of the newspaper or magazine, and neither the sale nor use of such inserts is subject to tax when:

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

b. Such publications are labeled as part of the designated newspaper or magazine publication into which they are to be inserted; and

c. The purchaser of the insert presents a resale certificate to the vendor stating that the inserts are to be distributed as a component part of a newspaper or magazine.

(h)1. A tax is imposed at the rate of 4 percent on the charges for the use of coin-operated amusement machines. The tax shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. For counties that do not impose a discretionary sales surtax, the divisor is equal to 1.04; for counties that impose a 0.5 percent discretionary sales surtax, the divisor is equal to 1.045; for counties that impose a 1 percent discretionary sales surtax, the divisor is equal to 1.050; and for counties that impose a 2


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percent sales surtax, the divisor is equal to 1.060. If a county imposes a discretionary sales surtax that is not listed in this subparagraph, the department shall make the applicable divisor available in an electronic format or otherwise. Additional divisors shall bear the same mathematical relationship to the next higher and next lower divisors as the new surtax rate bears to the next higher and next lower surtax rates for which divisors have been established. When a machine is activated by a slug, token, coupon, or any similar device which has been purchased, the tax is on the price paid by the user of the device for such device.

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

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

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

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

3.a. An operator of a coin-operated amusement machine may not operate or cause to be operated in this state any such machine until the operator has registered with the department and has conspicuously displayed an identifying certificate issued by the department. The identifying certificate shall be issued by the department upon application from the operator. The identifying certificate shall include a unique number, and the certificate shall be permanently marked with the operator's name, the operator's sales tax number, and the maximum number of machines to be operated under the certificate. An identifying certificate shall not be transferred from one operator to another. The identifying certificate must be conspicuously displayed on the premises where the coin-operated amusement machines are being operated.

b. The operator of the machine must obtain an identifying certificate before the machine is first operated in the state and by July 1 of each year thereafter. The annual fee for each certificate shall be based on the number of machines identified on the application times $30 and is due and payable upon application for the identifying device. The application shall contain the operator's name, sales tax number, business address where the machines are being operated, and the number of machines in operation at that place of business by the operator. No operator may operate more machines than are listed on the certificate. A new certificate is required if more machines are being operated at that location than are listed on the certificate. The fee for the new certificate shall be based on the number of additional machines identified on the application form times $30.


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c. A penalty of $250 per machine is imposed on the operator for failing to properly obtain and display the required identifying certificate. A penalty of $250 is imposed on the lessee of any machine placed in a place of business without a proper current identifying certificate. Such penalties shall apply in addition to all other applicable taxes, interest, and penalties.

d. Operators of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the operator’s machines within a single county.

4. The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

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

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

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

a. Detective, burglar protection, and other protection services (NAICS National Numbers 561611, 561612, 561613, and 561621). Fingerprint services required under s. 790.06 or s. 790.062 are not subject to the tax. Any law enforcement officer, as defined in s. 943.10, who is performing approved duties as determined by his or her local law enforcement agency in his or her capacity as a law enforcement officer, and who is subject to


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the direct and immediate command of his or her law enforcement agency, and in the law enforcement officer's uniform as authorized by his or her law enforcement agency, is performing law enforcement and public safety services and is not performing detective, burglar protection, or other protective services, if the law enforcement officer is performing his or her approved duties in a geographical area in which the law enforcement officer has arrest jurisdiction. Such law enforcement and public safety services are not subject to tax irrespective of whether the duty is characterized as "extra duty," "off-duty," or "secondary employment," and irrespective of whether the officer is paid directly or through the officer's agency by an outside source. The term "law enforcement officer" includes full-time or part-time law enforcement officers, and any auxiliary law enforcement officer, when such auxiliary law enforcement officer is working under the direct supervision of a full-time or part-time law enforcement officer.

b. Nonresidential cleaning, excluding cleaning of the interiors of transportation equipment, and nonresidential building pest control services (NAICS National Numbers 561710 and 561720).

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

3. Charges for detective, burglar protection, and other protection security services performed in this state but used outside this state are exempt from taxation. Charges for detective, burglar protection, and other protection security


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services performed outside this state and used in this state are subject to tax.

4. If a transaction involves both the sale or use of a service taxable under this paragraph and the sale or use of a service or any other item not taxable under this chapter, the consideration paid must be separately identified and stated with respect to the taxable and exempt portions of the transaction or the entire transaction shall be presumed taxable. The burden shall be on the seller of the service or the purchaser of the service, whichever applicable, to overcome this presumption by providing documentary evidence as to which portion of the transaction is exempt from tax. The department is authorized to adjust the amount of consideration identified as the taxable and exempt portions of the transaction; however, a determination that the taxable and exempt portions are inaccurately stated and that the adjustment is applicable must be supported by substantial competent evidence.

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


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

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency which is legal tender of the United States and which is sold, exchanged, or traded, such tax shall not be levied.

3. There are exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

4. With respect to any transaction that involves the sale of coins or currency taxable under this paragraph in which the taxable amount represented by the sale of such coins or currency exceeds $500, the entire amount represented by the sale of such coins or currency is exempt from the tax imposed under this paragraph. The dealer must maintain proper documentation, as prescribed by rule of the department, to identify that portion of a transaction which involves the sale of coins or currency and is exempt under this subparagraph.


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(k) At the rate of 6 percent of the sales price of each gallon of diesel fuel not taxed under chapter 206 purchased for use in a vessel, except dyed diesel fuel that is exempt pursuant to s. 212.08(4)(a)4.

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

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

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

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

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

(5) Notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may not exceed $18,000 and on each repair of a boat in this state may not exceed $60,000.

Section 4. Paragraph (c) of subsection (4) of section


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212.054, Florida Statutes, is amended to read:

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

(4)

(c)1. Any dealer located in a county that does not impose a discretionary sales surtax, any marketplace provider that is a dealer under this chapter, or any person located outside this state who is required to collect and remit sales tax on remote sales ~~but~~ who collects the surtax due to sales of tangible personal property or services delivered to a county imposing a surtax ~~outside the county~~ shall remit monthly the proceeds of the surtax to the department to be deposited into an account in the Discretionary Sales Surtax Clearing Trust Fund which is separate from the county surtax collection accounts. The department shall distribute funds in this account using a distribution factor determined for each county that levies a surtax and multiplied by the amount of funds in the account and available for distribution. The distribution factor for each county equals the product of:

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

b. The county's rate of surtax; and

c. The number of months the county has levied a surtax during the most recent distribution period;

divided by the sum of all such products of the counties levying the surtax during the most recent distribution period.

2. The department shall compute distribution factors for eligible counties once each quarter and make appropriate


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quarterly distributions.

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

Section 5. Section 212.0596, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 212.0596, F.S., for present text.)

212.0596 Taxation of remote sales.—

(1) As used in this chapter, the term:

(a) "Remote sale" means a retail sale of tangible personal property ordered by mail, telephone, the Internet, or other means of communication from a person who receives the order outside of this state and transports the property or causes the property to be transported from any jurisdiction, including this state, to a location in this state. For purposes of this paragraph, tangible personal property delivered to a location within this state is presumed to be used, consumed, distributed, or stored to be used or consumed in this state.

(b) "Substantial number of remote sales" means any number of taxable remote sales in the previous calendar year in which the sum of the sales prices, as defined in s. 212.02(16),


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exceeded $100,000.

(2) Every person making a substantial number of remote sales is a dealer for purposes of this chapter.

(3) The department may establish by rule procedures for collecting the use tax from unregistered persons who but for their remote purchases would not be required to remit sales or use tax directly to the department. The procedures may provide for waiver of registration, provisions for irregular remittance of tax, elimination of the collection allowance, and nonapplication of local option surtaxes.

(4) A marketplace provider that is a dealer under this chapter or a person who is required to collect and remit sales tax on remote sales is required to collect surtax when the taxable item of tangible personal property is delivered within a county imposing a surtax as provided in s. 212.054(3)(a).

Section 6. Section 212.05965, Florida Statutes, is created to read:

212.05965 Taxation of marketplace sales.—

(1) As used in this chapter, the term:

(a) "Marketplace" means any physical place or electronic medium through which tangible personal property is offered for sale.

(b) "Marketplace provider" means a person who facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace and who directly, or indirectly through agreements or arrangements with third parties, collects payment from the customer and transmits all or part of the payment to the marketplace seller, regardless of whether the marketplace


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provider receives compensation or other consideration in exchange for its services.

1. The term does not include a person who solely provides travel agency services. As used in this subparagraph, the term "travel agency services" means arranging, booking, or otherwise facilitating for a commission, fee, or other consideration vacation or travel packages, rental cars, or other travel reservations; tickets for domestic or foreign travel by air, rail, ship, bus, or other mode of transportation; or hotel or other lodging accommodations.

2. The term does not include a person who is a delivery network company unless the delivery network company is a registered dealer for purposes of this chapter and the delivery network company notifies all local merchants that sell through the delivery network company's website or mobile application that the delivery network company is subject to the requirements of a marketplace provider under this section. As used in this subparagraph, the term:

a. "Delivery network company" means a person who maintains a website or mobile application used to facilitate delivery services, the sale of local products, or both.

b. "Delivery network courier" means a person who provides delivery services through a delivery network company website or mobile application using a personal means of transportation, such as a motor vehicle as defined in s. 320.01(1), bicycle, scooter, or other similar means of transportation; using public transportation; or by walking.

c. "Delivery services" means the pickup and delivery by a delivery network courier of one or more local products from a

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local merchant to a customer, which may include the selection, collection, and purchase of the local product in connection with the delivery. The term does not include any delivery requiring more than 75 miles of travel from the local merchant to the customer.

d. "Local merchant" means a kitchen, a restaurant, or a third-party merchant, including a grocery store, retail store, convenience store, or business of another type, which is not under common ownership or control of the delivery network company.

e. "Local product" means any tangible personal property, including food but excluding freight, mail, or a package to which postage has been affixed.

3. The term does not include a payment processor business that processes payment transactions from various channels, such as charge cards, credit cards, or debit cards, and whose sole activity with respect to marketplace sales is to process payment transactions between two or more parties.

(c) "Marketplace seller" means a person who has an agreement with a marketplace provider that is a dealer under this chapter and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by the marketplace provider.

(2) A marketplace provider that has a physical presence in this state or who is making or facilitating through a marketplace a substantial number of remote sales as defined in s. 212.0596(1) is a dealer for purposes of this chapter.

(3) A marketplace provider that is a dealer under this chapter shall certify to its marketplace sellers that it will


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collect and remit the tax imposed under this chapter on taxable retail sales made through the marketplace. Such certification may be included in the agreement between the marketplace provider and the marketplace seller.

(4)(a) A marketplace seller may not collect and remit the tax under this chapter on a taxable retail sale when the sale is made through the marketplace and the marketplace provider certifies, as required under subsection (3), that it will collect and remit such tax. A marketplace seller shall exclude such sales made through the marketplace from the marketplace seller's tax return under s. 212.11.

(b)1. A marketplace seller who has a physical presence in this state shall register and shall collect and remit the tax imposed under this chapter on all taxable retail sales made outside of the marketplace.

2. A marketplace seller who is not described under subparagraph 1. but who makes a substantial number of remote sales as defined in s. 212.0596(1) shall register and shall collect and remit the tax imposed under this chapter on all taxable retail sales made outside of the marketplace. For the purpose of determining whether a marketplace seller made a substantial number of remote sales, the marketplace seller shall consider only those sales made outside of a marketplace.

(5)(a) A marketplace provider that is a dealer under this chapter shall allow the department to examine and audit its books and records pursuant to s. 212.13. For retail sales facilitated through a marketplace, the department may not examine or audit the books and records of marketplace sellers, nor may the department assess marketplace sellers except to the

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extent that the marketplace provider seeks relief under paragraph (b). The department may examine, audit, and assess a marketplace seller for retail sales made outside of a marketplace under paragraph (4)(b). This paragraph does not provide relief to a marketplace seller who is under audit; has been issued a bill, notice, or demand for payment; or is under an administrative or judicial proceeding before July 1, 2021.

(b) The marketplace provider is relieved of liability for the tax on the retail sale and the marketplace seller or customer is liable for the tax imposed under this chapter if the marketplace provider demonstrates to the department's satisfaction that the marketplace provider made a reasonable effort to obtain accurate information related to the retail sales facilitated through the marketplace from the marketplace seller, but that the failure to collect and remit the correct amount of tax imposed under this chapter was due to the provision of incorrect or incomplete information to the marketplace provider by the marketplace seller. This paragraph does not apply to a retail sale for which the marketplace provider is the seller if the marketplace provider and the marketplace seller are related parties or if transactions between a marketplace seller and marketplace buyer are not conducted at arm's length.

(6) For purposes of registration pursuant to s. 212.18, a marketplace is deemed a separate place of business.

(7) A marketplace provider and a marketplace seller may agree by contract or otherwise that if a marketplace provider pays the tax imposed under this chapter on a retail sale facilitated through a marketplace for a marketplace seller as a

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result of an audit or otherwise, the marketplace provider has the right to recover such tax and any associated interest and penalties from the marketplace seller.

(8) This section may not be construed to authorize the state to collect sales tax from both the marketplace provider and the marketplace seller on the same retail sale.

(9) Chapter 213 applies to the administration of this section to the extent that chapter does not conflict with this section.

Section 7. Effective April 1, 2022, subsections (10) and (11) are added to section 212.05965, Florida Statutes, as created by this act, to read:

212.05965 Taxation of marketplace sales.—

(10) Notwithstanding any other law, the marketplace provider is also responsible for collecting and remitting any prepaid wireless E911 fee under s. 365.172, waste tire fee under s. 403.718, and lead-acid battery fee under s. 403.7185 at the time of sale for taxable retail sales made through its marketplace.

(11) Notwithstanding paragraph (4)(a), the marketplace provider and the marketplace seller may contractually agree to have the marketplace seller collect and remit all applicable taxes and fees if the marketplace seller:

(a) Has annual United States gross sales of more than $1 billion, including the gross sales of any related entities, and in the case of franchised entities, including the combined sales of all franchisees of a single franchisor;

(b) Provides evidence to the marketplace provider that it is registered under s. 212.18; and


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(c) Notifies the department in a manner prescribed by the department that the marketplace seller will collect and remit all applicable taxes and fees on its sales through the marketplace and is liable for failure to collect or remit applicable taxes and fees on its sales.

Section 8. Paragraph (c) of subsection (2) and paragraph (a) of subsection (5) of section 212.06, Florida Statutes, are amended to read:

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

(2)

(c) The term "dealer" is further defined to mean every person, as used in this chapter, who sells at retail or who offers for sale at retail, or who has in his or her possession for sale at retail; or for use, consumption, or distribution; or for storage to be used or consumed in this state, tangible personal property as defined herein, including a retailer who transacts a substantial number of remote sales or a marketplace provider that has a physical presence in this state or that makes or facilitates through its marketplace a substantial number of remote sales ~~mail order sale~~.

(5)(a)1. Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a

common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

2.a. Notwithstanding subparagraph 1., a tax is levied on each sale of tangible personal property to be transported to a cooperating state as defined in sub-subparagraph c., at the rate specified in sub-subparagraph d. However, a Florida dealer will be relieved from the requirements of collecting taxes pursuant to this subparagraph if the Florida dealer obtains from the purchaser an affidavit setting forth the purchaser’s name, address, state taxpayer identification number, and a statement that the purchaser is aware of his or her state’s use tax laws, is a registered dealer in Florida or another state, or is purchasing the tangible personal property for resale or is otherwise not required to pay the tax on the transaction. The


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department may, by rule, provide a form to be used for the purposes set forth herein.

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

(I) It levies and collects taxes on remote ~~mail order~~ sales of property transported from that state to persons in this state, as described in s. 212.0596, upon request of the department.

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

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

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

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

c. For purposes of this subparagraph, "sales of tangible


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personal property to be transported to a cooperating state" means remote ~~mail order~~ sales to a person who is in the cooperating state at the time the order is executed, from a dealer who receives that order in this state.

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

e. The tax levied by sub-subparagraph a., when collected, shall be held in the State Treasury in trust for the benefit of the cooperating state and shall be paid to it at a time agreed upon between the department, acting for this state, and the cooperating state or the department or agency designated by it to act for it; however, such payment shall in no event be made later than 30 days from the last day of the calendar quarter after the tax was collected. Funds held in trust for the benefit of a cooperating state shall not be subject to the service charges imposed by s. 215.20.

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

g. In furtherance of this act, dealers selling tangible personal property for delivery in another state shall make available to the department, upon request of the department, records of all tangible personal property so sold. Such records shall include a description of the property, the name and address of the purchaser, the name and address of the person to

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whom the property was sent, the purchase price of the property, information regarding whether sales tax was paid in this state on the purchase price, and such other information as the department may by rule prescribe.

Section 9. Paragraph (b) of subsection (1) of section 212.07, Florida Statutes, is amended to read:

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

(1)

(b) A resale must be in strict compliance with s. 212.18 and the rules and regulations adopted thereunder. A dealer who makes a sale for resale that is not in strict compliance with s. 212.18 and the rules and regulations adopted thereunder is liable for and must pay the tax. A dealer who makes a sale for resale shall document the exempt nature of the transaction, as established by rules adopted by the department, by retaining a copy of the purchaser's resale certificate. In lieu of maintaining a copy of the certificate, a dealer may document, before the time of sale, an authorization number provided telephonically or electronically by the department, or by such other means established by rule of the department. The dealer may rely on a resale certificate issued pursuant to s. 212.18(3)(e) ~~s. 212.18(3)(d)~~, valid at the time of receipt from the purchaser, without seeking annual verification of the resale certificate if the dealer makes recurring sales to a purchaser in the normal course of business on a continual basis. For purposes of this paragraph, "recurring sales to a purchaser in the normal course of business" refers to a sale in which the

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dealer extends credit to the purchaser and records the debt as an account receivable, or in which the dealer sells to a purchaser who has an established cash or C.O.D. account, similar to an open credit account. For purposes of this paragraph, purchases are made from a selling dealer on a continual basis if the selling dealer makes, in the normal course of business, sales to the purchaser at least once in every 12-month period. A dealer may, through the informal protest provided for in s. 213.21 and the rules of the department, provide the department with evidence of the exempt status of a sale. Consumer certificates of exemption executed by those exempt entities that were registered with the department at the time of sale, resale certificates provided by purchasers who were active dealers at the time of sale, and verification by the department of a purchaser's active dealer status at the time of sale in lieu of a resale certificate shall be accepted by the department when submitted during the protest period, but may not be accepted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72.

Section 10. Paragraph (f) is added to subsection (4) of section 212.11, Florida Statutes, to read:

212.11 Tax returns and regulations.—

(4)

(f) A marketplace provider that is a dealer under this chapter or a person who is required to collect and remit sales tax on remote sales shall file returns and pay taxes by electronic means under s. 213.755.

Section 11. Paragraph (a) of subsection (1), paragraph (a) of subsection (5), and subsections (9), (10), (11), and (14) of


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section 212.12, Florida Statutes, are amended to read:

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

(1)(a)~~1.~~ Notwithstanding any other law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, filing timely tax returns, and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter ~~(except dealers who make mail order sales)~~ who files the return required pursuant to s. 212.11 only by electronic means and who pays the amount due on such return only by electronic means shall be allowed 2.5 percent of the amount of the tax due, accounted for, and remitted to the department in the form of a deduction. However, if the amount of the tax due and remitted to the department by electronic means for the reporting period exceeds $1,200, an allowance is not allowed for all amounts in excess of $1,200. For purposes of this paragraph ~~subparagraph~~, the term "electronic means" has the same meaning as provided in s. 213.755(2)(c).

~~2. The executive director of the department is authorized~~


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

(5)(a) The department is authorized to audit or inspect the records and accounts of dealers defined herein, including audits or inspections of dealers who make remote ~~mail order~~ sales ~~to the extent permitted by another state~~, and to correct by credit any overpayment of tax, and, in the event of a deficiency, an assessment shall be made and collected. No administrative finding of fact is necessary prior to the assessment of any tax deficiency.

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, ~~communication services,~~ and upon the sale or use of services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price of such admissions, license fees, rentals, ~~communication~~ or ~~other~~ services, or sale price of such article or articles that are purchased, sold, or leased at any one time by or to a customer or buyer; the dealer, or person charged herein, is required to


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pay a privilege tax in the amount of the tax imposed by this chapter on the total of his or her gross sales of tangible personal property, admissions, license fees, and rentals~~, and communication services~~ or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, ~~or~~ admissions, ~~and communication~~ or ~~other~~ services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. ~~The department shall make available in an electronic format or otherwise the tax amounts and the following brackets applicable to all transactions taxable at the rate of 6 percent:~~

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

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

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

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

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

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

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

~~(h) On sales in amounts of more than $1, 6 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.~~

(10)(a) A dealer must calculate the tax due on the


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privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, and upon the sale or use of services, based on a rounding algorithm that meets the following criteria:

1. The computation of the tax must be carried to the third decimal place.

2. The tax must be rounded to the whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four.

(b) A dealer may apply the rounding algorithm to the aggregate tax amount computed on all taxable items on an invoice or to the taxable amount on each individual item on the invoice ~~In counties which have adopted a discretionary sales surtax at the rate of 1 percent, the department shall make available in an electronic format or otherwise the tax amounts and the following brackets applicable to all taxable transactions that would otherwise have been transactions taxable at the rate of 6 percent:~~

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

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

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

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

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

~~(f) On sales in amounts from 58 cents to 71 cents, both~~


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~~inclusive, 5 cents shall be added for taxes.~~

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

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

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

~~(j) On sales in amounts of more than $5,000 in price, 7 percent shall be added upon the first $5,000 in price, and 6 percent shall be added upon each dollar of price in excess of the first $5,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (9).~~

~~(11) The department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to transactions taxable at 4.35 percent pursuant to s. 212.05(1)(c)1.c. or the applicable tax rate pursuant to s. 212.031(1) and on transactions which would otherwise have been so taxable in counties which have adopted a discretionary sales surtax.~~

~~(14) If it is determined upon audit that a dealer has collected and remitted taxes by applying the applicable tax rate to each transaction as described in subsection (9) and rounding~~


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~~the tax due to the nearest whole cent rather than applying the appropriate bracket system provided by law or department rule, the dealer shall not be held liable for additional tax, penalty, and interest resulting from such failure if:~~

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

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

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

Section 12. Present paragraphs (c) through (f) of subsection (3) of section 212.18, Florida Statutes, are redesignated as paragraphs (d) through (g), respectively, a new paragraph (c) is added to that subsection, and present paragraph (f) of that subsection is amended, to read:

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

(3)

(c) A marketplace provider that is a dealer under this chapter or a person who is required to collect and remit sales tax on remote sales must file with the department an application for a certificate of registration electronically.

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


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

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

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

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

A person who conducts a convention or a trade show must make his or her exhibitor's agreements available to the department for inspection and copying.

Section 13. Subsection (4) and paragraph (d) of subsection (6) of section 212.20, Florida Statutes, are amended to read:

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

(4) When there has been a final adjudication that any tax pursuant to s. 212.0596 or s. 212.05965 was levied, collected, or both, contrary to the Constitution of the United States or the State Constitution, the department shall, in accordance with rules, determine, based upon claims for refund and other evidence and information, who paid such tax or taxes, and refund


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to each such person the amount of tax paid. For purposes of this subsection, a "final adjudication" is a decision of a court of competent jurisdiction from which no appeal can be taken or from which the official or officials of this state with authority to make such decisions has or have decided not to appeal.

(6) Distribution of all proceeds under this chapter and ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

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

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

2. After the distribution under subparagraph 1., 8.9744 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.0966 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant

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to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0810 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3653 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys


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accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s.


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288.1162(5) or s. 288.11621(3).

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

d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169.

e. The department shall distribute up to $83,333 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $166,667 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).


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f. Beginning 45 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been approved by the Legislature and certified by the Department of Economic Opportunity under s. 288.11625 or upon a date specified by the Department of Economic Opportunity as provided under s. 288.11625(6)(d), the department shall distribute each month an amount equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than $13 million annually under this sub-subparagraph.

g. The department shall distribute $15,333 monthly to the State Transportation Trust Fund.

h.(I) On or before July 25, 2021, August 25, 2021, and September 25, 2021, the department shall distribute $324,533,334 in each of those months to the Unemployment Compensation Trust Fund, less an adjustment for refunds issued from the General Revenue Fund pursuant to s. 443.131(3)(e)3. before making the distribution. The adjustments made by the department to the total distributions shall be equal to the total refunds made pursuant to s. 443.131(3)(e)3. If the amount of refunds to be subtracted from any single distribution exceeds the distribution, the department may not make that distribution and must subtract the remaining balance from the next distribution.

(II) Beginning July 2022, and on or before the 25th day of each month, the department shall distribute $90 million monthly to the Unemployment Compensation Trust Fund.

(III) If the ending balance of the Unemployment Compensation Trust Fund exceeds $4,071,519,600 on the last day

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of any month, as determined from United States Department of the Treasury data, the Office of Economic and Demographic Research shall certify to the department that the ending balance of the trust fund exceeds such amount.

(IV) This sub-subparagraph is repealed, and the department shall end monthly distributions under sub-sub-subparagraph (II), on the date the department receives certification under sub-sub-subparagraph (III) or December 31, 2025, whichever is earlier.

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

Section 14. Paragraph (a) of subsection (1) of section 443.1216, Florida Statutes, is amended to read:

443.1216 Employment.—Employment, as defined in s. 443.036, is subject to this chapter under the following conditions:

(1)(a) The employment subject to this chapter includes a service performed, including a service performed in interstate commerce, by:

1. An officer of a corporation.

2. An individual who, under the usual common-law rules applicable in determining the employer-employee relationship, is an employee. However, whenever a client, as defined in s. 443.036(18), which would otherwise be designated as an employing unit has contracted with an employee leasing company to supply it with workers, those workers are considered employees of the employee leasing company. An employee leasing company may lease corporate officers of the client to the client and other workers to the client, except as prohibited by regulations of the Internal Revenue Service. Employees of an employee leasing company must be reported under the employee leasing company's

tax identification number and contribution rate for work performed for the employee leasing company.

a. However, except for the internal employees of an employee leasing company, each employee leasing company may make a separate one-time election to report and pay contributions under the tax identification number and contribution rate for each client of the employee leasing company. Under the client method, an employee leasing company choosing this option must assign leased employees to the client company that is leasing the employees. The client method is solely a method to report and pay unemployment contributions, and, whichever method is chosen, such election may not impact any other aspect of state law. An employee leasing company that elects the client method must pay contributions at the rates assigned to each client company.

(I) The election applies to all of the employee leasing company's current and future clients.

(II) The employee leasing company must notify the Department of Revenue of its election by July 1, 2012, and such election applies to reports and contributions for the first quarter of the following calendar year. The notification must include:

(A) A list of each client company and the unemployment account number or, if one has not yet been issued, the federal employment identification number, as established by the employee leasing company upon the election to file by client method;

(B) A list of each client company's current and previous employees and their respective social security numbers for the prior 3 state fiscal years or, if the client company has not


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been a client for the prior 3 state fiscal years, such portion of the prior 3 state fiscal years that the client company has been a client must be supplied;

(C) The wage data and benefit charges associated with each client company for the prior 3 state fiscal years or, if the client company has not been a client for the prior 3 state fiscal years, such portion of the prior 3 state fiscal years that the client company has been a client must be supplied. If the client company's employment record is chargeable with benefits for less than 8 calendar quarters while being a client of the employee leasing company, the client company must pay contributions at the initial rate of 2.7 percent; and

(D) The wage data and benefit charges for the prior 3 state fiscal years that cannot be associated with a client company must be reported and charged to the employee leasing company.

(III) Subsequent to choosing the client method, the employee leasing company may not change its reporting method.

(IV) The employee leasing company shall file a Florida Department of Revenue Employer's Quarterly Report for each client company by approved electronic means, and pay all contributions by approved electronic means.

(V) For the purposes of calculating experience rates when the client method is chosen, each client's own benefit charges and wage data experience while with the employee leasing company determines each client's tax rate where the client has been a client of the employee leasing company for at least 8 calendar quarters before the election. The client company shall continue to report the nonleased employees under its tax rate.

(VI) The election is binding on each client of the employee


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leasing company for as long as a written agreement is in effect between the client and the employee leasing company pursuant to s. 468.525(3)(a). If the relationship between the employee leasing company and the client terminates, the client retains the wage and benefit history experienced under the employee leasing company.

(VII) Notwithstanding which election method the employee leasing company chooses, the applicable client company is an employing unit for purposes of s. 443.071. The employee leasing company or any of its officers or agents are liable for any violation of s. 443.071 engaged in by such persons or entities. The applicable client company or any of its officers or agents are liable for any violation of s. 443.071 engaged in by such persons or entities. The employee leasing company or its applicable client company is not liable for any violation of s. 443.071 engaged in by the other party or by the other party's officers or agents.

(VIII) If an employee leasing company fails to select the client method of reporting not later than July 1, 2012, the entity is required to report under the employee leasing company's tax identification number and contribution rate.

(IX) After an employee leasing company is licensed pursuant to part XI of chapter 468, each newly licensed entity has 30 days after the date the license is granted to notify the tax collection service provider in writing of their selection of the client method. A newly licensed employee leasing company that fails to timely select reporting pursuant to the client method of reporting must report under the employee leasing company's tax identification number and contribution rate.


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(X) Irrespective of the election, each transfer of trade or business, including workforce, or a portion thereof, between employee leasing companies is subject to the provisions of s. 443.131(3)(h) ~~s. 443.131(3)(g)~~ if, at the time of the transfer, there is common ownership, management, or control between the entities.

b. In addition to any other report required to be filed by law, an employee leasing company shall submit a report to the Labor Market Statistics Center within the Department of Economic Opportunity which includes each client establishment and each establishment of the leasing company, or as otherwise directed by the department. The report must include the following information for each establishment:

(I) The trade or establishment name;

(II) The former reemployment assistance account number, if available;

(III) The former federal employer's identification number, if available;

(IV) The industry code recognized and published by the United States Office of Management and Budget, if available;

(V) A description of the client's primary business activity in order to verify or assign an industry code;

(VI) The address of the physical location;

(VII) The number of full-time and part-time employees who worked during, or received pay that was subject to reemployment assistance taxes for, the pay period including the 12th of the month for each month of the quarter;

(VIII) The total wages subject to reemployment assistance taxes paid during the calendar quarter;


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(IX) An internal identification code to uniquely identify each establishment of each client;

(X) The month and year that the client entered into the contract for services; and

(XI) The month and year that the client terminated the contract for services.

c. The report must be submitted electronically or in a manner otherwise prescribed by the Department of Economic Opportunity in the format specified by the Bureau of Labor Statistics of the United States Department of Labor for its Multiple Worksite Report for Professional Employer Organizations. The report must be provided quarterly to the Labor Market Statistics Center within the department, or as otherwise directed by the department, and must be filed by the last day of the month immediately after the end of the calendar quarter. The information required in sub-sub-subparagraphs b.(X) and (XI) need be provided only in the quarter in which the contract to which it relates was entered into or terminated. The sum of the employment data and the sum of the wage data in this report must match the employment and wages reported in the reemployment assistance quarterly tax and wage report.

d. The department shall adopt rules as necessary to administer this subparagraph, and may administer, collect, enforce, and waive the penalty imposed by s. 443.141(1)(b) for the report required by this subparagraph.

e. For the purposes of this subparagraph, the term "establishment" means any location where business is conducted or where services or industrial operations are performed.

3. An individual other than an individual who is an


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employee under subparagraph 1. or subparagraph 2., who performs services for remuneration for any person:

a. As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or drycleaning services for his or her principal.

b. As a traveling or city salesperson engaged on a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in the business operations. This sub-subparagraph does not apply to an agent-driver or a commission-driver and does not apply to sideline sales activities performed on behalf of a person other than the salesperson's principal.

4. The services described in subparagraph 3. are employment subject to this chapter only if:

a. The contract of service contemplates that substantially all of the services are to be performed personally by the individual;

b. The individual does not have a substantial investment in facilities used in connection with the services, other than facilities used for transportation; and

c. The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

Section 15. Effective upon becoming a law and applying retroactively to April 1, 2020, present paragraphs (f) through (k) of subsection (3) of section 443.131, Florida Statutes, are

redesignated as paragraphs (g) through (l), respectively, a new paragraph (f) is added to that subsection, and paragraphs (b) and (e) of that subsection are amended, to read:

443.131 Contributions.—

(3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(b) *Benefit ratio.*—

1. As used in this paragraph, the term "annual payroll" means the calendar quarter taxable payroll reported to the tax collection service provider for the quarters used in computing the benefit ratio. The term does not include a penalty resulting from the untimely filing of required wage and tax reports. All of the taxable payroll reported to the tax collection service provider by the end of the quarter preceding the quarter for which the contribution rate is to be computed must be used in the computation.

2. As used in this paragraph, the term "benefits charged to the employer's employment record" means the amount of benefits paid to individuals multiplied by:

a. For benefits paid prior to July 1, 2007, 1.

b. For benefits paid during the period beginning on July 1, 2007, and ending March 31, 2011, 0.90.

c. For benefits paid after March 31, 2011, 1.

d. For benefits paid during the period beginning April 1, 2020, and ending December 31, 2020, 0.

e. For benefits paid during the period beginning January 1, 2021, and ending June 30, 2021, 1, except as otherwise adjusted in accordance with paragraph (f).

3. For each calendar year, the tax collection service


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provider shall compute a benefit ratio for each employer whose employment record was chargeable for benefits during the 12 consecutive quarters ending June 30 of the calendar year preceding the calendar year for which the benefit ratio is computed. An employer's benefit ratio is the quotient obtained by dividing the total benefits charged to the employer's employment record during the 3-year period ending June 30 of the preceding calendar year by the total of the employer's annual payroll for the 3-year period ending June 30 of the preceding calendar year. The benefit ratio shall be computed to the fifth decimal place and rounded to the fourth decimal place.

4. The tax collection service provider shall compute a benefit ratio for each employer who was not previously eligible under subparagraph 3., whose contribution rate is set at the initial contribution rate in paragraph (2)(a), and whose employment record was chargeable for benefits during at least 8 calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. The employer's benefit ratio is the quotient obtained by dividing the total benefits charged to the employer's employment record during the first 6 of the 8 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed by the total of the employer's annual payroll during the first 7 of the 9 completed calendar quarters immediately preceding the calendar quarter for which the benefit ratio is computed. The benefit ratio shall be computed to the fifth decimal place and rounded to the fourth decimal place and applies for the remainder of the calendar year. The employer must subsequently be rated on an annual basis using up to 12 calendar quarters of benefits

charged and up to 12 calendar quarters of annual payroll. That employer's benefit ratio is the quotient obtained by dividing the total benefits charged to the employer's employment record by the total of the employer's annual payroll during the quarters used in his or her first computation plus the subsequent quarters reported through June 30 of the preceding calendar year. Each subsequent calendar year, the rate shall be computed under subparagraph 3. The tax collection service provider shall assign a variation from the standard rate of contributions in paragraph (c) on a quarterly basis to each eligible employer in the same manner as an assignment for a calendar year under paragraph (e).

(e) *Assignment of variations from the standard rate.*—

1. As used in this paragraph, the terms "total benefit payments," "benefits paid to an individual," and "benefits charged to the employment record of an employer" mean the amount of benefits paid to individuals multiplied by:

a. For benefits paid prior to July 1, 2007, 1.

b. For benefits paid during the period beginning on July 1, 2007, and ending March 31, 2011, 0.90.

c. For benefits paid after March 31, 2011, 1.

d. For benefits paid during the period beginning April 1, 2020, and ending December 31, 2020, 0.

e. For benefits paid during the period beginning January 1, 2021, and ending June 30, 2021, 1, except as otherwise adjusted in accordance with paragraph (f).

2. For the calculation of contribution rates effective January 1, 2012, and thereafter:

a. The tax collection service provider shall assign a


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variation from the standard rate of contributions for each calendar year to each eligible employer. In determining the contribution rate, varying from the standard rate to be assigned each employer, adjustment factors computed under sub-sub-subparagraphs (I)-(IV) are added to the benefit ratio. This addition shall be accomplished in two steps by adding a variable adjustment factor and a final adjustment factor. The sum of these adjustment factors computed under sub-sub-subparagraphs (I)-(IV) shall first be algebraically summed. The sum of these adjustment factors shall next be divided by a gross benefit ratio determined as follows: Total benefit payments for the 3-year period described in subparagraph (b)3. are charged to employers eligible for a variation from the standard rate, minus excess payments for the same period, divided by taxable payroll entering into the computation of individual benefit ratios for the calendar year for which the contribution rate is being computed. The ratio of the sum of the adjustment factors computed under sub-sub-subparagraphs (I)-(IV) to the gross benefit ratio is multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that if the sum of an employer’s individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor is reduced in order for the sum to equal the maximum contribution rate. The variable adjustment factor for each of these employers is multiplied by his or her taxable payroll entering into the computation of his or her benefit ratio. The sum of these products is divided by the taxable payroll of the employers who entered into the computation of


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their benefit ratios. The resulting ratio is subtracted from the sum of the adjustment factors computed under sub-sub-subparagraphs (I)-(IV) to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor must be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor is added to the variable adjustment factor and benefit ratio of each employer to obtain each employer's contribution rate. An employer's contribution rate may not, however, be rounded to less than 0.1 percent. In determining the contribution rate, varying from the standard rate to be assigned, the computation shall exclude any benefit that is excluded by the multipliers under subparagraph (b)2. and subparagraph 1. The computation of the contribution rate, varying from the standard rate to be assigned, shall also exclude any benefit paid as a result of a governmental order related to COVID-19 to close or reduce capacity of a business. In addition, the contribution rate for the 2021 and 2022 calendar years shall be calculated without the application of the positive adjustment factor in sub-sub-subparagraph (III).

(I) An adjustment factor for noncharge benefits is computed to the fifth decimal place and rounded to the fourth decimal place by dividing the amount of noncharge benefits during the 3-year period described in subparagraph (b)3. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the taxable payrolls for the 3 years ending June 30 of the


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current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-sub-subparagraph, the term "noncharge benefits" means benefits paid to an individual, as adjusted pursuant to subparagraph (b)2. and subparagraph 1., from the Unemployment Compensation Trust Fund~~, but~~ which were not charged to the employment record of any employer, but excluding any benefit paid as a result of a governmental order related to COVID-19 to close or reduce capacity of a business.

(II) An adjustment factor for excess payments is computed to the fifth decimal place, and rounded to the fourth decimal place by dividing the total excess payments during the 3-year period described in subparagraph (b)3. by the taxable payroll of employers eligible for a variation from the standard rate who have a benefit ratio for the current year which is less than the maximum contribution rate. For purposes of computing this adjustment factor, the taxable payroll of these employers is the same figure used to compute the adjustment factor for noncharge benefits under sub-sub-subparagraph (I). As used in this sub-subparagraph, the term "excess payments" means the amount of benefits charged to the employment record of an employer, as adjusted pursuant to subparagraph (b)2. and subparagraph 1., during the 3-year period described in subparagraph (b)3., but excluding any benefit paid as a result of a governmental order related to COVID-19 to close or reduce capacity of a business, less the product of the maximum contribution rate and the employer's taxable payroll for the 3 years ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in


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this sub-sub-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers that were eligible for assignment of a contribution rate different from the standard rate.

(III) With respect to computing a positive adjustment factor:

(A) Beginning January 1, 2012, if the balance of the Unemployment Compensation Trust Fund on September 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 4 percent of the taxable payrolls for the year ending June 30 as reported to the tax collection service provider by September 30 of that calendar year, a positive adjustment factor shall be computed. The positive adjustment factor is computed annually to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fifth of the difference between the balance of the fund as of September 30 of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.


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(B) Beginning January 1, 2018, and for each year thereafter, the positive adjustment shall be computed by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of September 30 of that calendar year and the sum of 5 percent of the total taxable payrolls for that year. The positive adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year.

(IV) If, beginning January 1, 2015, and each year thereafter, the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 5 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year, a negative adjustment factor must be computed. The negative adjustment factor shall be computed annually beginning on January 1, 2015, and each year thereafter, to the fifth decimal place and rounded to the fourth decimal place by dividing the sum of the total taxable payrolls for the year ending June 30 of the current calendar year as reported to the


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tax collection service provider by September 30 of the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of September 30 of the current calendar year and 5 percent of the total taxable payrolls of that year. The negative adjustment factor remains in effect for subsequent years until the balance of the Unemployment Compensation Trust Fund as of September 30 of the year immediately preceding the effective date of the contribution rate is less than 5 percent, but more than 4 percent of the taxable payrolls for the year ending June 30 of the current calendar year as reported to the tax collection service provider by September 30 of that calendar year. The negative adjustment authorized by this section is suspended in any calendar year in which repayment of the principal amount of an advance received from the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1321 is due to the Federal Government.

(V) The maximum contribution rate that may be assigned to an employer is 5.4 percent, except employers participating in an approved short-time compensation plan may be assigned a maximum contribution rate that is 1 percent greater than the maximum contribution rate for other employers in any calendar year in which short-time compensation benefits are charged to the employer’s employment record.

(VI) As used in this subsection, “taxable payroll” shall be determined by excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000. Beginning January 1, 2012, “taxable payroll” shall be determined by excluding any part of the remuneration paid to an individual by an employer for

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employment during a calendar year as described in s. 443.1217(2). For the purposes of the employer rate calculation that will take effect in January 1, 2012, and in January 1, 2013, the tax collection service provider shall use the data available for taxable payroll from 2009 based on excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $7,000, and from 2010 and 2011, the data available for taxable payroll based on excluding any part of the remuneration paid to an individual by an employer for employment during a calendar year in excess of the first $8,500.

b. If the transfer of an employer's employment record to an employing unit under paragraph (g) ~~(f)~~ which, before the transfer, was an employer, the tax collection service provider shall recompute a benefit ratio for the successor employer based on the combined employment records and reassign an appropriate contribution rate to the successor employer effective on the first day of the calendar quarter immediately after the effective date of the transfer.

3. The tax collection service provider shall reissue rates for the 2021 calendar year. However, an employer shall continue to timely file its employer's quarterly reports and pay the contributions due in a timely manner in accordance with the rules of the Department of Economic Opportunity. The Department of Revenue shall post the revised rates on its website to enable employers to securely review the revised rates. For contributions for the first quarter of the 2021 calendar year, if any employer remits to the tax collection service provider an amount in excess of the amount that would be due as calculated


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pursuant to this paragraph, the tax collection service provider shall refund the excess amount from the amount erroneously collected. Notwithstanding s. 443.141(6), refunds issued through August 31, 2021, for first quarter 2021 contributions must be paid from the General Revenue Fund.

4. The tax collection service provider shall calculate and assign contribution rates effective January 1, 2022, through December 31, 2022, excluding any benefit charge that is excluded by the multipliers under subparagraph (b)2. and subparagraph 1.; without the application of the positive adjustment factor in sub-sub-subparagraph 2.a.(III); and without the inclusion of any benefit charge directly related to COVID-19 as a result of a governmental order to close or reduce capacity of a business, as determined by the Department of Economic Opportunity, for each employer who is eligible for a variation from the standard rate pursuant to paragraph (d). The Department of Economic Opportunity shall provide the tax collection service provider with all necessary benefit charge information by August 1, 2021, including specific information for adjustments related to COVID-19 charges resulting from a governmental order to close or reduce capacity of a business, to enable the tax collection service provider to calculate and issue tax rates effective January 1, 2022. The tax collection service provider shall calculate and post rates for the 2022 calendar year by March 1, 2022.

5. Subject to subparagraph 6., the tax collection service provider shall calculate and assign contribution rates effective January 1, 2023, through December 31, 2025, excluding any benefit charge that is excluded by the multipliers under

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subparagraph (b)2. and subparagraph 1.; without the application of the positive adjustment factor in sub-sub-subparagraph 2.a.(III); and without the inclusion of any benefit charge directly related to COVID-19 as a result of a governmental order to close or reduce capacity of a business, as determined by the Department of Economic Opportunity, for each employer who is eligible for a variation from the standard rate pursuant to paragraph (d). The Department of Economic Opportunity shall provide the tax collection service provider with all necessary benefit charge information by August 1 of each year, including specific information for adjustments related to COVID-19 charges resulting from a governmental order to close or reduce capacity of a business, to enable the tax collection service provider to calculate and issue tax rates effective the following January.

6. If the balance of the Unemployment Compensation Trust Fund on June 30 of any year exceeds $4,071,519,600, subparagraph 5. is repealed for rates effective the following years. The Office of Economic and Demographic Research shall advise the tax collection service provider of the balance of the trust fund on June 30 by August 1 of that year. After the repeal of subparagraph 5. and notwithstanding the dates specified in that subparagraph, the tax collection service provider shall calculate and assign contribution rates for each subsequent calendar year as otherwise provided in this section.

(f) *Adjustment in benefit ratio multiplier.*—For purposes of calculating the benefits charged for the period beginning January 1, 2021, and ending June 30, 2021, pursuant to sub-subparagraphs (b)2.e. and (e)1.e., the amount of benefits paid to individuals shall be multiplied by 1, unless such calculation


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results in estimated total contributions of more than $475.5 million for calendar year 2022 as estimated by the Office of Economic and Demographic Research, based on the preliminary 2022 computed rate. If the estimated total contributions calculated are more than $475.5 million, the multiplier in sub-subparagraphs (b)2.e. and (e)1.e. shall be reduced by increments of 0.05 until the estimated total contributions are $475.5 million or less. The Office of Economic and Demographic Research shall provide the incremental reduction, if any, to the tax collection service provider by January 1, 2022.

Section 16. Subsection (1) of section 443.191, Florida Statutes, is amended to read:

443.191 Unemployment Compensation Trust Fund; establishment and control.—

(1) There is established, as a separate trust fund apart from all other public funds of this state, an Unemployment Compensation Trust Fund, which shall be administered by the Department of Economic Opportunity exclusively for the purposes of this chapter. The fund must consist of:

(a) All contributions and reimbursements collected under this chapter;

(b) Interest earned on any moneys in the fund;

(c) Any property or securities acquired through the use of moneys belonging to the fund;

(d) All earnings of these properties or securities;

(e) All money credited to this state’s account in the federal Unemployment Compensation Trust Fund under 42 U.S.C. s. 1103;

(f) All money collected for penalties imposed pursuant to

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s. 443.151(6)(a); ~~and~~

(g) Advances on the amount in the federal Unemployment Compensation Trust Fund credited to the state under 42 U.S.C. s. 1321, as requested by the Governor or the Governor's designee; and

(h) All money deposited in this account as a distribution pursuant to s. 212.20(6)(d)6.h.

Except as otherwise provided in s. 443.1313(4), all moneys in the fund must be mingled and undivided.

Section 17. Paragraph (b) of subsection (1) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(b) For the exercise of such privilege, a tax is levied at the rate of 6 percent of sales price, or the actual value received from such admissions, which 6 percent shall be added to and collected with all such admissions from the purchaser thereof, and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket must show on its face the actual sales price of the admission, or each dealer selling the admission must prominently display at the box office or other place where the admission charge is made a notice disclosing the price of the admission, and the tax shall be computed and collected on the basis of the actual price of the admission charged by the dealer. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes and state or locally imposed or authorized seat surcharges, taxes, or


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fees, if any, imposed upon such admission. The sale price or actual value does not include separately stated ticket service charges that are imposed by a facility ticket office or a ticketing service and added to a separately stated, established ticket price. The rate of tax on each admission shall be according to the algorithm provided in s. 212.12 ~~brackets established by s. 212.12(9)~~.

Section 18. Subsection (6) of section 212.0506, Florida Statutes, is amended to read:

212.0506 Taxation of service warranties.—

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

Section 19. Subsection (3) of section 213.015, Florida Statutes, is amended to read:

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

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Florida Statutes and the departmental rules are:

(3) The right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the department, the right to procedural safeguards with respect to recording of interviews during tax determination or collection processes conducted by the department, the right to be treated in a professional manner by department personnel, and the right to have audits, inspections of records, and interviews conducted at a reasonable time and place except in criminal and internal investigations (see ss. 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3), 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (12) ~~(13)~~, 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

Section 20. (1) For the period of July 1, 2021, through September 30, 2021, a taxpayer may calculate the tax due under chapter 212, Florida Statutes, by applying s. 212.12, Florida Statutes, as amended by this act, or by applying the appropriate bracket system pursuant to former s. 212.12, Florida Statutes 2020.

(2) This section does not establish a right to a refund or credit of taxes already paid.

(3) This section is repealed October 1, 2021.

Section 21. Subsection (5) of section 213.27, Florida Statutes, is amended to read:

213.27 Contracts with debt collection agencies and certain vendors.—

(5) The department may, for the purpose of ascertaining the amount of or collecting any taxes due from a person making or facilitating remote sales under s. 212.0596 or s. 212.05965

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~~doing mail order business~~ in this state, contract with any auditing agency doing business within or without this state for the purpose of conducting an audit of such person ~~mail order business~~; however, such audit agency may not conduct an audit on behalf of the department of any person domiciled in this state, person registered for sales and use tax purposes in this state, or corporation filing a Florida corporate tax return, if any such person or corporation objects to such audit in writing to the department and the auditing agency. The department shall notify the taxpayer by mail at least 30 days before the department assigns the collection of such taxes.

Section 22. For the purpose of incorporating the amendment made by this act to section 212.054, Florida Statutes, in references thereto, paragraph (c) of subsection (2), paragraph (c) of subsection (3), paragraph (c) of subsection (8), and paragraph (c) of subsection (9) of section 212.055, Florida Statutes, are reenacted to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as

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provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

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

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county’s municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county’s municipal population; or

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

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

(3) SMALL COUNTY SURTAX.—

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

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county’s municipal population, which agreement may include a school district with the consent

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of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or

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

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

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

(c) Pursuant to s. 212.054(4), the proceeds of the discretionary sales surtax collected under this subsection, less an administrative fee that may be retained by the Department of Revenue, shall be distributed by the department to the county. The county shall distribute the proceeds it receives from the department to each local government entity providing emergency fire rescue services in the county. The surtax proceeds, less an administrative fee not to exceed 2 percent of the surtax collected, shall be distributed by the county based on each entity's average annual expenditures for fire control and emergency fire rescue services in the 5 fiscal years preceding the fiscal year in which the surtax takes effect in proportion to the average annual total of the expenditures for such entities in the 5 fiscal years preceding the fiscal year in which the surtax takes effect. The county shall revise the distribution proportions to reflect a change in the service area of an entity receiving a distribution of the surtax proceeds. If an entity declines its share of surtax revenue, such revenue


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shall be redistributed proportionally to the entities that are participating in the sharing of such revenue based on each participating entity's average annual expenditures for fire control and emergency fire rescue services in the preceding 5 fiscal years in proportion to the average annual total of the expenditures for the participating entities in the preceding 5 fiscal years.

(9) PENSION LIABILITY SURTAX.—

(c) Pursuant to s. 212.054(4), the proceeds of the surtax collected under this subsection, less an administrative fee that may be retained by the department, shall be distributed by the department to the local government.

Section 23. This act first applies to remote sales made or facilitated on or after July 1, 2021, by a person who made or facilitated a substantial number of remote sales in calendar year 2020. A marketplace seller shall consider only those sales made outside of a marketplace to determine whether it made a substantial number of remote sales in calendar year 2020.

Section 24. (1) A person subject to the requirements of this act to collect and remit the tax under chapter 212, Florida Statutes, on remote sales is relieved of liability for tax, penalty, and interest due on remote sales that occurred before July 1, 2021, provided that the person registers with the department before October 1, 2021. This subsection is also intended to provide relief to a marketplace seller for remote sales made before July 1, 2021, which were facilitated by a marketplace provider. For a marketplace provider with a physical presence in this state, this subsection is intended to provide relief only for sales facilitated by the marketplace provider on


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behalf of a marketplace seller. This subsection does not apply to a person who is under audit; has been issued a bill, notice, or demand for payment; or is under an administrative or judicial proceeding as of July 1, 2021.

(2) The department may not use data received from registered marketplace providers or persons making remote sales for the purposes of identifying use tax liabilities occurring before July 1, 2021, from unregistered persons who but for their purchases from the registered taxpayer would not be required to remit sales or use tax directly to the department. This subsection does not apply to a person who is under audit; has been issued a bill, notice, or demand for payment; or is under an administrative or judicial proceeding as of July 1, 2021.

(3) This section does not establish a right to a refund or credit of taxes already paid.

Section 25. (1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of administering this act.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section shall take effect upon this act becoming a law and expires July 1, 2023.

Section 26. Notwithstanding s. 287.057, Florida Statutes, the Department of Revenue is authorized to contract with a qualified vendor to provide services necessary to administer


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this act without using a competitive solicitation process. The authority granted to the Department of Revenue by this section applies solely to the implementation and administration of this act and may not be used for any other purpose. Such authority ends, and any contract entered into pursuant to this section still in force becomes void, upon the expiration of this section. This section expires June 30, 2023.

Section 27. For the 2020-2021 fiscal year, the sum of $353,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this act. Funds remaining unexpended or unencumbered from this appropriation as of June 30, 2021, shall revert and be reappropriated for the same purpose in the 2021-2022 fiscal year.

Section 28. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 29. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to taxation; providing a short title; amending s. 212.02, F.S.; revising the definition of the term "retail sale" to include sales facilitated through a marketplace; conforming a provision to changes made by the act; amending s. 212.05, F.S.; conforming provisions to changes made by the act; amending s. 212.054, F.S.; requiring marketplace providers and persons located outside of this state to remit discretionary sales surtax when delivering tangible personal property to a county imposing a surtax; amending s. 212.0596, F.S.; replacing provisions relating to the taxation of mail order sales with provisions relating to the taxation of remote sales; defining the terms "remote sale" and "substantial number of remote sales"; providing that every person making a substantial number of remote sales is a dealer for purposes of the sales and use tax; authorizing the Department of Revenue to adopt rules for collecting use taxes from unregistered persons; requiring marketplace providers and persons required to report remote sales to remit discretionary sales surtax when delivering tangible personal property to a county imposing a surtax; creating s. 212.05965, F.S.; defining terms; providing that certain marketplace providers are dealers for purposes of the sales and use tax; requiring certain marketplace providers to provide a certain certification to their marketplace sellers; specifying


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requirements for marketplace sellers; requiring certain marketplace providers to allow the Department of Revenue to examine and audit their books and records; specifying the examination and audit authority of the Department of Revenue; providing that a marketplace seller, rather than the marketplace provider, is liable for sales tax collection and remittance under certain circumstances; authorizing marketplace providers and marketplace sellers to enter into agreements for the recovery of certain taxes, interest, and penalties; providing construction and applicability; amending s. 212.05965, F.S.; requiring marketplace providers to collect and remit certain additional fees at the time of sale; authorizing marketplace providers and marketplace sellers to contractually agree for marketplace sellers to collect applicable taxes and fees; specifying requirements for marketplace sellers who collect such taxes and fees; providing for liability of sellers who fail to collect or remit such taxes and fees; amending s. 212.06, F.S.; revising the definition of the term “dealer”; conforming provisions to changes made by the act; amending 212.07, F.S.; conforming a cross-reference; amending 212.11, F.S.; requiring certain marketplace providers or persons required to report remote sales to file returns and pay taxes electronically; amending s. 212.12, F.S.; deleting the authority of the Department of Revenue’s executive director to negotiate a collection allowance with certain dealers;


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deleting the requirement that certain sales and use taxes on communications services be collected on the basis of a certain addition; requiring that certain sales and use taxes be calculated based on a specified rounding algorithm, rather than specified brackets; conforming provisions to changes made by the act; amending s. 212.18, F.S.; requiring certain marketplace providers or persons required to report remote sales to file a registration application electronically; conforming a provision to changes made by the act; amending s. 212.20, F.S.; providing applicability of requirements for refund of taxes adjudicated unconstitutionally collected to taxes levied or collected pursuant to marketplace provisions; requiring certain amounts to be deposited into the Unemployment Compensation Trust Fund during specified periods; specifying requirements for the Department of Revenue in reducing distributions by certain refund amounts paid out of the General Revenue Fund; requiring the Office of Economic and Demographic Research to certify to the Department of Revenue whether the trust fund balance exceeds a certain amount; providing for contingent future repeal; amending s. 443.1216, F.S.; conforming a cross-reference; amending s. 443.131, F.S.; specifying, at certain periods, multipliers to be applied to employer chargeable benefits for purposes of calculating employer reemployment assistance contribution rates; excluding reemployment benefits paid during a certain


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timeframe and certain COVID-19-related benefits paid from being included in a variable rate calculation; requiring that contribution rates in certain years be calculated without applying a trust fund positive adjustment factor; excluding reemployment benefits paid during a certain timeframe and certain COVID-19-related benefits paid from being calculated in the noncharge benefits and excess payments adjustment factors; requiring the tax collection service provider to reissue rates for a certain year; specifying requirements for employers and the Department of Revenue; requiring a refund of excess paid amounts under certain circumstances; specifying requirements for calculating and assigning contribution rates for certain years; specifying requirements for the Department of Economic Opportunity and the tax collection service provider; providing for contingent future repeal of modified rate calculations; specifying requirements for calculating adjustments to a benefit ratio multiplier; conforming a cross-reference; providing retroactive applicability; amending s. 443.191, F.S.; adding a specified source of revenues to the Unemployment Compensation Trust Fund; amending ss. 212.04 and 212.0506, F.S.; conforming provisions to changes made by the act; amending 213.015, F.S.; conforming a cross-reference; authorizing taxpayers to use one of two methods for calculating sales tax for a specified timeframe providing construction; amending s. 213.27, F.S.;

conforming provisions to changes made by the act; reenacting s. 212.055(2)(c), (3)(c), (8)(c), and (9)(c), F.S., relating to discretionary sales surtaxes, to incorporate the amendment made to s. 212.054, F.S., in references thereto; providing applicability; providing relief to certain persons for liability for tax, penalty, and interest due on certain remote sales and owed on certain purchases that occurred before a certain date; providing applicability; prohibiting the department from using data received from marketplace providers or persons making remote sales for certain purposes; providing applicability; providing construction; authorizing the department to adopt emergency rules; providing for expiration of that authority; authorizing the department to contract with a qualified vendor for certain purposes without using a competitive solicitation process; providing an appropriation; providing for severability; providing effective dates.

WHEREAS, during the 2020 calendar year, the United States economy was significantly strained by the COVID-19 pandemic, and such economic stress is continuing in the 2021 calendar year and may have impacts in later years, and

WHEREAS, the State of Florida was in full lockdown during April 2020 and then began to reopen the Florida economy in a measured manner thereafter, and

WHEREAS, the financial strain of lockdowns and reduced economic activity caused some Florida businesses to close


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permanently and others to terminate portions of their workforce, and

WHEREAS, in the 6-month period before April 2020, Florida's average monthly reemployment assistance benefits expense was $27.2 million, and

WHEREAS, beginning in April 2020, Florida's monthly reemployment assistance benefits expense increased by 800 percent over the prior 6-month average, and at times, the increase exceeded 2,000 percent, and

WHEREAS, in the current time of recovery, Florida's reemployment assistance benefits expense remains 473 percent over the 6-month average benefit amount before April 2020, and is estimated to continue at elevated levels for the foreseeable future, and

WHEREAS, to the fullest extent possible, the Legislature intends to relieve individual Florida businesses of increases in the Reemployment Assistance Tax which are due to increased reemployment assistance benefits resulting from the pandemic, and

WHEREAS, the Legislature intends to ensure that the Unemployment Compensation Trust Fund remains solvent for the purposes of providing benefits to Floridians impacted by these extraordinary events, and

WHEREAS, the Legislature intends to equalize the tax collection responsibilities of retailers both inside and outside Florida who make sales of taxable items to Florida residents, NOW, THEREFORE,