CHAPTER 2005-280

House Bill No. 1813

An act relating to tax administration; amending s. 95.091, F.S.; adding a cross-reference; amending s. 198.32, F.S.; allowing an estate that is not required to file a federal tax return to file with the clerk of the court an affidavit attesting that no Florida estate tax is due, regardless of the decedent's date of death; amending s. 199.135, F.S.; providing special provisions for the imposition of the nonrecurring intangibles tax imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.02, F.S.; providing special provisions for the imposition of the tax on deeds or other instruments relating to real property or interests in real property imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 201.08, F.S.; providing special provisions for the imposition of the tax on promissory or nonnegotiable notes or written obligations to pay money imposed by this section on the sale of a timeshare interest in a timeshare plan; amending s. 202.11, F.S.; providing an additional definition of the term "service address" for the purposes of the tax on communications services; amending ss. 206.09, 206.095, 206.14, and 206.485, F.S., relating to fuel taxes; providing for the distribution of penalties; amending s. 206.27, F.S.; allowing the Department of Revenue the option of posting the list of active and canceled fuel licenses on the departmental web site or mailing it to licensees; amending s. 212.0305, F.S.; permitting golf courses to be built with the proceeds of a charter county convention development tax; amending s. 212.05, F.S.; clarifying the tax treatment of nonresident purchasers of aircraft; amending s. 212.06, F.S.; clarifying that sales tax is not due on any vessel imported into this state for the sole purpose of being offered for retail sale by a registered Florida yacht broker or dealer under certain conditions; amending s. 212.11, F.S.; correcting a cross-reference; amending s. 212.12, F.S.; including in the definition of tax fraud willful attempts to evade a tax, surcharge, or fee imposed by chapter 212, F.S.; amending s. 213.053, F.S.; authorizing expanded sharing of confidential information between the Department of Revenue and the Department of Agriculture and Consumer Services for the Bill of Lading Program; amending s. 213.21, F.S.; specifying which taxes qualify for the automatic penalty compromise or settlement of liability; providing for retroactivity; amending s. 213.27, F.S.; clarifying that the notification by the Department of Revenue to the taxpayer that the taxpayer's account is being referred to a debt collection agency must be at least 30 days before the referral; amending s. 215.26, F.S.; adding a cross-reference; amending s. 252.372, F.S.; authorizing the Florida Surplus Lines Service Office to collect the Emergency Management, Preparedness, and Assistance Trust Fund surcharge and deposit the proceeds into the trust fund; amending s. 443.131, F.S.; requiring employers who transfer their business to a related entity to retain their unemployment experience history under certain circumstances; providing penalties; amending s. 443.141, F.S.; authorizing the Department of Revenue to send to

employers by regular mail notices of unemployment tax assessments and notices of the filing of liens; creating s. 624.50921, F.S.; creating a statute of limitations for assessments of the insurance premium tax if the amount of corporate income tax or a workers' compensation administrative assessment paid by the insurer is adjusted through an amended return or refund; amending s. 624.509, F.S.; providing for an alternative method of calculating a tax credit against the insurance premium tax for certain groups of affiliated corporations; clarifying the definition of the term "employees" for purposes of calculating such a credit; allowing a salary credit for employees of a service company subsidiary of a mutual insurance holding company; providing an exception; authorizing the department to adopt rules to administer such a credit; amending s. 624.5091, F.S., increasing the amount of tax credits excluded from calculation of insurance retaliatory taxes; providing an appropriation; providing legislative intent regarding the meaning of the term "employees" for purposes of determining the salary credit against the insurance premium tax; reviving and readopting s. 213.21, F.S., relating to informal conference procedures within the Department of Revenue; exempting from the documentary stamp tax certain security agreements recorded in error or by mistake; creating s. 196.1999, F.S.; providing retroactivity; providing an exemption from ad valorem taxes for certain space laboratories; repealing s. 196.1994, F.S., which expired effective July 1, 2004, and which provided an exemption from ad valorem taxes for certain space laboratories; amending s. 201.23, F.S.; defining the terms "banking organization" and "international banking transaction," relating to exemption from certain excise taxes; providing effective dates.

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

Section 1. Paragraph (a) of subsection (3) of section 95.091, Florida Statutes, is amended to read:

95.091 Limitation on actions to collect taxes.—

(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to ss. ~~s.~~ 220.23 and 624.50921, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:

1.a. For taxes due before July 1, 1999, within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later; and for taxes due on or after July 1, 1999, within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

b. Effective July 1, 2002, notwithstanding sub-subparagraph a., within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

2. For taxes due before July 1, 1999, within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer;

4. For taxes due before July 1, 1999, at any time after the taxpayer has filed a grossly false return;

5. At any time after the taxpayer has failed to make any required payment of the tax, has failed to file a required return, or has filed a fraudulent return, except that for taxes due on or after July 1, 1999, the limitation prescribed in subparagraph 1. applies if the taxpayer has disclosed in writing the tax liability to the department before the department has contacted the taxpayer; or

6. In any case in which there has been a refund of tax erroneously made for any reason:

a. For refunds made before July 1, 1999, within 5 years after making such refund; and

b. For refunds made on or after July 1, 1999, within 3 years after making such refund,

or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

Section 2. Subsection (2) of section 198.32, Florida Statutes, is amended to read:

198.32 Prima facie liability for tax.—

(2) Whenever an estate is not subject to tax under this chapter and is not required to file a return, the personal representative may execute an affidavit attesting that the estate is not taxable. The form of the affidavit shall be prescribed by the department, and shall include, but not be limited to, statements regarding the decedent's domicile and whether a federal estate tax return will be filed, and acknowledgment of the personal representative's personal liability under s. 198.23. This affidavit shall be subject to record and admissible in evidence to show nonliability for tax. <u>This subsection applies to all estates, regardless of the date of death of the decedent.</u>

Section 3. Subsection (5) is added to section 199.135, Florida Statutes, to read:

199.135 Due date and payment of nonrecurring tax.—The nonrecurring tax imposed on notes, bonds, and other obligations for payment of money secured by a mortgage, deed of trust, or other lien evidenced by a written instrument presented for recordation shall be due and payable when the instrument is presented for recordation. If there is no written instrument or if it is not so presented within 30 days following creation of the obligation,

then the tax shall be due and payable within 30 days following creation of the obligation.

(5)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to s. 721.08, tax on notes or other obligations secured by a mortgage, deed of trust, or other lien upon real property situated in this state executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The mortgage, deed of trust, or other lien is recorded; or

2. All of the conditions precedent to the release of the purchaser's escrowed funds or other property pursuant to s. 721.08(2)(c) have been met, regardless of whether the developer has posted an alternative assurance. Tax due under this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b)1. If tax has been paid to the department under subparagraph (a)2., and the note, other written obligation, mortgage, deed of trust, or other lien with respect to which the tax was paid is subsequently recorded, a notation reflecting the prior payment of the tax must be made upon the mortgage or other lien.

2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but the mortgage, deed of trust, or other lien with respect to which the tax was collected has not been recorded or filed in this state, the tax must be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow, unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

Section 4. Subsection (10) is added to section 201.02, Florida Statutes, to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(10)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to s. 721.08, tax on deeds or other instruments conveying any interest in Florida real property which are executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The deed or other instrument conveying the interest in Florida real property is recorded; or

2. All of the conditions precedent to the release of the purchaser's escrowed funds or other property pursuant to s. 721.08(2)(c) have been met,

regardless of whether the developer has posted an alternative assurance. Tax due pursuant to this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b)1. If tax has been paid to the department pursuant to subparagraph (a)2., and the deed or other instrument conveying the interest in Florida real property with respect to which the tax was paid is subsequently recorded, a notation reflecting the prior payment of the tax must be made upon the deed or other instrument conveying the interest in Florida real property.

2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but a default or cancellation occurs pursuant to s. 721.08(2)(a) or s. 721.08(2)(b) and no deed or other instrument conveying interest in Florida real property has been recorded or delivered to the purchaser, the tax must be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

Section 5. Subsection (8) is added to section 201.08, Florida Statutes, to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.—

(8)(a) In recognition of the special escrow requirements that apply to sales of timeshare interests in timeshare plans pursuant to s. 721.08, tax on notes or other written obligations and mortgages or other evidences of indebtedness executed in conjunction with the sale by a developer of a timeshare interest in a timeshare plan is due and payable on the earlier of the date on which:

1. The note, other written obligation, mortgage or other evidence of indebtedness is recorded or filed in this state; or

2. All of the conditions precedent to the release of the purchaser's escrowed funds or other property pursuant to s. 721.08(2)(c) have been met, regardless of whether the developer has posted an alternative assurance. Tax due under this subparagraph is due and payable on or before the 20th day of the month following the month in which these conditions were met.

(b)1. If tax has been paid to the department pursuant to subparagraph (a)2., and the note, other written obligation, mortgage, or other evidence of indebtedness with respect to which the tax was paid is subsequently recorded or filed in this state, a notation reflecting the prior payment of the tax must be made upon the note, other written obligation, mortgage, or other evidence of indebtedness recorded or filed in this state.

2. Notwithstanding paragraph (a), if funds are designated on a closing statement as tax collected from the purchaser, but the note, other written

obligation, mortgage, or other evidence of indebtedness with respect to which the tax was collected has not been recorded or filed in this state, the tax shall be paid to the department on or before the 20th day of the month following the month in which the funds are available for release from escrow, unless the funds have been refunded to the purchaser.

(c) The department may adopt rules to administer the method for reporting tax due under this subsection.

Section 6. Paragraph (a) of subsection (15) of section 202.11, Florida Statutes, is amended to read:

202.11 Definitions.—As used in this chapter:

(15) "Service address" means:

(a) Except as otherwise provided in this section:~~,~~

1. The location of the communications equipment from which communications services originate or at which communications services are received by the customer;~~.~~

2. In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, and in the case of third-number and calling-card calls, the term "service address" means ~~is~~ the address of the central office, as determined by the area code and the first three digits of the seven-digit originating telephone number; or~~.~~

3. If the location of the equipment described in subparagraph 1. is not known and subparagraph 2. is inapplicable, the term "service address" means the location of the customer's primary use of the communications service. For the purposes of this subparagraph, the location of the customer's primary use of a communications service is the residential street address or the business street address of the customer.

Section 7. Subsection (6) is added to section 206.09, Florida Statutes, to read:

206.09 Reports from carriers transporting motor fuel or similar products.—

(6) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 8. Subsection (4) is added to section 206.095, Florida Statutes, to read:

206.095 Reports from terminal operators.—

(4) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 9. Subsection (6) is added to section 206.14, Florida Statutes, to read:

206.14 Inspection of records; audits; hearings; forms; rules and regulations.—

(6) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 10. Subsection (1) of section 206.27, Florida Statutes, is amended to read:

206.27 Records and files as public records.—

(1) The records and files in the office of the department appertaining to parts I and II of this chapter shall be available in Tallahassee to the public at any time during business hours. The department shall prepare and make available a list each month of all current licensed terminal suppliers, importers, exporters, and wholesalers which also shall include all new licenses issued and all licenses canceled during the past 12 months~~, and mail a copy thereof to each licensee~~. Such list shall be used to verify license numbers of purchasers issuing exemption certificates or affidavits.

Section 11. Subsection (3) is added to section 206.485, Florida Statutes, to read:

206.485 Tracking system reporting requirements.—

(3) All moneys derived from the penalties imposed by this section shall be deposited into the Fuel Tax Collection Trust Fund, and allocated in the same manner as provided by s. 206.875.

Section 12. Paragraph (b) of subsection (4) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.—

(4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER REQUIREMENTS.—

(b) Charter county levy for convention development.—

1. Each county, as defined in s. 125.011(1), may impose, under ~~pursuant to~~ an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3) at the rate of 3 percent of the total consideration charged therefor. The proceeds of this levy shall be known as the charter county convention development tax.

2. All charter county convention development moneys, including any interest accrued thereon, received by a county imposing the levy shall be used as follows:

a. Two-thirds of the proceeds shall be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county.

b. One-third of the proceeds shall be used to construct a new multipurpose convention/coliseum/exhibition center/stadium or the maximum components thereof as funds permit in the most populous municipality in the county.

c. After the completion of any project under sub-subparagraph a., the tax revenues and interest accrued under sub-subparagraph a. may be used to acquire, construct, extend, enlarge, remodel, repair, improve, plan for, operate, manage, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, ~~or~~ auditoriums, or golf courses, and may be used to acquire and construct an intercity light rail transportation system as described in the Light Rail Transit System Status Report to the Legislature dated April 1988, which shall provide a means to transport persons to and from the largest existing publicly owned convention center in the county and the hotels north of the convention center and to and from the downtown area of the most populous municipality in the county as determined by the county.

d. After completion of any project under sub-subparagraph b., the tax revenues and interest accrued under sub-subparagraph b. may be used, as determined by the county, to operate an authority created pursuant to subparagraph 4. or to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or related buildings and parking facilities in the most populous municipality in the county.

e. For the purposes of completion of any project pursuant to this paragraph, tax revenues and interest accrued may be used:

(I) As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith; or

(II) As a pledge or capital contribution in conjunction with a partnership, joint venture, or other business arrangement between a municipality and one or more business entities for projects authorized by this paragraph.

3. The governing body of each municipality in which a municipal tourist tax is levied may adopt a resolution prohibiting imposition of the charter county convention development levy within such municipality. If the governing body adopts such a resolution, the convention development levy shall be imposed by the county in all other areas of the county except such municipality. No funds collected pursuant to this paragraph may be expended in a municipality which has adopted such a resolution.

4.a. Before the county enacts an ordinance imposing the levy, the county shall notify the governing body of each municipality in which projects are to be developed pursuant to sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph 2.c., or sub-subparagraph 2.d. As a condition precedent to receiving funding, the governing bodies of such municipalities shall designate or appoint an authority that shall have the sole power to:

(I) Approve the concept, location, program, and design of the facilities or improvements to be built in accordance with this paragraph and to administer and disburse such proceeds and any other related source of revenue.

(II) Appoint and dismiss the authority's executive director, general counsel, and any other consultants retained by the authority. The governing body shall have the right to approve or disapprove the initial appointment of the authority's executive director and general counsel.

b. The members of each such authority shall serve for a term of not less than 1 year and shall be appointed by the governing body of such municipality. The annual budget of such authority shall be subject to approval of the governing body of the municipality. If the governing body does not approve the budget, the authority shall use as the authority's budget the previous fiscal year budget.

c. The authority, by resolution to be adopted from time to time, may invest and reinvest the proceeds from the convention development tax and any other revenues generated by the authority in the same manner that the municipality in which the authority is located may invest surplus funds.

5. The charter county convention development levy shall be in addition to any other levy imposed pursuant to this section.

6. A certified copy of the ordinance imposing the levy shall be furnished by the county to the department within 10 days after approval of such ordinance. The effective date of imposition of the levy shall be the first day of any month at least 60 days after enactment of the ordinance.

7. Revenues collected pursuant to this paragraph shall be deposited in a convention development trust fund, which shall be established by the county as a condition precedent to receipt of such funds.

Section 13. Paragraph (a) of subsection (1) of 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 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 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 ~~airplane~~ 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 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 the purchaser removes a nonqualifying boat or an aircraft ~~airplane~~ from this state within 10 days after the date of purchase or, when the boat or aircraft ~~airplane~~ is repaired or altered, within 20 days after completion of the repairs or alterations;

b. The purchaser, within 30 days from the date of departure, shall provide the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft ~~airplane~~ outside the state. If such written proof is unavailable, within 30 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 10 days of removing the boat or aircraft ~~airplane~~ from Florida, shall furnish 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 5 days of the date of sale, shall provide 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 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 shall apply to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. 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, prior to delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued.

(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 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 prior to permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date prior to 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 90 days after purchase or a nonqualifying boat or an aircraft ~~airplane~~ from this state within 10 days after purchase or, when the boat or aircraft ~~airplane~~ is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft ~~airplane~~ to return to this state within 6 months from the date of departure, 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 ~~airplane~~ 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) and is mandatory and shall not be waived by the department. The 90-day period following the sale of a qualifying boat tax exempt to a nonresident may not be tolled for any reason. Notwithstanding other provisions of this paragraph to the contrary, an aircraft purchased in this state under the provisions of this paragraph may be returned to this state for repairs within 6 months after the date of its departure without being in violation of the law and without incurring liability for the payment of tax or penalty on the purchase price of the aircraft if the aircraft is removed from this state within 20 days after the completion of the repairs and if such removal can be demonstrated by invoices for fuel, tie-down, hangar charges issued by out-of-state vendors or suppliers, or similar documentation.

Section 14. Paragraph (e) of subsection (1) of section 212.06, Florida Statutes, is 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.—

(1)

(e)1. Notwithstanding any other provision of this chapter, tax shall not be imposed on any vessel registered under ~~pursuant to~~ s. 328.52 by a vessel dealer or vessel manufacturer with respect to a vessel used solely for demonstration, sales promotional, or testing purposes. The term "promotional purposes" shall include, but not be limited to, participation in fishing tournaments. For the purposes of this paragraph, "promotional purposes" means

the entry of the vessel in a marine-related event where prospective purchasers would be in attendance, where the vessel is entered in the name of the dealer or manufacturer, and where the vessel is clearly marked as for sale, on which vessel the name of the dealer or manufacturer is clearly displayed, and which vessel has never been transferred into the dealer's or manufacturer's accounting books from an inventory item to a capital asset for depreciation purposes.

2. The provisions of this paragraph do not apply to any vessel when used for transporting persons or goods for compensation; when offered, let, or rented to another for consideration; when offered for rent or hire as a means of transportation for compensation; or when offered or used to provide transportation for persons solicited through personal contact or through advertisement on a "share expense" basis.

3. Notwithstanding any other provision of this chapter, tax may not be imposed on any vessel imported into this state for the sole purpose of being offered for sale at retail by a yacht broker or yacht dealer registered in this state if the vessel remains under the care, custody, and control of the registered broker or dealer and the owner of the vessel does not make personal use of the vessel during that time. The provisions of this chapter govern the taxability of any sale or use of the vessel subsequent to its importation under this provision.

Section 15. Paragraph (e) of subsection (4) of section 212.11, Florida Statutes, is amended to read:

212.11 Tax returns and regulations.—

(4)

(e) The penalty provisions of this chapter, except s. 212.12(2)(f) ~~s. 212.12(2)(e)~~, apply to the provisions of this subsection.

Section 16. Present paragraph (e) of subsection (2) of section 212.12, Florida Statutes, is redesignated as paragraph (f), present paragraph (f) of that subsection is redesignated as paragraph (g) and amended, and a new paragraph (e) is added to that subsection, to read:

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

(2)

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

(g)~~(f)~~ A dealer who files ~~Dealers filing~~ a consolidated return pursuant to s. 212.11(1)(e) is ~~shall be~~ subject to the penalty established in paragraph (e)

unless the dealer has paid the required estimated tax for his or her consolidated return as a whole without regard to each location. If the dealer fails to pay the required estimated tax for his or her consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph (f) ~~(e)~~.

Section 17. Paragraph (l) of subsection (7) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

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

(l) Information relative to chapter 212 and the Bill of Lading Program to the Office of Agriculture Law Enforcement of the Department of Agriculture and Consumer Services in the conduct of its official duties ~~the Bill of Lading Program. This information is limited to the business name and whether the business is in compliance with chapter 212.~~

Section 18. Subsection (10) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(10)(a) ~~Effective July 1, 2003,~~ Notwithstanding any other provision of law and solely for the purpose of administering the taxes ~~tax~~ imposed by ss. 125.0104 and 125.0108, and chapter 212, except s. 212.0606, under the circumstances set forth in this subsection, the department shall settle or compromise a taxpayer's liability for penalty without requiring the taxpayer to submit a written request for compromise or settlement.

(b) For taxpayers who file returns and remit tax on a monthly basis:

1. Any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has:

a. No noncompliant filing event in the immediately preceding 12-month period and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event; or

b. One noncompliant filing event in the immediately preceding 12-month period, resolution of the current noncompliant filing event through payment of tax and interest and the filing of a return within 30 days after notification by the department, and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event.

2. If a taxpayer has two or more noncompliant filing events in the immediately preceding 12-month period, the taxpayer shall be liable, absent a showing by the taxpayer that the noncompliant filing event was due to extraordinary circumstances, for the penalties provided in s. 125.0104 or s. 125.0108 and s. 212.12, including loss of collection allowance, and shall be reported to a credit bureau.

(c) For taxpayers who file returns and remit tax on a quarterly basis, any penalty related to a noncompliant filing event shall be settled or compromised if the taxpayer has no noncompliant filing event in the immediately preceding 12-month period and no unresolved ~~chapter 212~~ liability under s. 125.0104, s. 125.0108, or chapter 212 resulting from a noncompliant filing event.

(d) For purposes of this subsection:

1. "Noncompliant filing event" means a failure to timely file a complete and accurate return required under s. 125.0104, s. 125.0108, or chapter 212 or a failure to timely pay the amount of tax reported on a return required by s. 125.0104, s. 125.0108, or chapter 212.

2. "Extraordinary circumstances" means the occurrence of events beyond the control of the taxpayer, such as, but not limited to, the death of the taxpayer, acts of war or terrorism, natural disasters, fire, or other casualty, or the nonfeasance or misfeasance of the taxpayer's employees or representatives responsible for compliance with s. 125.0104, s. 125.0108, or ~~the provisions of~~ chapter 212. With respect to the acts of an employee or representative, the taxpayer must show that the principals of the business lacked actual knowledge of the noncompliance and that the noncompliance was resolved within 30 days after actual knowledge.

Section 19. The amendment to section 213.21(10), Florida Statutes, as made by this act, shall operate retroactively to July 1, 2003.

Section 20. Subsections (1) and (2) of section 213.27, Florida Statutes, are amended to read:

213.27 Contracts with debt collection agencies and certain vendors.—

(1) The Department of Revenue may, for the purpose of collecting any delinquent taxes due from a taxpayer, including taxes for which a bill or notice has been generated, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent taxes including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of delinquent taxes and taxes for which a billing or notice has been generated. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by mail by the department, its employees, or its authorized representative at least 30 days prior to commencing any litigation to recover any delinquent taxes. The taxpayer must be notified by mail by the department at least 30 days prior to the initial assignment by the department of the taxpayer's account for ~~assigning~~ the collection of any taxes by ~~to~~ the debt collection agency.

(2) The department may enter into contracts with any individual or business for the purpose of identifying intangible personal property tax liability. Contracts may provide for the identification of assets subject to the tax on intangible personal property, the determination of value of such property, the requirement for filing a tax return and the collection of taxes due, including applicable penalties and interest thereon. The department may

share confidential information pursuant to the contract necessary for the identification of taxable intangible personal property. Contracts shall be made pursuant to chapter 287. The taxpayer must be notified by mail by the department at least 30 days prior to the department assigning identification of intangible personal property to an individual or business.

Section 21. Subsection (2) of section 215.26, Florida Statutes, is amended to read:

215.26 Repayment of funds paid into State Treasury through error.—

(2) Application for refunds as provided by this section must be filed with the Chief Financial Officer, except as otherwise provided in this subsection, within 3 years after the right to the refund has accrued or else the right is barred. Except as provided in chapter 198, ~~and~~ s. 220.23, and s. 624.50921, an application for a refund of a tax enumerated in s. 72.011, which tax was paid after September 30, 1994, and before July 1, 1999, must be filed with the Chief Financial Officer within 5 years after the date the tax is paid, and within 3 years after the date the tax was paid for taxes paid on or after July 1, 1999. The Chief Financial Officer may delegate the authority to accept an application for refund to any state agency, or the judicial branch, vested by law with the responsibility for the collection of any tax, license, or account due. The application for refund must be on a form approved by the Chief Financial Officer and must be supplemented with additional proof the Chief Financial Officer deems necessary to establish the claim; provided, the claim is not otherwise barred under the laws of this state. Upon receipt of an application for refund, the judicial branch or the state agency to which the funds were paid shall make a determination of the amount due. If an application for refund is denied, in whole or in part, the judicial branch or such state agency shall notify the applicant stating the reasons therefor. Upon approval of an application for refund, the judicial branch or such state agency shall furnish the Chief Financial Officer with a properly executed voucher authorizing payment.

Section 22. Effective for policies issued or renewed on or after January 1, 2006, section 252.372, Florida Statutes, is amended to read:

252.372 Imposition and collection of surcharge.—In order to provide funds for emergency management, preparedness, and assistance, an annual surcharge of $2 per policy shall be imposed on every homeowner's, mobile home owner's, tenant homeowner's, and condominium unit owner's policy, and an annual $4 surcharge shall be imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy, issued or renewed on or after May 1, 1993. The surcharge shall be paid by the policyholder to the insurer. The insurer shall collect the surcharge and remit it to the Department of Revenue, which shall collect, administer, audit, and enforce the surcharge pursuant to s. 624.5092. The surcharge is not to be considered premiums of the insurer; however, nonpayment of the surcharge by the insured may be a valid reason for cancellation of the policy. For those policies in which the surplus lines tax and the service fee are collected and remitted to the Surplus Lines Service Office, as created under s. 626.921, the surcharge must be remitted to the service office at the same

time as the surplus lines tax is remitted. All penalties for failure to remit the surplus lines tax and service fee are applicable for those surcharges required to be remitted to the service office. The service office shall deposit all surcharges that it collects into the Emergency Management, Preparedness, and Assistance Trust Fund at least monthly. All proceeds of the surcharge shall be deposited in the Emergency Management, Preparedness, and Assistance Trust Fund and may not be used to supplant existing funding.

Section 23. Effective January 1, 2006, paragraph (e) of subsection (3) of section 443.131, Florida Statutes, is amended, present paragraphs (g), (h), (i), and (j) of that subsection are redesignated as paragraphs (h), (i), (j), and (k), respectively, and a new paragraph (g) is added to that subsection to read:

443.131 Contributions.—

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

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

1. The tax collection service provider shall assign a 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-subparagraphs a.-c. shall be 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-subparagraphs a.-c. 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)2. shall be 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-subparagraphs a.-c. to the gross benefit ratio shall be multiplied by each individual benefit ratio that is less than the maximum contribution rate to obtain variable adjustment factors; except that in any instance in which the sum of an employer's individual benefit ratio and variable adjustment factor exceeds the maximum contribution rate, the variable adjustment factor shall be reduced in order that the sum equals 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 shall be divided by the taxable payroll of the employers who entered into the computation of their benefit ratios. The resulting ratio shall be subtracted from the sum of the adjustment factors computed under sub-subparagraphs a.-c. to obtain the final adjustment factor. The variable adjustment factors and the final adjustment factor shall be computed to five decimal places and rounded to the fourth decimal place. This final adjustment factor shall be 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.

a. An adjustment factor for noncharge benefits shall be 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)2. 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 current calendar year as reported to the tax collection service provider by September 30 of the same calendar year. As used in this sub-subparagraph, the term "noncharge benefits" means benefits paid to an individual from the Unemployment Compensation Trust Fund, but which were not charged to the employment record of any employer.

b. An adjustment factor for excess payments shall be 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)2. 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-subparagraph a. As used in this sub-subparagraph, the term "excess payments" means the amount of benefits charged to the employment record of an employer during the 3-year period described in subparagraph (b)2., 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 this sub-subparagraph, the term "total excess payments" means the sum of the individual employer excess payments for those employers <u>that were</u> eligible <u>to be considered</u> for <u>assignment of a contribution rate different</u> ~~a variation~~ from the standard rate.

c. If the balance of the Unemployment Compensation Trust Fund on June 30 of the calendar year immediately preceding the calendar year for which the contribution rate is being computed is less than 3.7 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 shall be 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-fourth of the difference between the balance of the fund as of June 30 of that calendar year and the sum of 4.7 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 June 30 of the year immediately preceding the effective date of the contribution rate equals or exceeds 3.7 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. If the balance of the Unemployment Compensation Trust Fund as of June 30 of the year immediately preceding the calendar year for which the contribution rate is being computed exceeds 4.7 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 shall be computed. The negative adjustment factor shall be 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 the calendar year into a sum equal to one-fourth of the difference between the balance of the fund as of June 30 of the current calendar year and 4.7 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 June 30 of the year immediately preceding the effective date of the contribution rate is less than 4.7 percent, but more than 3.7 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.

d. 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.

2. If the transfer of an employer's employment record to an employing unit under paragraph (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.

(g) Notwithstanding any other provision of law, upon transfer or acquisition of a business, the following conditions apply to the assignment of rates and to transfers of unemployment experience:

1.a. If an employer transfers its trade or business, or a portion thereof, to another employer and, at the time of the transfer, there is any common ownership, management, or control of the two employers, the unemployment experience attributable to the transferred trade or business shall be transferred to the employer to whom the business is so transferred. The rates of both employers shall be recalculated and made effective as of the beginning of the calendar quarter immediately following the date of the transfer of the trade or business unless the transfer occurred on the first day of a calendar quarter, in which case the rate shall be recalculated as of that date.

b. If, following a transfer of experience under sub-subparagraph a., the Agency for Workforce Innovation or the tax collection service provider deter-

mines that a substantial purpose of the transfer of trade or business was to obtain a reduced liability for contributions, the experience rating account of the employers involved shall be combined into a single account and a single rate assigned to the account.

2. Whenever a person who is not at the time an employer under this chapter acquires the trade or business of an employer, the unemployment experience of the acquired business shall not be transferred to the person if the Agency for Workforce Innovation or the tax collection service provider finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, such person shall be assigned the new employer rate under paragraph (2)(a). In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the tax collection service provider shall consider:

a. Whether the person continued the business enterprise of the acquired business;

b. How long such business enterprise was continued; or

c. Whether a substantial number of new employees was hired for performance of duties unrelated to the business activity conducted before the acquisition.

3. If a person knowingly violates or attempts to violate subparagraph 1. or subparagraph 2. or any other provision of this chapter relating to determining the assignment of a contribution rate, or if a person knowingly advises another person to violate the law, the person shall be subject to the following penalties:

a. If the person is an employer, the employer shall be assigned the highest rate assignable under this chapter for the rate year during which such violation or attempted violation occurred and for the 3 rate years immediately following this rate year. However, if the person's business is already at the highest rate for any year, or if the amount of increase in the person's rate would be less than 2 percent for such year, then a penalty rate of contribution of 2 percent of taxable wages shall be imposed for such year.

b. If the person is not an employer, the person shall be subject to a civil penalty of not more than $5,000. The procedures for the assessment of a penalty shall be in accordance with the procedures set forth in s. 443.141(2), and the provisions of s. 443.141(3) shall apply to the collection of the penalty. Any such penalty shall be deposited in the penalty and interest account established under s. 443.211(2).

4. For the purposes of this paragraph, the term:

a. "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

b. "Violates or attempts to violate" includes, but is not limited to, intent to evade, misrepresent, or willfully nondisclose.

c. "Person" has the meaning given to the term by s. 7701(a)(1) of the Internal Revenue Code of 1986.

d. "Trade or business" includes the employer's workforce.

5. In addition to the penalty imposed by subparagraph 3., any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

6. The Agency for Workforce Innovation and the tax collection service provider shall establish procedures to identify the transfer or acquisition of a business for the purposes of this paragraph and shall adopt any rules necessary to administer this paragraph.

7. This paragraph shall be interpreted and applied in such a manner as to meet the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

Section 24. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 443.141, Florida Statutes, are amended to read:

443.141 Collection of contributions and reimbursements.—

(2) REPORTS, CONTRIBUTIONS, APPEALS.—

(a) Failure to make reports and pay contributions.—If an employing unit determined by the tax collection service provider to be an employer subject to this chapter fails to make and file any report as and when required by this chapter or by any rule of the Agency for Workforce Innovation or the state agency providing tax collection services, for the purpose of determining the amount of contributions due by the employer under this chapter, or if any filed report is found by the service provider to be incorrect or insufficient, and the employer, after being notified in writing by the service provider to file the report, or a corrected or sufficient report, as applicable, fails to file the report within 15 days after the date of the mailing of the notice, the tax collection service provider may:

1. Determine the amount of contributions due from the employer based on the information readily available to it, which determination is deemed to be prima facie correct;

2. Assess the employer the amount of contributions determined to be due; and

3. Immediately notify the employer by ~~registered or certified~~ mail of the determination and assessment including penalties as provided in this chapter, if any, added and assessed, and demand payment together with interest on the amount of contributions from the date that amount was due and payable.

(3) COLLECTION PROCEEDINGS.—

(a) Lien for payment of contributions or reimbursements.—

1. There is created a lien in favor of the tax collection service provider upon all the property, both real and personal, of any employer liable for payment of any contribution or reimbursement levied and imposed under this chapter for the amount of the contributions or reimbursements due, together with interest, costs, and penalties. If any contribution or reimbursement imposed under this chapter or any portion of that contribution, reimbursement, interest, or penalty is not paid within 60 days after becoming delinquent, the tax collection service provider may subsequently issue a notice of lien that may be filed in the office of the clerk of the circuit court of any county in which the delinquent employer owns property or has conducted business. The notice of lien must include the periods for which the contributions, reimbursements, interest, or penalties are demanded and the amounts due. A copy of the notice of lien must be mailed to the employer at her or his last known address ~~by registered mail~~. The notice of lien may not be issued and recorded until 15 days after the date the assessment becomes final under subsection (2). Upon presentation of the notice of lien, the clerk of the circuit court shall record it in a book maintained for that purpose, and the amount of the notice of lien, together with the cost of recording and interest accruing upon the amount of the contribution or reimbursement, becomes a lien upon the title to and interest, whether legal or equitable, in any real property, chattels real, or personal property of the employer against whom the notice of lien is issued, in the same manner as a judgment of the circuit court docketed in the office of the circuit court clerk, with execution issued to the sheriff for levy. This lien is prior, preferred, and superior to all mortgages or other liens filed, recorded, or acquired after the notice of lien is filed. Upon the payment of the amounts due, or upon determination by the tax collection service provider that the notice of lien was erroneously issued, the lien is satisfied when the service provider acknowledges in writing that the lien is fully satisfied. A lien's satisfaction does not need to be acknowledged before any notary or other public officer, and the signature of the director of the tax collection service provider or his or her designee is conclusive evidence of the satisfaction of the lien, which satisfaction shall be recorded by the clerk of the circuit court who receives the fees for those services.

2. The tax collection service provider may subsequently issue a warrant directed to any sheriff in this state, commanding him or her to levy upon and sell any real or personal property of the employer liable for any amount under this chapter within his or her jurisdiction, for payment, with the added penalties and interest and the costs of executing the warrant, together with the costs of the clerk of the circuit court in recording and docketing the notice of lien, and to return the warrant to the service provider with payment. The warrant may only be issued and enforced for all amounts due to the tax collection service provider on the date the warrant is issued, together with interest accruing on the contribution or reimbursement due from the employer to the date of payment at the rate provided in this section. In the event of sale of any assets of the employer, however, priorities under the warrant shall be determined in accordance with the priority established by any notices of lien filed by the tax collection service provider and recorded by the clerk of the circuit court. The sheriff shall execute the warrant in the same manner prescribed by law for executions issued by the clerk of the circuit court for judgments of the circuit court. The sheriff is entitled to the

same fees for executing the warrant as for a writ of execution out of the circuit court, and these fees must be collected in the same manner.

Section 25. Section 624.50921, Florida Statutes, is created to read:

624.50921 Adjustments.—

(1) If a taxpayer is required to amend its corporate income tax liability under chapter 220, or the taxpayer receives a refund of its workers' compensation administrative assessment paid under chapter 440, the taxpayer shall file an amended insurance premium tax return not later than 60 days after such an occurrence.

(2) If an amended insurance premium tax return is required under subsection (1), notwithstanding any other provision of s. 95.091(3):

(a) A notice of deficiency may be issued at any time within 3 years after the date the amended insurance premium tax return is given; or

(b) If a taxpayer fails to file an amended insurance premium tax return, a notice of deficiency may be issued at any time.

The amount of any proposed assessment set forth in such a notice of deficiency shall be limited to the amount of any deficiency resulting under this code from recomputation of the taxpayer's insurance premium tax and retaliatory tax for the taxable year after giving effect only to the change in corporate income tax paid and the change in the amount of the workers' compensation administrative assessment paid. Interest in accordance with s. 624.5092 is due on the amount of any deficiency from the date fixed for filing the original insurance premium tax return for the taxable year until the date of payment of the deficiency.

(3) If an amended insurance premium tax return is required by subsection (1), a claim for refund may be filed within 2 years after the date on which the amended insurance premium tax return was due, regardless of whether such notice was given, notwithstanding any other provision of s. 215.26. However, the amount recoverable pursuant to such a claim shall be limited to the amount of any overpayment resulting under this code from recomputation of the taxpayer's insurance premium tax and retaliatory tax for the taxable year after giving effect only to the change in corporate income tax paid and the change in the amount of the workers' compensation administrative assessment paid.

Section 26. Subsection (5) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(5)

(a)1. There shall be allowed a credit against the net tax imposed by this section equal to 15 percent of the amount paid by an ~~the~~ insurer in salaries to employees located or based within this state and who are covered by the provisions of chapter 443.

2. As an alternative to the credit allowed in subparagraph 1., an affiliated group of corporations which includes at least one insurance company writing premiums in Florida may elect to take a credit against the net tax imposed by this section in an amount that may not exceed 15 percent of the salary of the employees of the affiliated group of corporations who perform insurance-related activities, are located or based within this state, and are covered by chapter 443. For purposes of this subparagraph, the term "affiliated group of corporations" means two or more corporations that are entirely owned directly or indirectly by a single corporation and that constitute an affiliated group as defined in s. 1504(a) of the Internal Revenue Code. The amount of credit allowed under this subparagraph is limited to the combined Florida salary tax credits allowed for all insurance companies that were members of the affiliated group of corporations for the tax year ending December 31, 2002, divided by the combined Florida taxable premiums written by all insurance companies that were members of the affiliated group of corporations for the tax year ending December 31, 2002, multiplied by the combined Florida taxable premiums of the affiliated group of corporations for the current year. An affiliated group of corporations electing this alternative calculation method must make such election on or before August 1, 2005. The election of this alternative calculation method is irrevocable and binding upon successors and assigns of the affiliated group of corporations electing this alternative. However, if a member of an affiliated group of corporations acquires or merges with another insurance company after the date of the irrevocable election, the acquired or merged company is not entitled to the affiliated group election and shall only be entitled to calculate the tax credit under subparagraph 1.

In no event shall the salary paid to an employee by an affiliated group of corporations be claimed as a credit by more than one insurer or be counted more than once in an insurer's calculation of the credit as described in subparagraph 1. or subparagraph 2. Only the portion of an employee's salary paid for the performance of insurance-related activities may be included in the calculation of the premium tax credit in this subsection.

(b) For purposes of this subsection:

1.~~(a)~~ The term "salaries" does not include amounts paid as commissions.

2.~~(b)~~ The term "employees" does not include independent contractors or any person whose duties require that the person hold a valid license under the Florida Insurance Code, except adjusters, managing general agents, and service representatives, as ~~persons~~ defined in s. 626.015 ~~s. 626.015(1), (14), and (16)~~.

3.~~(c)~~ The term "net tax" means the tax imposed by this section after applying the calculations and credits set forth in subsection (4).

4.~~(d)~~ An affiliated group of corporations that created a service company within its affiliated group on July 30, 2002, shall allocate the salary of each service company employee covered by contracts with affiliated group members to the companies for which the employees perform services. The salary allocation is based on the amount of time during the tax year that the

individual employee spends performing services or otherwise working for each company over the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the affiliated group shall be included as that insurer's employee salaries for purposes of this section.

a.~~1.~~ Except as provided in subparagraph 2., the term "affiliated group of corporations" means two or more corporations that are entirely owned by a single corporation and that constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

b.~~2.~~ The term "service company" means a separate corporation within the affiliated group of corporations whose employees provide services to affiliated group members and which are treated as service company employees for unemployment compensation and common law purposes. The holding company of an affiliated group may not qualify as a service company. An insurance company may not qualify as a service company.

c.~~3.~~ If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company exception under this section, or its salary allocation under this section, no credit shall be allowed.

5. A service company that is a subsidiary of a mutual insurance holding company, which mutual insurance holding company was in existence on or before January 1, 2000, shall allocate the salary of each service company employee covered by contracts with members of the mutual insurance holding company system to the companies for which the employees perform services. The salary allocation is based on the ratio of the amount of time during the tax year which the individual employee spends performing services or otherwise working for each company to the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the mutual insurance holding company system shall be included as that insurer's employee salaries for purposes of this section. However, this subparagraph does not apply for any tax year unless funds sufficient to offset the anticipated salary credits have been appropriated to the General Revenue Fund prior to the due date of the final return for that year.

a. The term "mutual insurance holding company system" means two or more corporations that are subsidiaries of a mutual insurance holding company and in compliance with part IV of chapter 628.

b. The term "service company" means a separate corporation within the mutual insurance holding company system whose employees provide services to other members of the mutual insurance holding company system and are treated as service company employees for unemployment compensation and common-law purposes. The mutual insurance holding company may not qualify as a service company.

c. If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company

exception under this section, or its salary allocation under this section, no credit shall be allowed.

(c) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this subsection.

Section 27. Subsection (1) of section 624.5091, Florida Statutes, is amended to read:

624.5091 Retaliatory provision, insurers.—

(1)(a) When by or pursuant to the laws of any other state or foreign country any taxes, licenses, and other fees, in the aggregate, and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon Florida insurers or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses, and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Department of Revenue upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in this state. In determining the taxes to be imposed under this section, 80 percent and a portion of the remaining 20 percent as provided in paragraph (b) of the credit provided by s. 624.509(5), as limited by s. 624.509(6) and further determined by s. 624.509(7), shall not be taken into consideration.

(b) As used in this subsection, the term "portion of the remaining 20 percent" shall be calculated by multiplying the remaining 20 percent by a fraction, the numerator of which is the sum of the salaries qualifying for the credit allowed by s. 624.509(5) of employees whose place of employment is located in an enterprise zone created pursuant to chapter 290 and the denominator of which is the sum of the salaries qualifying for the credit allowed by s. 624.509(5).

Section 28. The sum of $2.6 million is appropriated from the Workers' Compensation Administration Trust Fund to the General Revenue Fund for the 2005-2006 fiscal year.

[Section 28 was vetoed by the Governor.]

Section 29. The intent of the revision to section 624.509(5)(b), Florida Statutes, in section 25 is to clarify that adjusters, managing general agents, and service representatives, as defined in section 626.015, Florida Statutes, are considered employees for purposes of the salary credit provided in section 626.509, Florida Statutes. The reference in section 624.509, Florida Statutes, to section 626.015, Florida Statutes, was never intended to reference the definition of a "resident."

Section 30. Notwithstanding section 11 of chapter 2000-312, Laws of Florida, section 213.21, Florida Statutes, shall not stand repealed on October 1, 2005, as scheduled by that law, but that section is revived and readopted.

Section 31. If a security agreement pledging condominium or homeowner association assessments or fees or club membership dues, fees, or assessments was recorded after April 15, 2000, and before April 10, 2005, with a clerk of the court, and if a Uniform Commercial Code financing statement was filed with the Secretary of State or the Florida Secured Transaction Registry with respect to such security agreement, the excise tax on documents under chapter 201, Florida Statutes, is not due solely as a result of the recording of the security agreement if an affidavit attesting that the security agreement was recorded in error or by mistake is filed or recorded with the clerk of the court.

Section 32. Retroactive to January 1, 2005, section 196.1999, Florida Statutes, is created to read:

196.1999 Space laboratories and carriers; exemption.—Notwithstanding other provisions of this chapter, a module, pallet, rack, locker, and any necessary associated hardware and subsystem owned by any person and intended to be used to transport or store cargo used for a space laboratory for the primary purpose of conducting scientific research in space is deemed to carry out a scientific purpose and is exempt from ad valorem taxation.

Section 33. Section 196.1994, Florida Statutes, is repealed.

Section 34. Subsection (4) of section 201.23, Florida Statutes, is amended to read:

201.23 Foreign notes and other written obligations exempt.—

(4)(a) The excise taxes imposed by this chapter shall not apply to the documents, notes, evidences of indebtedness, financing statements, drafts, bills of exchange, or other taxable items dealt with, made, issued, drawn upon, accepted, delivered, shipped, received, signed, executed, assigned, transferred, or sold by or to a banking organization~~, as defined in s. 199.023(9),~~ in the conduct of an international banking transaction~~, as defined in s. 199.023(11)~~. Nothing in this subsection shall be construed to change the application of paragraph (2)(a).

(b) For purposes of this subsection, the term:

1. "Banking organization" means:

a. A bank organized and existing under the laws of any state;

b. A national bank organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.;

c. An Edge Act corporation organized pursuant to the provisions of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.;

d. An international bank agency licensed pursuant to the laws of any state;

e. A federal agency licensed pursuant to ss. 4 and 5 of the International Banking Act of 1978;

f. A savings association organized and existing under the laws of any state;

g. A federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq.; or

h. A Florida export finance corporation organized and existing pursuant to the provisions of part V of chapter 288.

2. "International banking transaction" means:

a. The financing of the exportation from, or the importation into, the United States or between jurisdictions abroad of tangible personal property or services;

b. The financing of the production, preparation, storage, or transportation of tangible personal property or services which are identifiable as being directly and solely for export from, or import into, the United States or between jurisdictions abroad;

c. The financing of contracts, projects, or activities to be performed substantially abroad, except those transactions secured by a mortgage, deed of trust, or other lien upon real property located in the state;

d. The receipt of deposits or borrowings or the extensions of credit by an international banking facility, except the loan or deposit of funds secured by mortgage, deed of trust, or other lien upon real property located in the state; or

e. Entering into foreign exchange trading or hedging transactions in connection with the activities described in sub-subparagraph d.

Section 35. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2005.

Approved by the Governor June 20, 2005.

Filed in Office Secretary of State June 20, 2005.