CHAPTER 2007-106

Committee Substitute for Senate Bill No. 2482

An act relating to tax administration; amending s. 45.032, F.S.; including a tax warrant as a subordinate lienholder for purposes of the disbursement of surplus funds after a judicial sale; amending s. 193.1551, F.S.; providing for provisions governing the assessment of homestead property damaged in certain named storms to apply to properties in which repairs are commenced by January 1, 2008; amending s. 196.192, F.S.; specifying that ownership of property by a tax-exempt organization's sole member limited liability company has the same status for property tax purposes as direct ownership by the tax-exempt organization; amending s. 196.193, F.S.; requiring the property appraiser to explain to a nonprofit organization the legal and factual basis for denying a property tax exemption to the nonprofit organization; amending s. 196.196, F.S.; providing that property owned by an exempt entity shall be deemed to be used for religious purposes if the institution has taken affirmative steps to prepare the property for use as a public house of worship; providing definitions; amending s. 197.572, F.S.; providing for easements for conservation purposes; amending s. 198.13, F.S.; exempting certain representatives of an estate from the requirement to file certain returns if there is no tax on estates of decedents or no tax on generation-skipping transfers; amending s. 202.16, F.S.; requiring dealers to document exempt sales for resale; providing requirements and procedures; providing a definition; providing construction; providing for dealer provision of evidence of the exempt status of certain sales through an informal protest process; requiring the Department of Revenue to accept certain evidence during the protest period; providing limitations; requiring the department to establish a toll-free telephone number for the purpose of verifying registration numbers and resale certificates; requiring the department to establish a system for receiving information from dealers regarding certificate numbers; amending s. 202.18, F.S.; providing for adjustments in communications services tax distributions to correct for misallocations between jurisdictions; amending s. 202.20, F.S.; limiting local governmental authority to make certain rate adjustments in the tax under certain circumstances; providing for a determination of completeness of certain data; amending s. 202.28, F.S.; providing requirements for the Department of Revenue with respect to distributing proceeds of the communications services tax and allocating certain penalties; amending s. 202.30, F.S.; reducing the threshold tax amount which a dealer of communications services is required to remit taxes electronically; amending ss. 206.02 and 206.021, F.S.; authorizing the Department of Revenue to issue temporary fuel licenses during a declared state of emergency or a declared disaster; amending s. 206.9943, F.S.; authorizing the department to issue a temporary pollutant tax license during a declared state of emergency or a declared disaster; amending s. 211.3103, F.S.; providing for the annual producer price index to apply to the tax on the severance of phosphate rock; amending s. 212.02, F.S.; adding leases of

certain aircraft to the definition of the term "qualified aircraft"; amending ss. 212.05 and 212.0515, F.S.; authorizing the department to adopt additional divisors for calculating the sales tax on vending machines when a county imposes a sales surtax rate that is not listed in statute; amending s. 212.0506, F.S.; clarifying that the definition of the term "service warranty" excludes certain contracts; amending s. 212.08, F.S., relating to exemptions from the sales tax; deleting provisions exempting certain building materials and business property from application of certain requirements for refunds; providing a sales tax exemption for certain delivery charges; repealing s. 212.095, F.S., relating to a sales tax refund permit for certain organizations; amending s. 212.12, F.S.; providing that a person is liable for failure to register a business or collect the required taxes; providing penalties; providing exceptions to certain penalties; providing for voluntary sampling of fixed assets; providing for application; providing legislative intent; authorizing the Department of Revenue, in conjunction with financial institutions, to design a pilot program for identifying certain account holders against whose property the department has a tax warrant; authorizing the department to enter into agreements with financial institutions for developing and operating a data match system; requiring the department to pay a fee to participating financial institutions; requiring the department to submit a report to the Legislature; amending s. 213.053, F.S.; authorizing the department to provide information to the child support enforcement program; amending s. 213.21, F.S.; providing for a taxpayer's liability for a service fee to be waived due to unintentional error; amending s. 213.755, F.S.; reducing the threshold tax amount under which a taxpayer may be required to remit taxes electronically; amending s. 220.21, F.S.; requiring a taxpayer that is required to file its federal income tax return electronically to also file its state corporate income tax electronically; providing a penalty for failure to do so; authorizing the department to adopt rules; providing for applicability; amending s. 443.1216, F.S.; authorizing the Agency for Workforce Innovation and the agency that collects unemployment taxes to adopt rules; clarifying that certain senior management positions are excluded from unemployment compensation provisions; amending s. 443.1316, F.S.; providing for certain provisions of ch. 213, F.S., relating to taxpayers rights, to apply to the collection of unemployment taxes; deleting a limitation on the amount the department may charge for the costs of collection services; amending s. 443.141, F.S.; providing a date through which certain penalties on delinquent unemployment compensation reports can be assessed; applying the provisions of s. 213.24(1), F.S., to such penalties; amending s. 443.163, F.S.; amending s. 624.511, F.S.; authorizing the Department of Revenue to refund an overpayment of insurance premium tax under certain circumstances; amending s. 832.062, F.S.; providing for prima facie evidence of intent to defraud or knowledge of insufficient funds with respect to an electronic transfer to the Department of Revenue which is not honored or refused; providing for exceptions; providing requirements for notice; providing for the department to recover court costs and attorney's fees;

providing procedures for establishing prima facie evidence; providing for reimbursement of a portion of certain ad valorem taxes on certain homestead property rendered uninhabitable under certain circumstances; providing requirements, procedures, and limitations; providing duties and responsibilities of the department, property appraisers, and value adjustment boards; providing a definition; providing criminal penalties for falsely claiming reimbursements; providing for reimbursement of a portion of sales taxes paid on certain replacement mobile homes damaged under certain circumstances; providing requirements, procedures, and limitations; providing duties and responsibilities of the department, property appraisers, and value adjustment boards; providing definitions; providing criminal penalties for falsely claiming reimbursements; requiring the Executive Office of the Governor to certify forward certain unexpended balances; providing legislative intent; providing appropriations; providing effective dates.

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

Section 1. Paragraph (b) of subsection (1) and paragraph (a) of subsection (3) of section 45.032, Florida Statutes, are amended to read:

45.032 Disbursement of surplus funds after judicial sale.—

(1) For purposes of ss. 45.031-45.035, the term:

(b) "Subordinate lienholder" means the holder of a subordinate lien shown on the face of the pleadings as an encumbrance on the property. The lien held by the party filing the foreclosure lawsuit is not a subordinate lien. A subordinate lienholder includes, but is not limited to, a subordinate mortgage, judgment, tax warrant, assessment lien, or construction lien. However, the holder of a subordinate lien shall not be deemed a subordinate lienholder if the holder was paid in full from the proceeds of the sale.

(3) During the 60 days after the clerk issues a certificate of disbursements, the clerk shall hold the surplus pending a court order.

(a) If the owner of record claims the surplus during the 60-day period and there is no subordinate lienholder, the court shall order the clerk to deduct any applicable service charges from the surplus and pay the remainder to the owner of record. The clerk may establish a reasonable requirement that the owner of record prove his or her identity before receiving the disbursement. The clerk may assist an owner of record in making a claim. An owner of record may use the following form in making a claim:

(Caption of Action)

OWNER'S CLAIM FOR
MORTGAGE FORECLOSURE SURPLUS

State of ....

County of ....

Under penalty of perjury, I (we) hereby certify that:

1. I was (we were) the owner of the following described real property in .... County, Florida, prior to the foreclosure sale and as of the date of the filing of the lis pendens:

...(Legal description of real property)...

2. I (we) do not owe any money on any mortgage on the property that was foreclosed other than the one that was paid off by the foreclosure.

3. I (we) do not owe any money that is the subject of an unpaid judgment, tax warrant, condominium lien, cooperative lien, or homeowners' association.

4. I am (we are) not currently in bankruptcy.

5. I (we) have not sold or assigned my (our) right to the mortgage surplus.

6. My (our) new address is: .....

7. If there is more than one owner entitled to the surplus, we have agreed that the surplus should be paid .... jointly, or to: ...., at the following address: .....

8. I (WE) UNDERSTAND THAT I (WE) AM (ARE) NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND I (WE) DO NOT HAVE TO ASSIGN MY (OUR) RIGHTS TO ANYONE ELSE IN ORDER TO CLAIM ANY MONEY TO WHICH I (WE) MAY BE ENTITLED.

9. I (WE) UNDERSTAND THAT THIS STATEMENT IS GIVEN UNDER OATH, AND IF ANY STATEMENTS ARE UNTRUE THAT I (WE) MAY BE PROSECUTED CRIMINALLY FOR PERJURY.

...(Signatures)...

Sworn to (or affirmed) and subscribed before me this .... day of ...., ...(year)..., by ...(name of person making statement)....

...(Signature of Notary Public - State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

Personally Known .... OR Produced Identification ....

Type of Identification Produced . . . . . .

Section 2. Section 193.1551, Florida Statutes, is amended to read:

193.1551 Assessment of certain homestead property damaged in 2004 named storms.—Notwithstanding the provisions of s. 193.155(4), the assessment at just value for changes, additions, or improvements to homestead property rendered uninhabitable in one or more of the named storms of 2004

shall be limited to the square footage exceeding 110 percent of the homestead property's total square footage. Additionally, homes having square footage of 1,350 square feet or less which were rendered uninhabitable may rebuild up to 1,500 total square feet and the increase in square footage shall not be considered as a change, an addition, or an improvement that is subject to assessment at just value. The provisions of this section are limited to homestead properties in which repairs are commenced ~~completed~~ by January 1, 2008, and apply retroactively to January 1, 2005.

Section 3. Section 196.192, Florida Statutes, is amended to read:

196.192 Exemptions from ad valorem taxation.—Subject to the provisions of this chapter:

(1) All property owned by an exempt entity and used exclusively for exempt purposes shall be totally exempt from ad valorem taxation.

(2) All property owned by an exempt entity and used predominantly for exempt purposes shall be exempted from ad valorem taxation to the extent of the ratio that such predominant use bears to the nonexempt use.

(3) All tangible personal property loaned or leased by a natural person, by a trust holding property for a natural person, or by an exempt entity to an exempt entity for public display or exhibition on a recurrent schedule is exempt from ad valorem taxation if the property is loaned or leased for no consideration or for nominal consideration.

For purposes of this section, each use to which the property is being put must be considered in granting an exemption from ad valorem taxation, including any economic use in addition to any physical use. For purposes of this section, property owned by a limited liability company, the sole member of which is an exempt entity, shall be treated as if the property were owned directly by the exempt entity. This section does ~~shall~~ not apply in determining the exemption for property owned by governmental units pursuant to s. 196.199.

Section 4. Subsection (5) of section 196.193, Florida Statutes, is amended to read:

196.193 Exemption applications; review by property appraiser.—

(5)(a) If ~~In the event~~ the property appraiser determines ~~shall determine~~ that any property claimed as wholly or partially exempt under this section is not entitled to any exemption or is entitled to an exemption to an extent other than that requested in the application, he or she shall notify the person or organization filing the application on such property of that determination in writing on or before July 1 of the year for which the application was filed.

(b) The notification must state in clear and unambiguous language the specific requirements of the state statutes which the property appraiser relied upon to deny the applicant the exemption with respect to the subject property. The notification must be drafted in such a way that a reasonable

person can understand specific attributes of the applicant or the applicant's use of the subject property which formed the basis for the denial. The notice must also include the specific facts the property appraiser used to determine that the applicant failed to meet the statutory requirements. If a property appraiser fails to provide a notice that complies with this subsection, any denial of an exemption or an attempted denial of an exemption is invalid.

(c) All notifications must specify the right to appeal to the value adjustment board and the procedures to follow in obtaining such an appeal. Thereafter, the person or organization filing such application, or a duly designated representative, may appeal that determination by the property appraiser to the board at the time of its regular hearing. In the event of an appeal, the property appraiser or the property appraiser's representative shall appear at the board hearing and present his or her findings of fact. If the applicant is not present or represented at the hearing, the board may make a determination on the basis of information supplied by the property appraiser or such other information on file with the board.

Section 5. Present subsection (3) of section 196.196, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

Section 6. Section 197.572, Florida Statutes, is amended to read:

197.572 Easements for conservation purposes, or for public service purposes or for drainage or ingress and egress survive tax sales and deeds.—When any lands are sold for the nonpayment of taxes, or any tax certificate is issued thereon by a governmental unit or agency or pursuant to any tax lien foreclosure proceeding, the title to the lands shall continue to be subject to any easement for conservation purposes as provided in s. 704.06 or telephone, telegraph, pipeline, power transmission, or other public service purpose and shall continue to be subject to any easement for the purposes of drainage or of ingress and egress to and from other land. The easement and the rights of the owner of it shall survive and be enforceable after the execution, delivery, and recording of a tax deed, a master's deed, or a clerk's certificate of title pursuant to foreclosure of a tax deed, tax certificate, or tax lien, to the same extent as though the land had been conveyed by voluntary deed. The easement must be evidenced by written instrument recorded in

the office of the clerk of the circuit court in the county where such land is located before the recording of such tax deed or master's deed, or, if not recorded, an easement for a public service purpose must be evidenced by wires, poles, or other visible occupation, an easement for drainage must be evidenced by a waterway, water bed, or other visible occupation, and an easement for the purpose of ingress and egress must be evidenced by a road or other visible occupation to be entitled to the benefit of this section; however, this shall apply only to tax deeds issued after the effective date of this act.

Section 7. Subsection (4) is added to section 198.13, Florida Statutes, to read:

198.13 Tax return to be made in certain cases; certificate of nonliability.—

(4) Notwithstanding any other provisions of this section and applicable to the estate of a decedent who dies after December 31, 2004, if, upon the death of the decedent, a state death tax credit or a generation-skipping transfer credit is not allowable pursuant to the Internal Revenue Code of 1986, as amended:

(a) The personal representative of the estate is not required to file a return under subsection (1) in connection with the estate.

(b) The person who would otherwise be required to file a return reporting a generation-skipping transfer under subsection (3) is not required to file such a return in connection with the estate.

The provisions of this subsection do not apply to estates of descendents dying after December 31, 2010.

Section 8. Effective January 1, 2008, subsection (2) of section 202.16, Florida Statutes, is amended to read:

202.16 Payment.—The taxes imposed or administered under this chapter and chapter 203 shall be collected from all dealers of taxable communications services on the sale at retail in this state of communications services taxable under this chapter and chapter 203. The full amount of the taxes on a credit sale, installment sale, or sale made on any kind of deferred payment plan is due at the moment of the transaction in the same manner as a cash sale.

(2)(a) A sale of communications services that are used as a component part of or integrated into a communications service or prepaid calling arrangement for resale, including, but not limited to, carrier-access charges, interconnection charges paid by providers of mobile communication services or other communication services, charges paid by cable service providers for the transmission of video or other programming by another dealer of communications services, charges for the sale of unbundled network elements, and any other intercompany charges for the use of facilities for providing communications services for resale, must be made in compliance with the rules of the department. Any person who makes a sale for resale which is

not in compliance with these rules is liable for any tax, penalty, and interest due for failing to comply, to be calculated pursuant to s. 202.28(2)(a).

(b)1. Any 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 initial or annual resale certificate issued pursuant to s. 202.17(6). In lieu of maintaining a copy of the certificate, a dealer may document, prior to 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 an initial or annual resale certificate issued pursuant to s. 202.17(6), valid at the time of receipt from the purchaser, without seeking additional annual resale certificates from such purchaser, if the dealer makes recurring sales to the purchaser in the normal course of business on a continual basis. For purposes of this paragraph, the term "recurring sales to a purchaser in the normal course of business" means sales in which the 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 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 no less frequently than once in every 12-month period.

2. A dealer may, through the informal conference procedures provided for in s. 213.21 and the rules of the department, provide the department with evidence of the exempt status of a sale. Exemption certificates executed by entities that were exempt 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 9. Effective January 1, 2008, the Department of Revenue shall establish a toll-free telephone number for the verification of valid dealer registration numbers and resale certificates issued under chapter 202, Florida Statutes. The system must be adequate to guarantee a low busy rate, must respond to keypad inquiries, and must provide data that is updated daily.

Section 10. Effective January 1, 2008, the Department of Revenue shall establish a system for receiving information from dealers regarding certificate numbers of purchasers who are seeking to make purchases for resale under chapter 202, Florida Statutes. The department shall provide such dealers, free of charge, with verification of those numbers that are canceled or invalid.

Section 11. Paragraph (c) of subsection (3) of section 202.18, Florida Statutes, is amended to read:

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

(3)

(c)1. Except as otherwise provided in this paragraph, proceeds of the taxes levied pursuant to s. 202.19, less amounts deducted for costs of administration in accordance with paragraph (b), shall be distributed monthly to the appropriate jurisdictions. The proceeds of taxes imposed pursuant to s. 202.19(5) shall be distributed in the same manner as discretionary surtaxes are distributed, in accordance with ss. 212.054 and 212.055.

2. The department shall make any adjustments to the distributions pursuant to this section ~~paragraph~~ which are necessary to reflect the proper amounts due to individual jurisdictions or trust funds. In the event that the department adjusts amounts due to reflect a correction in the situsing of a customer, such adjustment shall be limited to the amount of tax actually collected from such customer by the dealer of communication services.

3.a. Notwithstanding the time period specified in s. 202.22(5), adjustments in distributions which are necessary to correct misallocations between jurisdictions shall be governed by this subparagraph. If the department determines that misallocations between jurisdictions occurred, it shall provide written notice of such determination to all affected jurisdictions. The notice shall include the amount of the misallocations, the basis upon which the determination was made, data supporting the determination, and the identity of each affected jurisdiction. The notice shall also inform all affected jurisdictions of their authority to enter into a written agreement establishing a method of adjustment as described in sub-subparagraph c.

b. An adjustment affecting a distribution to a jurisdiction which is less than 90 percent of the average monthly distribution to that jurisdiction for the 6 months immediately preceding the department's determination, as reported by all communications services dealers, shall be made in the month immediately following the department's determination that misallocations occurred.

c. If an adjustment affecting a distribution to a jurisdiction equals or exceeds 90 percent of the average monthly distribution to that jurisdiction for the 6 months immediately preceding the department's determination, as reported by all communications services dealers, the affected jurisdictions may enter into a written agreement establishing a method of adjustment. If the agreement establishing a method of adjustment provides for payments of local communications services tax monthly distributions, the amount of any such payment agreed to may not exceed the local communications services tax monthly distributions available to the jurisdiction that was allocated amounts in excess of those to which it was entitled. If affected jurisdictions execute a written agreement specifying a method of adjustment, a copy of the written agreement shall be provided to the department no later than the first day of the month following 90 days after the date the department transmits notice of the misallocation. If the department does not receive a copy of the written agreement within the specified time period, an adjustment affecting a distribution to a jurisdiction made pursuant to this sub-subparagraph shall be prorated over a time period that equals the time period over which the misallocations occurred.

Section 12. Paragraph (a) of subsection (2) of section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax conversion rates.—

(2)(a)1. With respect to any local taxing jurisdiction, if, for the periods ending December 31, 2001; March 31, 2002; June 30, 2002; or September 30, 2002, the revenues received by that local government from the local communications services tax imposed under subsection (1) are less than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period; plus reasonably anticipated growth in such revenues over the preceding 1-year period, based on the average growth of such revenues over the immediately preceding 5-year period; plus an amount representing the revenues from the replaced revenue sources for the 1-month period that the local taxing jurisdiction was required to forego, the governing authority may adjust the rate of the local communications services tax upward to the extent necessary to generate the entire shortfall in revenues within 1 year after the rate adjustment and by an amount necessary to generate the expected amount of revenue on an ongoing basis.

2. If complete data are not available at the time of determining whether the revenues received by a local government from the local communications services tax imposed under subsection (1) are less than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period, as set forth in subparagraph 1., the local government shall use the best data available for the corresponding 2000-2001 period in making such determination. Complete data shall be deemed available to all local governments after the department audits, including the redistribution of local tax, dealers who account for no less than 80 percent of the amount of communications services tax revenues received for fiscal year 2005-2006.

3. The adjustment permitted under subparagraph 1. may be made by emergency ordinance or resolution and may be made notwithstanding the maximum rate established under s. 202.19(2) and notwithstanding any schedules or timeframes or any other limitations contained in this chapter. Beginning July 1, 2007, a local government may make such adjustment only if the department or a dealer allocates or reallocates revenues away from the local government. However, any such adjustment shall be made no later than 6 months following the date the department notifies the local governments in writing that complete data is available. The emergency ordinance or resolution shall specify an effective date for the adjusted rate, which shall be no less than 60 days after the date of adoption of the ordinance or resolution and shall be effective with respect to taxable services included on bills that are dated on the first day of a month subsequent to the expiration of the 60-day period. At the end of 1 year following the effective date of such adjusted rate, the local governing authority shall, as soon as is consistent with s. 202.21, reduce the rate by that portion of the emergency rate which was necessary to recoup the amount of revenues not received prior to the implementation of the emergency rate.

4. If, for the period October 1, 2001, through September 30, 2002, the revenues received by a local government from the local communications

services tax conversion rate established under subsection (1), adjusted upward for the difference in rates between paragraphs (1)(a) and (b) or any other rate adjustments or base changes, are above the threshold of 10 percent more than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period plus reasonably anticipated growth in such revenues over the preceding 1-year period, based on the average growth of such revenues over the immediately preceding 5-year period, the governing authority must adjust the rate of the local communications services tax to the extent necessary to reduce revenues to the threshold by emergency ordinance or resolution within the timeframes established in subparagraph 3. The foregoing rate adjustment requirement shall not apply to a local government that adopts a local communications services tax rate by resolution or ordinance. If complete data are not available at the time of determining whether the revenues exceed the threshold, the local government shall use the best data available for the corresponding 2000-2001 period in making such determination. This subparagraph shall not be construed as establishing a right of action for any person to enforce this subparagraph or challenge a local government's implementation of this subparagraph.

Section 13. Paragraph (d) of subsection (2) of section 202.28, Florida Statutes, is amended to read:

202.28 Credit for collecting tax; penalties.—

(2)

(d) If a dealer fails to separately report and identify local communications services taxes on the appropriate return schedule, the dealer shall be subject to a penalty of $5,000 per return. <u>If the department is unable to obtain appropriate return schedules, any penalty imposed by this paragraph shall be allocated in the same manner as provided in s. 202.18(2).</u>

Section 14. Effective January 1, 2008, subsection (1) of section 202.30, Florida Statutes, is amended to read:

202.30 Payment of taxes by electronic funds transfer; filing of returns by electronic data interchange.—

(1) A dealer of communications services is required to remit taxes by electronic funds transfer, in the manner prescribed by the department, when the amount of tax paid by the dealer under this chapter, chapter 203, or chapter 212 in the previous state fiscal year was <u>$20,000</u> ~~$50,000~~ or more.

Section 15. Subsection (8) is added to section 206.02, Florida Statutes, to read:

206.02 Application for license; temporary license; terminal suppliers, importers, exporters, blenders, biodiesel manufacturers, and wholesalers.—

<u>(8)(a) Notwithstanding any provision to the contrary contained in this chapter, the department may grant a temporary fuel license for immediate use if:</u>

1. The Governor has declared a state of emergency under s. 252.36; or

2. The President of the United States has declared a major disaster in this state or in any other state or territory of the United States.

(b) Notwithstanding the provisions of this chapter requiring a license tax and a bond or criminal background check, the department may issue a temporary license as an importer or exporter to a person who holds a valid Florida wholesaler license or to a person who is an unlicensed dealer. A license may be issued under this subsection only to a business that has a physical location in this state and holds a valid Florida sales and use tax certificate of registration or that holds a valid fuel license issued by another state.

(c) A temporary license expires on the last day of the month following the month in which the temporary license was issued. The department may extend any temporary license on a month-to-month basis during the period of a declared state of emergency or major disaster as provided in this subsection. If the department extends a temporary license, the extended license expires on the last day of the month in which the temporary license was extended.

(d) In order to procure a temporary license, a nonresident business must provide to the department the information required in subsection (4); the federal identification number of the business or, if such number is unavailable, the social security number of the owner; and any other information that is required by the department.

(e) A temporary license authorized by this subsection may not be renewed if the licensee has not filed the required returns or made payment of the taxes required under this chapter.

Section 16. Subsection (5) is added to section 206.021, Florida Statutes, to read:

206.021 Application for license; carriers.—

(5)(a) Notwithstanding any provision to the contrary contained in this chapter, the department may grant a temporary fuel license for immediate use if:

1. The Governor has declared a state of emergency under s. 252.36; or

2. The President of the United States has declared a major disaster in this state or in any other state or territory of the United States.

(b) Notwithstanding the provisions of this chapter requiring a license tax and a bond or criminal background check, the department may issue a temporary license as a carrier to a person who holds a valid Florida wholesaler, importer, exporter, or blender license or to a person who is an unlicensed dealer. A license may be issued under this subsection only to a business that has a physical location in this state and holds a valid Florida sales and use tax certificate of registration or that holds a valid fuel license issued by another state.

(c) A temporary license expires on the last day of the month following the month in which the temporary license was issued. The department may extend any temporary license on a month-to-month basis during the period of a declared state of emergency or major disaster as provided in this subsection. If the department extends a temporary license, the extended license expires on the last day of the month in which the temporary license was extended.

(d) In order to procure a temporary license, a nonresident business must provide to the department the information required in subsection (2); the federal identification number of the business or, if such number is unavailable, the social security number of the owner; and any other information that is required by the department.

(e) A temporary license authorized by this subsection may not be renewed if the licensee has not filed the required returns or made payment of the taxes required under this chapter.

Section 17. Subsection (4) is added to section 206.9943, Florida Statutes, to read:

206.9943 Pollutant tax license.—

(4) A temporary pollutant tax license may be issued to a holder of a valid Florida temporary importer, temporary wholesaler, or temporary exporter license issued under s. 206.02. A temporary pollutant tax license is subject to the provisions set forth in s. 206.02(8).

Section 18. Paragraphs (d) and (e) of subsection (9) of section 211.3103, Florida Statutes, are amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.—

(9)

(d) If the producer price index for phosphate rock ~~chemical and fertilizer mineral mining~~ is substantially revised, the department shall make appropriate adjustment in the method used to compute the base rate adjustment under this subsection which will produce results reasonably consistent with the result that ~~which~~ would have been obtained if the producer price index for phosphate rock ~~primary products~~ had not been revised. However, the tax rate shall not be less than $1.56 per ton severed.

(e) If ~~In the event~~ the producer price index for phosphate rock ~~primary products~~ is discontinued, ~~then~~ a comparable index shall be selected by the department and adopted by rule.

Section 19. Subsection (33) of section 212.02, Florida Statutes, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Section 20. Paragraph (h) 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:

(h)1. ~~Beginning January 1, 1995,~~ 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;~~, except that~~ for counties that impose a 0.5 percent discretionary sales surtax, ~~with a 6.5 percent sales tax rate~~ the divisor is ~~shall be~~ equal to 1.045;~~, and~~ for counties that impose a 1 percent discretionary sales surtax, ~~with a 7.0 percent sales tax rate~~ the divisor is ~~shall be~~ equal to 1.050; and for counties that impose a 2 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.

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 com-

mits 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.

Section 21. Subsection (3) of section 212.0506, Florida Statutes, is amended to read:

212.0506 Taxation of service warranties.—

(3) For purposes of this section, "service warranty" means any contract or agreement which indemnifies the holder of the contract or agreement for the cost of maintaining, repairing, or replacing tangible personal property. The term "service warranty" does not include contracts or agreements to repair, maintain, or replace tangible personal property if such property when sold at retail in this state would not be subject to the tax imposed by this chapter or if the parts and labor to repair tangible personal property qualify for an exemption under this chapter, nor does it include such contracts or agreements covering tangible personal property which becomes a part of real property.

Section 22. Subsection (2) of section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; penalties.—

(2) Notwithstanding any other provision of law, the amount of the tax to be paid on food, beverages, or other items of tangible personal property that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, 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 the sum of 1.0645 for beverage and food items, or 1.0659 for other items of tangible personal property., ~~except that~~ For counties with a 0.5 percent sales surtax rate the divisor is equal to the sum of 1.0686 for beverage and food items or 1.0707 for other items of tangible personal property; for counties with a 0.75 percent sales surtax rate the divisor is equal to the sum of 1.0706 for beverage and food items or 1.0727 for other items of tangible personal property; for counties with a 1 percent sales surtax rate the divisor is equal to the sum of 1.0726 for beverage and food items or 1.0749 for other items of tangible personal property; ~~and~~ for counties with a 1.5 percent sales surtax rate the divisor is equal to the sum of 1.0767 for beverage and food items or 1.0791 for other items of tangible personal property; and for counties with a 2 percent sales surtax rate the divisor is equal to the sum of 1.0808 for beverage and food items or 1.0833 for other items of tangible personal property. When a county imposes a surtax rate 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. If an operator cannot account for each type of item sold through a vending machine, the highest tax rate shall be used for all products sold through that machine.

Section 23. Paragraphs (g), (h), (n), and (o) of subsection (5) of section 212.08, Florida Statutes, are amended, and paragraph (eee) is added to subsection (7), to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.—

1. Building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.

c. A description of the improvements made to accomplish the rehabilitation of the real property.

d. A copy of the building permit issued for the rehabilitation of the real property.

e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of

the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed.

h. Whether the business is a small business as defined by s. 288.703(1).

i. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

2. This exemption inures to a city, county, other governmental agency, or nonprofit community-based organization through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, other governmental agency, or nonprofit community-based organization must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, other governmental agency, or nonprofit community-based organization seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 1. or subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The applicant shall be responsible for for-

warding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building code inspector or by September 1 after the rehabilitated property is first subject to assessment.

5. ~~The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph.~~ Not more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds $500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. This subparagraph shall apply retroactively to July 1, 2005.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this paragraph:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

9. This paragraph expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

(h) Business property used in an enterprise zone.—

1. Business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, an application which includes:

a. The name and address of the business claiming the refund.

b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

d. The location of the property.

e. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

f. Whether the business is a small business as defined by s. 288.703(1).

g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the tax is due on the business property that is purchased.

5. ~~The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph.~~ The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. Notwithstanding this subparagraph, business property used exclusively in:

a. Licensed commercial fishing vessels,

b. Fishing guide boats, or

c. Ecotourism guide boats

that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

8. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

9. For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b);

c. Building materials as defined in sub-subparagraph (g)8.a.; and

d. Business property having a sales price of under $5,000 per unit.

10. This paragraph expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

(n) Materials for construction of single-family homes in certain areas.—

1. As used in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of a qualified home.

b. "Qualified home" means a single-family home having an appraised value of no more than $160,000 which is located in an enterprise zone, empowerment zone, or Front Porch Florida Community and which is constructed and occupied by the owner thereof for residential purposes.

c. "Substantially completed" has the same meaning as provided in s. 192.042(1).

2. Building materials used in the construction of a qualified home and the costs of labor associated with the construction of a qualified home are exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the requirements of this paragraph have been met. This exemption inures to the owner through a refund of previously paid taxes. To receive this refund, the owner must file an application under oath with the department which includes:

a. The name and address of the owner.

b. The address and assessment roll parcel number of the home for which a refund is sought.

c. A copy of the building permit issued for the home.

d. A certification by the local building code inspector that the home is substantially completed.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the owner contracted to construct the home, which statement lists the building materials used in the construction of the home and the actual cost thereof, the labor costs associated with such construction, and the amount of sales tax paid on these materials and labor costs. If a general contractor was not used, the owner shall provide this information in a sworn statement, under penalty of perjury. Copies of invoices evidencing payment of sales tax must be attached to the sworn statement.

f. A sworn statement, under penalty of perjury, from the owner affirming that he or she is occupying the home for residential purposes.

3. An application for a refund under this paragraph must be submitted to the department within 6 months after the date the home is deemed to be substantially completed by the local building code inspector. Within 30 working days after receipt of the application, the department shall determine if it meets the requirements of this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval of the application by the department. ~~The provisions of s. 212.095 do not apply to any refund application made under this paragraph.~~

4. The department shall establish by rule an application form and criteria for establishing eligibility for exemption under this paragraph.

5. The exemption shall apply to purchases of materials on or after July 1, 2000.

(o) Building materials in redevelopment projects.—

1. As used in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of a housing project or a mixed-use project.

b. "Housing project" means the conversion of an existing manufacturing or industrial building to housing units in an urban high-crime area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area and in which the developer agrees to set aside at least 20 percent of the housing units in the project for low-income and moderate-income persons or the construction in a designated brownfield area of affordable housing for persons described in s. 420.0004(8), (10), (11), or (15) or in s. 159.603(7).

c. "Mixed-use project" means the conversion of an existing manufacturing or industrial building to mixed-use units that include artists' studios, art and entertainment services, or other compatible uses. A mixed-use project must be located in an urban high-crime area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area, and the developer must agree to set aside at least 20 percent of the square footage of the project for low-income and moderate-income housing.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

2. Building materials used in the construction of a housing project or mixed-use project are exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the requirements of this paragraph have been met. This exemption inures to the owner through a refund of previously paid taxes. To receive this refund, the owner must file an application under oath with the department which includes:

a. The name and address of the owner.

b. The address and assessment roll parcel number of the project for which a refund is sought.

c. A copy of the building permit issued for the project.

d. A certification by the local building code inspector that the project is substantially completed.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the owner contracted to construct the project, which statement lists the building materials used in the construction of the project and the actual cost thereof, and the amount of sales tax paid on these materials. If a general contractor was not used, the owner shall provide this information in a sworn statement, under penalty of perjury. Copies of invoices evidencing payment of sales tax must be attached to the sworn statement.

3. An application for a refund under this paragraph must be submitted to the department within 6 months after the date the project is deemed to be substantially completed by the local building code inspector. Within 30 working days after receipt of the application, the department shall determine if it meets the requirements of this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval of the application by the department. ~~The provisions of s. 212.095 do not apply to any refund application made under this paragraph.~~

4. The department shall establish by rule an application form and criteria for establishing eligibility for exemption under this paragraph.

5. The exemption shall apply to purchases of materials on or after July 1, 2000.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(eee) Certain delivery charges.—Separately stated charges that can be avoided at the option of the purchaser for the delivery, inspection, placement, or removal from packaging or shipping materials of furniture or appliances by the selling dealer at the premises of the purchaser or the removal of similar items from the premises of the purchaser are exempt. If any charge for delivery, inspection, placement, or removal of furniture or appliances includes the modification, assembly, or construction of such furniture or appliances, then all of the charges are taxable.

Section 24. Section 212.095, Florida Statutes, is repealed.

Section 25. Paragraph (d) of subsection (2) and paragraph (c) of subsection (6) of 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; brackets applicable to taxable transactions; records required.—

(2)

(d) Any person who makes a false or fraudulent return with a willful intent to evade payment of any tax or fee imposed under this chapter; any person who, after the department's delivery of a written notice to the person's last known address specifically alerting the person of the requirement to register the person's business as a dealer, intentionally fails to register the business; and any person who, after the department's delivery of a written notice to the person's last known address specifically alerting the person of the requirement to collect tax on specific transactions, intentionally fails to collect such tax, shall, in addition to the other penalties provided by law, be liable for a specific penalty of 100 percent of any unreported or any uncollected ~~the~~ tax ~~bill~~ or fee and, upon conviction, for fine and punishment as provided in s. 775.082, s. 775.083, or s. 775.084. Delivery of written notice may be made by certified mail, or by the use of such other method as is documented as being necessary and reasonable under the circumstances. The civil and criminal penalties imposed herein for failure to comply with a written notice alerting the person of the requirement to register the person's business as a dealer or to collect tax on specific transactions shall not apply if the person timely files a written challenge to such notice in accordance with procedures established by the department by rule or the notice fails to clearly advise that failure to comply with or timely challenge the notice will result in the imposition of the civil and criminal penalties imposed herein.

1. If the total amount of unreported or uncollected taxes or fees is less than $300, the first offense resulting in conviction is a misdemeanor of the second degree, the second offense resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction are felonies of the third degree.

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

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

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

(6)

(c)1. If the records of a dealer are adequate but voluminous in nature and substance, the department may sample such records~~, except for fixed assets,~~

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

2. For the purposes of sampling pursuant to subparagraph 1., the department shall project any deficiencies and overpayments derived therefrom over the entire audit period. In determining the dealer's compliance, the department shall reduce any tax deficiency as derived from the sample by the amount of any overpayment derived from the sample. In the event the department determines from the sample results that the dealer has a net tax overpayment, the department shall provide the findings of this overpayment to the Chief Financial Officer for repayment of funds paid into the State Treasury through error pursuant to s. 215.26.

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

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

(I) A taxpayer request to perform the sampling through the certified audit program pursuant to s. 213.285;

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

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

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

Section 26. The amendments to s. 212.12(6)(c), Florida Statutes, shall take effect on July 1, 2007. It is the intent of the Legislature that the amendments to s. 212.12(6)(c), Florida Statutes, apply to all pending sales and use tax audits or other actions or inquiries, excluding those currently under protest or in litigation. The amendments to s. 212.12(6)(c), Florida Statutes, do not create any right to refund for taxes previously assessed and paid in regard to audits or other actions or inquiries that are no longer pending.

Section 27. (1) In coordination with financial institutions doing business in this state, the Department of Revenue may design and implement a pilot program for identifying account holders against whose property the department has issued a warrant or filed a judgment lien certificate. Under the program, the department may enter into agreements with financial institutions, as defined in s. 409.25657, Florida Statutes, to develop and operate a data match system that uses automated data exchanges to the maximum extent feasible.

(2) A financial institution is not liable and is not required to provide notice to its customers:

(a) For disclosure of any information for purposes of this program; or

(b) For any other action taken in good faith to participate in this program.

(3) The department may request from a financial institution information and assistance to enable the department to design and implement the program. The department shall administer this program in conjunction with s. 409.25657, Florida Statutes, in order to reduce the burden of participation on financial institutions. The department shall pay a reasonable fee to participating financial institutions for participating in this program, but the

fee may not exceed the actual costs incurred by such financial institution. All financial records obtained pursuant to this section may be disclosed only for the purpose of determining the feasibility of the program. The department may not engage in collection activities based upon the information received under this program.

(4) The department shall report its findings and recommendations on the feasibility of permanently establishing the data match program to the Government Efficiency and Accountability Council of the House of Representatives and the Committee on Finance and Tax of the Senate on or before January 1, 2008.

Section 28. Paragraph (a) of subsection (16) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(16)(a) ~~The department may disclose~~ Confidential taxpayer information may be shared with ~~contained in returns, reports, accounts, or declarations filed with the department by persons subject to any state or local tax to~~ the child support enforcement program, which may use the information for purposes of program administration, ~~to assist in the location of parents who owe or potentially owe a duty of support, as defined in s. 409.2554, pursuant to Title IV-D of the Social Security Act, their assets, their income, and their employer,~~ and with ~~to~~ the Department of Children and Family Services for the purpose of diligent search activities pursuant to chapter 39.

Section 29. Paragraph (d) of subsection (3) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(3)

(d) A taxpayer's liability for the service fee required by s. 215.34(2) may be settled or compromised if it is determined that the dishonored check, draft, or order was returned due to an unintentional error committed by the issuing financial institution, the taxpayer, or the department and the unintentional error is substantiated by the department. The department shall maintain records of all compromises, and the records shall state the basis for the compromise.

Section 30. Effective January 1, 2008, subsection (1) of section 213.755, Florida Statutes, is amended to read:

213.755 Filing of returns and payment of taxes by electronic means.—

(1) The executive director of the Department of Revenue shall have authority to require a taxpayer to file returns and remit payments by electronic means where the taxpayer is subject to tax and has paid that tax in the prior state fiscal year in an amount of $20,000 ~~$30,000~~ or more. Any taxpayer who operates two or more places of business for which returns are required to be filed with the department shall combine the tax payments for all such

locations in order to determine whether they are obligated under this section. This subsection does not override additional requirements in any provision of a revenue law which the department has the responsibility for regulating, controlling, and administering.

Section 31. Subsection (2) of section 220.21, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

220.21 Returns and records; regulations.—

(2) A taxpayer who is required to file its federal income tax return by electronic means on a separate or consolidated basis shall file returns required by this chapter by electronic means. For the reasons described in s. 213.755(9), the department may waive the requirement to file a return by electronic means for taxpayers that are unable to comply despite good faith efforts or due to circumstances beyond the taxpayer's reasonable control. The provisions of this subsection are in addition to the requirements of s. 213.755 to electronically file returns and remit payments required under this chapter. ~~A taxpayer may choose to file a return required by this code in a form initiated through a telephonic or electronic data interchange using an advanced encrypted transmission by means of the Internet or other suitable transmission.~~ The department may ~~shall~~ prescribe by rule the format and instructions necessary for electronic ~~such~~ filing to ensure a full collection of taxes due. In addition to the authority granted under s. 213.755, the acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the taxpayer will be provided with an acknowledgment may ~~shall~~ be prescribed by the department. In the case of any failure to comply with the electronic-filing requirements of this subsection, a penalty shall be added to the amount of tax due with such return equal to 5 percent of the amount of such tax for the first 30 days the return is not filed electronically, with an additional 5 percent of such tax for each additional month or fraction thereof, not to exceed $250 in the aggregate. The department may settle or compromise the penalty pursuant to s. 213.21. This penalty is in addition to any other penalty that may be applicable and shall be assessed, collected, and paid in the same manner as taxes.

(3) In addition to its authority under s. 213.755, the department may adopt rules requiring or allowing taxpayers to use an electronic-filing system to file returns required by subsection (2), including any electronic systems developed by the Internal Revenue Service. Rulemaking authority requiring electronic filing is limited to the federal corporate income tax filing threshold for electronic filing as it exists on January 1, 2007.

Section 32. The amendments made by this act to s. 220.21(2), Florida Statutes, apply to returns due on or after January 1, 2008.

Section 33. Paragraph (d) of subsection (1) and paragraph (c) of subsection (4) of section 443.1216, Florida Statutes, are amended to read:

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

(1)

(d) If two or more related corporations concurrently employ the same individual and compensate the individual through a common paymaster, each related corporation is considered to have paid wages to the individual only in the amounts actually disbursed by that corporation to the individual and is not considered to have paid the wages actually disbursed to the individual by another of the related corporations. The Agency for Workforce Innovation and the state agency providing unemployment tax collection services may adopt rules necessary to administer this paragraph.

1. As used in this paragraph, the term "common paymaster" means a member of a group of related corporations that disburses wages to concurrent employees on behalf of the related corporations and that is responsible for keeping payroll records for those concurrent employees. A common paymaster is not required to disburse wages to all the employees of the related corporations; however, this subparagraph does not apply to wages of concurrent employees which are not disbursed through a common paymaster. A common paymaster must pay concurrently employed individuals under this subparagraph by one combined paycheck.

2. As used in this paragraph, the term "concurrent employment" means the existence of simultaneous employment relationships between an individual and related corporations. Those relationships require the performance of services by the employee for the benefit of the related corporations, including the common paymaster, in exchange for wages that, if deductible for the purposes of federal income tax, are deductible by the related corporations.

3. Corporations are considered related corporations for an entire calendar quarter if they satisfy any one of the following tests at any time during the calendar quarter:

a. The corporations are members of a "controlled group of corporations" as defined in s. 1563 of the Internal Revenue Code of 1986 or would be members if paragraph 1563(a)(4) and subsection 1563(b) did not apply.

b. In the case of a corporation that does not issue stock, at least 50 percent of the members of the board of directors or other governing body of one corporation are members of the board of directors or other governing body of the other corporation or the holders of at least 50 percent of the voting power to select those members are concurrently the holders of at least 50 percent of the voting power to select those members of the other corporation.

c. At least 50 percent of the officers of one corporation are concurrently officers of the other corporation.

d. At least 30 percent of the employees of one corporation are concurrently employees of the other corporation.

4. The common paymaster must report to the tax collection service provider, as part of the unemployment compensation quarterly tax and wage

report, the state unemployment compensation account number and name of each related corporation for which concurrent employees are being reported. Failure to timely report this information shall result in the related corporations being denied common paymaster status for that calendar quarter.

5. The common paymaster also has the primary responsibility for remitting contributions due under this chapter for the wages it disburses as the common paymaster. The common paymaster must compute these contributions as though it were the sole employer of the concurrently employed individuals. If a common paymaster fails to timely remit these contributions or reports, in whole or in part, the common paymaster remains liable for the full amount of the unpaid portion of these contributions. In addition, each of the other related corporations using the common paymaster is jointly and severally liable for its appropriate share of these contributions. Each related corporation's share equals the greater of:

a. The liability of the common paymaster under this chapter, after taking into account any contributions made.

b. The liability under this chapter which, notwithstanding this section, would have existed for the wages from the other related corporations, reduced by an allocable portion of any contributions previously paid by the common paymaster for those wages.

(4) For purposes of subsections (2) and (3), the employment subject to this chapter does not apply to service performed:

(c) In the employ of a public employer if the service is performed by an individual in the exercise of duties:

1. As an elected official.

2. As a member of a legislative body, or a member of the judiciary, of a state or a political subdivision of a state.

3. As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.

4. In a position that, under state law, is designated as a major nontenured policymaking or advisory position, including <u>any major nontenured policymaking or advisory</u> ~~a~~ position in the Senior Management Service created under s. 110.402, or a policymaking or advisory position for which the duties do not ordinarily require more than 8 hours per week.

5. As an election official or election worker if the amount of remuneration received by the individual during the calendar year for those services is less than $1,000.

Section 34. Subsection (2) of section 443.1316, Florida Statutes, is amended to read:

443.1316 Unemployment tax collection services; interagency agreement.—

(2)(a) The Department of Revenue is considered to be administering a revenue law of this state when the department implements this chapter, or otherwise provides unemployment tax collection services, under contract with the Agency for Workforce Innovation through the interagency agreement.

(b) Sections 213.015(1),(2),(3),(5),(6),(7),(9)-(19), (21), 213.018, 213.025, 213.051, 213.053, 213.0535, 213.055, 213.071, 213.10, 213.21(4), 213.2201, 213.23, 213.24, 213.25, ~~213.24(2),~~ 213.27, 213.28, 213.285, 213.34(1),(3), and (4), 213.37, 213.50, 213.67, 213.69, 213.73, 213.733, 213.74, and 213.757 apply to the collection of unemployment contributions and reimbursements by the Department of Revenue unless prohibited by federal law.

~~(c) The Department of Revenue may charge no more than 10 percent of the total cost of the interagency agreement for the overhead or indirect costs, or for any other costs not required for the payment of the direct costs, of providing unemployment tax collection services.~~

Section 35. Paragraph (b) of subsection (1) of section 443.141, Florida Statutes, is amended to read:

443.141 Collection of contributions and reimbursements.—

(1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS.—

(b) Penalty for delinquent reports.—

1. An employing unit that fails to file any report required by the Agency for Workforce Innovation or its tax collection service provider, in accordance with rules for administering this chapter, shall pay to the tax collection service provider for each delinquent report the sum of $25 for each 30 days or fraction thereof that the employing unit is delinquent, unless the agency or its service provider, whichever required the report, finds that the employing unit has or had good reason for failure to file the report. The agency or its service provider may assess penalties only through the date of the issuance of the final assessment notice. However, additional penalties accrue if the delinquent report is subsequently filed.

2. Sums collected as penalties under subparagraph 1. must be deposited in the Special Employment Security Administration Trust Fund.

3. The penalty and interest for a delinquent report may be waived when the penalty or interest is inequitable. The provisions of s. 213.24(1) apply to any penalty or interest that is imposed under this section.

Section 36. Subsection (3) is added to section 624.511, Florida Statutes, to read:

624.511 Tax statement; overpayments.—

(3)(a) If it appears, upon examination of an insurance premium tax return made under this chapter, that an amount of insurance premium tax has been paid in excess of the amount due, the Department of Revenue may refund the amount of the overpayment to the taxpayer by a warrant of the

Chief Financial Officer. The Department of Revenue may refund the overpayment without regard to whether the taxpayer has filed a written claim for a refund; however, the Department of Revenue may request that the taxpayer file a statement affirming that the taxpayer made the overpayment.

(b) Notwithstanding paragraph (a), a refund of the insurance premium tax may not be made, and a taxpayer is not entitled to bring an action for a refund of the insurance premium tax, after the period specified in s. 215.26(2) has elapsed.

(c) If a refund issued by the Department of Revenue under this subsection is found to exceed the amount of refund legally due to the taxpayer, the provisions of s. 624.5092 concerning penalties and interest do not apply if the taxpayer reimburses the department for any overpayment within 60 days after the taxpayer is notified that the overpayment was made.

Section 37. Subsections (4) and (5) are added to section 832.062, Florida Statutes, to read:

832.062 Prosecution for worthless checks, drafts, debit card orders, or electronic funds transfers made to pay any tax or associated amount administered by the Department of Revenue.—

(4)(a) In any prosecution or action under this section, the making, drawing, uttering, or delivery of a check, draft, order; the making, sending, instructing, ordering, or initiating of any electronic funds transfer; or causing the making, sending, instructing, ordering, or initiating of any electronic transfer payment, any of which are refused by the drawee because of lack of funds or credit, is prima facie evidence of intent to defraud or knowledge of insufficient funds in, or credit with, such bank, banking institution, trust company, or other depository, unless the maker, drawer, sender, instructor, orderer, or initiator, or someone for him or her, has paid the holder thereof the amount due thereon, together with a service charge, which may not exceed the service fees authorized under s. 832.08(5), or an amount of up to 5 percent of the face amount of the check or the amount of the electronic funds transfer, whichever is greater, within 15 days after written notice has been sent to the address printed on the check, or given or on file at the time of issuance, that such check, draft, order, or electronic funds transfer has not been paid to the holder thereof, and has paid the bank fees incurred by the holder. In the event of legal action for recovery, the maker, drawer, sender, instructor, orderer, or initiator may be additionally liable for court costs and reasonable attorney's fees. Notice mailed by certified or registered mail that is evidenced by return receipt, or by first-class mail that is evidenced by an affidavit of service of mail, to the address printed on the check or given or on file at the time of issuance shall be deemed sufficient and equivalent to notice having been received by the maker, drawer, sender, instructor, orderer, or initiator, whether such notice is returned undelivered or not. The form of the notice shall be substantially as follows:

"You are hereby notified that a check or electronic funds transfer, numbered ...., in the face amount of $...., issued or initiated by you on ...(date)..., drawn upon ...(name of bank)..., and payable to ...., has been

dishonored. Pursuant to Florida law, you have 15 days following the date of this notice to tender payment of the full amount of such check or electronic funds transfer plus a service charge of $25, if the face value does not exceed $50; $30, if the face value exceeds $50 but does not exceed $300; $40, if the face value exceeds $300; or an amount of up to 5 percent of the face amount of the check, whichever is greater, the total amount due being $.... and .... cents. Unless this amount is paid in full within the time specified above, the holder of such check or electronic funds transfer may turn over the dishonored check or electronic funds transfer and all other available information relating to this incident to the state attorney for criminal prosecution. You may be additionally liable in a civil action for triple the amount of the check or electronic funds transfer, but in no case less than $50, together with the amount of the check or electronic funds transfer, a service charge, court costs, reasonable attorney's fees, and incurred bank fees, as provided in s. 68.065, Florida Statutes."

Subsequent persons receiving a check, draft, order, or electronic funds transfer from the original payee or a successor endorsee have the same rights that the original payee has against the maker of the instrument if the subsequent persons give notice in a substantially similar form to that provided above. Subsequent persons providing such notice are immune from civil liability for the giving of such notice and for proceeding under the forms of such notice so long as the maker of the instrument has the same defenses against these subsequent persons as against the original payee. However, the remedies available under this section may be exercised only by one party in interest.

(b) When a check, draft, order, or electronic funds transfer is drawn on a bank in which the maker, drawer, sender, instructor, orderer, or initiator has no account or a closed account, it shall be presumed that the check, draft, or order was issued, or the electronic funds transfer was initiated, with intent to defraud, and the notice requirement set forth in this section shall be waived.

(c) This subsection does not apply if it is determined that the dishonored check, draft, order, or electronic funds transfer was refused due to an unintentional error committed by the drawee, maker, drawer, sender, instructor, orderer, initiator, or holder, and the unintentional error is substantiated.

(5)(a) In any prosecution or action under this section, a check, draft, order, or electronic funds transfer for which the information required in paragraph (b) is available at the time of issuance constitutes prima facie evidence of the identity of the person issuing the check, draft, order, or electronic funds transfer and that such person is authorized to draw upon the named account.

(b) To establish this prima facie evidence:

1. If a check or electronic funds transfer is received by the Department of Revenue through the mail or by delivery to a representative of the Department of Revenue or by electronic means, the prima facie evidence referred to in paragraph (a) may be established by presenting the original tax return,

certificate, license, application for certificate or license, enrollment and authorization for the e-services program, or other document relating to amounts owed by that person or taxpayer which the check or electronic funds transfer purports to pay for, bearing the signature of the person who signed the check or electronic signature of the person who initiated the electronic funds transfer, or by presenting a copy of the information required in subparagraph 2. which is on file with the accepter of the check or electronic funds transfer together with the signature or electronic signature of the person presenting the check or initiating the electronic funds transfer. The use of taxpayer information for purposes of establishing the identity of a person under this paragraph shall be deemed a use of such information for official purposes.

2. The person accepting such check or electronic funds transfer must obtain the following information regarding the identity of the person presenting the check: the presenter's or initiator's full name, residence address, home telephone number, business telephone number, place of employment, gender, date of birth, and height.

Section 38. Reimbursement of ad valorem taxes levied on residential property rendered uninhabitable due to tornadoes.—

(1) If a house or other residential building or structure that has been granted the homestead exemption under s. 196.031, Florida Statutes, is damaged so that it is rendered uninhabitable due to a tornado on February 2, 2007, the ad valorem taxes levied for that house or other residential building for the 2007 tax year shall be partially reimbursed in the following manner:

(a) An application must be filed by the owner, on or before February 1 of the year following the year in which the tornado occurred, with the property appraiser in the county where the property is located. Failure to file such application on or before the applicable deadline constitutes a waiver of any claim for partial reimbursement under this section. The application must be filed in the manner and form prescribed by the property appraiser.

(b) The application, attested to under oath, must identify the property rendered uninhabitable by a tornado, the date the damage occurred, and the number of days the property was uninhabitable after the damage occurred. Documentation supporting the claim that the property was uninhabitable must accompany the application. Such documentation may include, but is not limited to, utility bills, insurance information, contractors' statements, building permit applications, or building inspection certificates of occupancy.

(c) Upon receipt of the application, the property appraiser shall investigate the statements contained in the application to determine whether the applicant is entitled to a partial reimbursement under this section. If the property appraiser determines that the applicant is entitled to such reimbursement, the property appraiser shall calculate the reimbursement amount. The reimbursement shall be an amount equal to the total ad valorem taxes levied on the homestead property for the applicable tax year,

multiplied by a ratio equal to the number of days the property was uninhabitable after the damage occurred in the applicable year divided by 365. However, the amount of reimbursement may not exceed $1,500.

(d) The property appraiser shall compile a list of property owners entitled to a partial reimbursement. The list shall be submitted to the Department of Revenue no later than March 1 of the year following the year in which the tornado occurred through an electronic, web-based application provided by the department.

(e) Upon receipt of the reimbursement lists from the property appraisers, the department shall disburse reimbursement checks from its Administrative Trust Fund in the amounts and to the persons indicated in the reimbursement lists received from the property appraisers. Before disbursing any reimbursement checks, the department shall determine the total amount of all reimbursement requests submitted by the property appraisers. If the total amount of reimbursements requested exceeds the amount available for that purpose, the department shall reduce all reimbursement checks by a percentage sufficient to reduce total reimbursement payments to an amount equal to the appropriation, less any amount retained pursuant to paragraph (2)(c).

(f) As used in this section, the term "uninhabitable" means a building or structure cannot be used during a period of 60 days or more for the purpose for which it was constructed. However, if a property owner is living in an uninhabitable structure because alternative living quarters are unavailable, the owner is eligible for reimbursement as provided in this section.

(2)(a) The property appraiser shall notify the applicant by mail if the property appraiser determines that the applicant is not entitled to receive the reimbursement that he or she applied for under this section. Such notification shall be made on or before March 1 of the year following the year in which the tornado occurred. If an applicant's application for reimbursement is not fully granted, the applicant may file a petition with the value adjustment board for review of that decision. The petition must be filed with the value adjustment board on or before the 30th day after the mailing of the notice by the property appraiser.

(b) The value adjustment board shall consider these petitions as expeditiously as possible.

(c) By April 1 of the year following the year in which the tornado occurred, the property appraiser shall notify the department of the total amount of reimbursements denied for which a petition with the value adjustment board has been filed. The department shall retain an amount equal to the total amount of claims for which petitions had been filed with the value adjustment board or $922,500, whichever is less. The retained amount shall be used for the purpose of paying those claims that were denied by the property appraiser but granted by a value adjustment board. The department shall distribute the remaining funds in accordance with the provisions of paragraph (1)(e) to those property owners whose applications for reimbursement were granted by the property appraiser.

(d) The department may not pay claims for reimbursement from the retained funds until all appeals to the value adjustment board have become final. The property appraiser for each county submitting a list of homeowners entitled to reimbursement under this section shall notify the department after all appeals to the value adjustment board of that county have become final. If reimbursements made under paragraph (1)(e) were reduced by the department, reimbursements granted by value adjustment boards shall be reduced by the same percentage.

(3) Any person who knowingly and willfully gives false information for the purpose of claiming reimbursement under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or by a fine not exceeding $5,000, or both.

Section 39. Reimbursement for sales taxes paid on mobile homes purchased to replace mobile homes damaged by a tornado.—

(1) If a mobile home is purchased to replace a mobile home that experienced major damage from a tornado that occurred on December 25, 2006, or February 2, 2007, and if the damaged mobile home was the permanent residence of a permanent resident of this state, the state sales tax paid on the purchase of the replacement mobile home shall be reimbursed in the following manner:

(a) An application must be filed on or before October 1, 2007, by the owner with the property appraiser in the county where the damaged mobile home was located. Failure to file such application on or before October 1, 2007, constitutes a waiver of any claim for reimbursement under this section. The application must be filed in the manner and form prescribed by the property appraiser.

(b) The application, attested to under oath, must identify the mobile home that experienced major damage from a tornado that occurred on December 25, 2006, or February 2, 2007, and the date the damage occurred. Documentation of major damage and a copy of the invoice for the replacement mobile home must accompany the application. Such documentation may include, but is not limited to, insurance information or information from the Federal Emergency Management Agency or the American Red Cross attesting to the major damage of the mobile home.

(c) Upon receipt of the application, the property appraiser shall investigate the statements contained in the application to determine whether the applicant is entitled to reimbursement under this section. If the property appraiser determines that the applicant is entitled to reimbursement, the property appraiser shall calculate the reimbursement amount. The reimbursement shall be an amount equal to the state sales tax paid on the purchase price of the replacement mobile home, as determined by the tax tables of the Department of Revenue, which amount may not exceed $1,500.

(d) The property appraiser shall compile a list of mobile home owners entitled to reimbursement under this section. The list shall be submitted to the Department of Revenue by November 1, 2007, through an electronic, web-based application provided by the department.

(e) Upon receipt of the reimbursement lists from the property appraisers, the department shall disburse reimbursement checks from its Administrative Trust Fund in the amounts and to the persons indicated in the reimbursement lists received from the property appraisers. Before disbursing any reimbursement checks, the department shall determine the total amount of all reimbursement requests submitted by the property appraisers. If the total amount of reimbursements requested exceeds the amount available for that purpose, the department shall reduce all reimbursement checks by a percentage sufficient to reduce total reimbursement payments to an amount equal to the appropriation, less any amount retained pursuant to paragraph (2)(c).

(f) As used in this section, the term:

1. "Major damage" means that a mobile home is more than 50-percent destroyed or that a mobile home cannot be inhabited and cannot be repaired for less than the amount of its value before the December 25, 2006, or February 2, 2007, tornado.

2. "Mobile home" means a mobile home as defined in s. 320.01(2)(a), Florida Statutes, a manufactured home as defined in s. 320.01(2)(b), Florida Statutes, or a trailer as defined in s. 320.08(10), Florida Statutes.

3. "Permanent residence" and "permanent resident" have the same meanings as provided in s. 196.012, Florida Statutes.

(2)(a) The property appraiser shall notify the applicant by mail if the property appraiser determines that the applicant is not entitled to receive the reimbursement that he or she applied for under this section. Such notification shall be made on or before November 1, 2007. If an applicant's application for reimbursement is not fully granted, the applicant may file a petition with the value adjustment board for review of that decision. The petition must be filed with the value adjustment board on or before the 30th day after the mailing of the notice by the property appraiser.

(b) The value adjustment board shall consider these petitions as expeditiously as possible.

(c) By December 1, 2007, the property appraiser shall notify the department of the total amount of reimbursements denied for which a petition with the value adjustment board has been filed. The department shall retain an amount equal to the total amount of claims for which petitions had been filed with the value adjustment board, or $309,000, whichever is less. The retained amount shall be used for the purpose of paying claims that were denied by the property appraiser but granted by a value adjustment board. The department shall distribute the remaining funds in accordance with the provisions of paragraph (1)(e) to mobile home owners whose applications for reimbursement were granted by the property appraiser.

(d) The department may not pay claims for reimbursement from the retained funds until all appeals to the value adjustment board have become final. The property appraiser for each county submitting a list of homeowners entitled to reimbursement under this section shall notify the department

after all appeals to the value adjustment board of that county have become final. If reimbursements made under paragraph (1)(e) were reduced by the department, reimbursements granted by value adjustment boards shall be reduced by the same percentage.

(3) Any person who claims reimbursement under section 38 of this act is not eligible for the reimbursement provided by this section.

(4) Any person who knowingly and willfully gives false information for the purpose of claiming a reimbursement under this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082, Florida Statutes, or by a fine not exceeding $5,000, or both.

Section 40. Notwithstanding the provisions of s. 216.301, Florida Statutes, and in accordance with s. 216.351, Florida Statutes, the Executive Office of the Governor shall, on July 1, 2008, certify forward all unexpended funds appropriated pursuant to this act.

Section 41. It is the intent of the Legislature that payments made to residents under sections 38 and 39 of this act shall be considered disaster-relief assistance within the meaning of s. 139 of the Internal Revenue Code.

Section 42. (1) The sum of $922,500 is appropriated from the General Revenue Fund to the Administrative Trust Fund of the Department of Revenue for purposes of paying a partial reimbursement of property taxes as provided in section 38 of this act.

(2) The sum of $309,000 is appropriated from the General Revenue Fund to the Administrative Trust Fund of the Department of Revenue for the purposes of paying sales tax reimbursements as provided in section 39 of this act.

Section 43. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2007.

Approved by the Governor June 12, 2007.

Filed in Office Secretary of State June 12, 2007.