

1 A bill to be entitled
2 An act relating to taxpayer delinquencies; amending s.
3 213.21, F.S.; requiring the Department of Revenue to
4 convene an informal conference regarding delinquencies
5 in the payment of tax, interest, or penalties;
6 specifying procedures for such informal conferences;
7 requiring the department to take no action during the
8 course of the informal conferencing; requiring the
9 department to compromise a taxpayer's liability for
10 certain taxes and interest under specified conditions;
11 creating a rebuttable presumption if a taxpayer does
12 not provide specified records requested by the
13 department; authorizing the department to settle or
14 compromise certain penalties under specified
15 circumstances; amending s. 213.67, F.S.; requiring the
16 department to give notice of the amount of a
17 delinquency to attempt to informally resolve the
18 delinquency; specifying that the taxpayer must receive
19 assistance from the taxpayers' rights advocate;
20 requiring the department to issue a notice of intent
21 to garnish under specified circumstances; providing
22 form and contents of a notice of intent to garnish;
23 providing construction; conforming a cross-reference;
24 providing an effective date.

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

27 |

28 | Section 1. Paragraph (a) of subsection (3) of section
29 | 213.21, Florida Statutes, is amended to read:

30 | 213.21 Informal conferences; compromises.—

31 | (3)(a) If requested by a taxpayer, the department must
32 | convene an informal conference to discuss a compromise of the
33 | taxpayer's liability for any tax, interest, or penalty. The
34 | department may request to review the taxpayer's expenses,
35 | assets, and profit records for the period under dispute to
36 | determine the legitimacy of the taxpayer's financial status.
37 | From the time the taxpayer requests an informal conference until
38 | the informal conference is concluded, the department must place
39 | a hold on the account and may take no action, including issuing
40 | a writ of garnishment, freezing of bank accounts, or assessing
41 | additional penalties. A taxpayer's liability for any tax or
42 | interest specified in s. 72.011(1) in excess of 25 percent of
43 | the disputed tax amount shall ~~may~~ be compromised by the
44 | department upon the grounds of doubt as to liability for or
45 | collectibility of such tax or interest. A taxpayer's liability
46 | for interest under any of the chapters specified in s. 72.011(1)
47 | shall be settled or compromised in whole or in part whenever or
48 | to the extent that the department determines that the delay in
49 | the determination of the amount due is attributable to the
50 | action or inaction of the department. A taxpayer's liability for

51 penalties under any of the chapters specified in s. 72.011(1)
52 may be settled or compromised if it is determined by the
53 department that the noncompliance is due to reasonable cause and
54 not to willful negligence, willful neglect, or fraud. If the
55 taxpayer does not provide adequate records as requested by the
56 department, a rebuttable presumption is created that a
57 taxpayer's noncompliance is due to willful negligence, willful
58 neglect, or fraud. A taxpayer's liability for penalties under
59 any of the chapters specified in s. 72.011(1), up to 25 percent
60 of the tax, may be settled or compromised if the department
61 determines that reasonable cause exists and that penalties in
62 excess of 25 percent of the disputed tax amount were compromised
63 because the noncompliance was not due to willful negligence,
64 willful neglect, or fraud. The facts and circumstances are
65 subject to de novo review to determine the existence of
66 reasonable cause in any administrative proceeding or judicial
67 action challenging an assessment of penalty under any of the
68 chapters specified in s. 72.011(1). A taxpayer who establishes
69 reasonable reliance on the written advice issued by the
70 department to the taxpayer will be deemed to have shown
71 reasonable cause for the noncompliance. In addition, a
72 taxpayer's liability for penalties under any of the chapters
73 specified in s. 72.011(1) in excess of 25 percent of the tax
74 shall be settled or compromised if the department determines
75 that the noncompliance is due to reasonable cause and not to

76 willful negligence, willful neglect, or fraud. The department
 77 shall maintain records of all compromises, and the records shall
 78 state the basis for the compromise. The records of compromise
 79 under this paragraph shall not be subject to disclosure pursuant
 80 to s. 119.07(1) and shall be considered confidential information
 81 governed by the provisions of s. 213.053.

82 Section 2. Subsections (1), (2), and (3) of section
 83 213.67, Florida Statutes, are amended to read:

84 213.67 Garnishment.—

85 (1)(a) If a person is delinquent in the payment of any
 86 taxes, penalties, and interest owed to the department, the
 87 executive director or his or her designee must ~~may~~ give notice
 88 of the amount of such delinquency by registered mail, ~~by~~
 89 ~~personal service,~~ or by electronic means, including, but not
 90 limited to, facsimile transmissions, electronic data
 91 interchange, or use of the Internet, to the taxpayer to attempt
 92 to informally resolve the delinquency using the procedures in s.
 93 213.21. Upon request, the taxpayer must receive assistance from
 94 the taxpayers' rights advocate.

95 (b) If the taxpayer fails to request an informal
 96 conference within 30 days after receiving the notice identifying
 97 the amount of the delinquency under paragraph (a) or if the
 98 taxpayer fails to pay the amount agreed upon in a closing
 99 agreement, and before the department may initiate a garnishment
 100 action, the department must issue to the delinquent taxpayer and

101 all persons having in their possession or under their control
 102 any credits or personal property, exclusive of wages, belonging
 103 to the delinquent taxpayer, or owing any debts to such
 104 delinquent taxpayer at the time of receipt by them, a written
 105 notice of intent to garnish. The notice must:

- 106 1. Be printed in a font size no smaller than 14-point;
- 107 2. Be titled "Notice of Intent to Garnish";
- 108 3. Explain the process involved in a garnishment action;
- 109 and
- 110 4. Provide a timeframe, which may not be sooner than 45
 111 days from the date printed on the notice of intent to garnish,
 112 to grant the taxpayer time to respond to the ~~of such~~ notice.

113
 114 This paragraph does not limit or prevent the department from
 115 using the procedures in s. 213.21.

116 (c) Thereafter, Any person who has received a notice of
 117 intent to garnish ~~been notified~~ may not transfer or make any
 118 other disposition of such credits, other personal property, or
 119 debts until the executive director or his or her designee
 120 consents to a transfer or disposition or until 60 days after the
 121 receipt of the ~~such~~ notice of intent to garnish. However, the
 122 credits, other personal property, or debts that exceed the
 123 delinquent amount stipulated in the notice are not subject to
 124 this section, wherever held, if the taxpayer does not have a
 125 prior history of tax delinquencies. If during the effective

126 | period of the notice of intent to garnish ~~to withhold~~, any
127 | person so notified makes any transfer or disposition of the
128 | property or debts required to be withheld under this section, he
129 | or she is liable to the state for any indebtedness owed to the
130 | department by the person with respect to whose obligation the
131 | notice was given to the extent of the value of the property or
132 | the amount of the debts thus transferred or paid if, solely by
133 | reason of such transfer or disposition, the state is unable to
134 | recover the indebtedness of the person with respect to whose
135 | obligation the notice was given. If the delinquent taxpayer
136 | contests the intended levy in circuit court or under chapter
137 | 120, the notice under this section remains effective until that
138 | final resolution of the contest. Any financial institution
139 | receiving such notice will maintain a right of setoff for any
140 | transaction involving a debit card occurring on or before the
141 | date of receipt of such notice.

142 | (2) All persons who have received a notice of intent to
143 | garnish under paragraph (1) (b) ~~been notified~~ must, within 5 days
144 | after receipt of the notice, advise the executive director or
145 | his or her designee of the credits, other personal property, or
146 | debts in their possession, under their control, or owing them,
147 | and must advise the executive director or designee within 5 days
148 | after coming into possession or control of any subsequent
149 | credits, personal property, or debts owed during the time
150 | prescribed by the notice. Any such person coming into possession

151 or control of such subsequent credits, personal property, or
152 debts may not transfer or dispose of them during the time
153 prescribed by the notice or before the department consents to a
154 transfer.

155 (3) During the last 30 days of the 60-day period set forth
156 in paragraph (1)(c) ~~subsection (1)~~, the executive director or
157 his or her designee may levy upon such credits, other personal
158 property, or debts. The levy must be accomplished by delivery of
159 a notice of levy by registered mail, upon receipt of which the
160 person possessing the credits, other personal property, or debts
161 shall transfer them to the department or pay to the department
162 the amount owed to the delinquent taxpayer.

163 Section 3. This act shall take effect July 1, 2023.