

1 A bill to be entitled
2 An act relating to tax administration; amending s.
3 72.011, F.S.; prohibiting taxpayers from submitting
4 certain records in tax proceedings under specified
5 circumstances; amending s. 120.80, F.S.; prohibiting
6 taxpayers from submitting certain records in taxpayer
7 contest proceedings under certain circumstances;
8 amending s. 202.34, F.S.; authorizing the department
9 to respond to contact initiated by taxpayers to
10 discuss audits; authorizing taxpayers to provide
11 records and other information; authorizing the
12 department to examine documentation and other
13 information received; authorizing the department to
14 adopt rules; amending ss. 202.36, 206.14, 211.125,
15 212.14, and 220.735, F.S.; specifying instances under
16 which an assessment or amount by the department is
17 deemed prima facie correct; creating a presumption;
18 authorizing the department to use estimates for
19 purposes of assessment under certain circumstances;
20 amending s. 206.9931, F.S.; deleting obsolete
21 language; amending s. 212.05, F.S.; revising
22 requirements for an affidavit; amending s. 212.13,
23 F.S.; requiring certain dealers to maintain specified
24 records; providing construction; requiring the
25 department to notify the Division of Alcoholic

26 Beverages and Tobacco and dealers upon dealers'
27 failure to comply with department requests for
28 records; authorizing the department to suspend resale
29 certificates issued to dealers under certain
30 circumstances; authorizing dealers to apply for
31 administrative hearings under certain circumstances;
32 authorizing the department to respond to contact
33 initiated by taxpayers to discuss audits; authorizing
34 taxpayers to provide records and other information;
35 authorizing the department to examine documentation
36 and other information received; authorizing the
37 department to adopt rules; amending s. 213.051, F.S.;
38 authorizing the department to serve subpoenas on
39 businesses registered with the department; amending s.
40 213.06, F.S.; revising the period in which, and
41 conditions under which, the executive director of the
42 department may adopt emergency rules; providing for an
43 exemption, the effectiveness, and the renewal of
44 emergency rules; providing construction; amending s.
45 213.21, F.S.; addressing the statute of limitations
46 for issuing assessments; authorizing a taxpayer's
47 liability to be settled or compromised under certain
48 circumstances; creating a rebuttable presumption;
49 specifying the conditions for the department to
50 consider requests to settle or compromise any tax,

51 interest, penalty, or other liability; providing
 52 construction; amending s. 213.34, F.S.; revising audit
 53 procedures of the department; authorizing the
 54 department to adopt rules; amending s. 213.67, F.S.;
 55 authorizing the executive director of the department
 56 or his or her designee to include additional daily
 57 accrued interest, costs, and fees in a garnishment
 58 levy notice; revising methods for delivery of levy
 59 notices; amending s. 213.345, F.S.; specifying
 60 conditions under which a period is tolled during an
 61 audit; amending s. 220.42, F.S.; deleting obsolete
 62 language; amending s. 443.131, F.S.; excluding certain
 63 benefit charges from the employer reemployment
 64 assistance contribution rate calculation; amending s.
 65 443.171, F.S.; requiring the department and its tax
 66 collection service provider to comply with
 67 requirements of the federal Treasury Offset Program;
 68 authorizing the department or the tax collection
 69 service provider to adopt rules; providing an
 70 effective date.

71

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

73

74 Section 1. Paragraph (c) is added to subsection (1) of
 75 section 72.011, Florida Statutes, to read:

76 72.011 Jurisdiction of circuit courts in specific tax
77 matters; administrative hearings and appeals; time for
78 commencing action; parties; deposits.—

79 (1)

80 (c) A taxpayer may not submit records pertaining to an
81 assessment or refund claim as evidence in any proceeding under
82 this section if those records were available to, or required to
83 be kept by, the taxpayer and were not timely provided to the
84 Department of Revenue after a written request for the records
85 during the audit or protest period and before submission of a
86 petition for hearing pursuant to chapter 120 or the filing of an
87 action under paragraph (a).

88 Section 2. Paragraph (b) of subsection (14) of section
89 120.80, Florida Statutes, is amended to read:

90 120.80 Exceptions and special requirements; agencies.—

91 (14) DEPARTMENT OF REVENUE.—

92 (b) *Taxpayer contest proceedings.*—

93 1. In any administrative proceeding brought pursuant to
94 this chapter as authorized by s. 72.011(1), the taxpayer shall
95 be designated the "petitioner" and the Department of Revenue
96 shall be designated the "respondent," except that for actions
97 contesting an assessment or denial of refund under chapter 207,
98 the Department of Highway Safety and Motor Vehicles shall be
99 designated the "respondent," and for actions contesting an
100 assessment or denial of refund under chapters 210, 550, 561,

101 562, 563, 564, and 565, the Department of Business and
 102 Professional Regulation shall be designated the "respondent."

103 2. In any such administrative proceeding, the applicable
 104 department's burden of proof, except as otherwise specifically
 105 provided by general law, shall be limited to a showing that an
 106 assessment has been made against the taxpayer and the factual
 107 and legal grounds upon which the applicable department made the
 108 assessment.

109 3.a. Before ~~Prior to~~ filing a petition under this chapter,
 110 the taxpayer shall pay to the applicable department the amount
 111 of taxes, penalties, and accrued interest assessed by that
 112 department which are not being contested by the taxpayer.
 113 Failure to pay the uncontested amount shall result in the
 114 dismissal of the action and imposition of an additional penalty
 115 of 25 percent of the amount taxed.

116 b. The requirements of s. 72.011(2) and (3)(a) are
 117 jurisdictional for any action under this chapter to contest an
 118 assessment or denial of refund by the Department of Revenue, the
 119 Department of Highway Safety and Motor Vehicles, or the
 120 Department of Business and Professional Regulation.

121 4. Except as provided in s. 220.719, further collection
 122 and enforcement of the contested amount of an assessment for
 123 nonpayment or underpayment of any tax, interest, or penalty
 124 shall be stayed beginning on the date a petition is filed. Upon
 125 entry of a final order, an agency may resume collection and

126 enforcement action.

127 5. The prevailing party, in a proceeding under ss. 120.569
128 and 120.57 authorized by s. 72.011(1), may recover all legal
129 costs incurred in such proceeding, including reasonable attorney
130 ~~attorney's~~ fees, if the losing party fails to raise a
131 justiciable issue of law or fact in its petition or response.

132 6. Upon review pursuant to s. 120.68 of final agency
133 action concerning an assessment of tax, penalty, or interest
134 with respect to a tax imposed under chapter 212, or the denial
135 of a refund of any tax imposed under chapter 212, if the court
136 finds that the Department of Revenue improperly rejected or
137 modified a conclusion of law, the court may award reasonable
138 attorney ~~attorney's~~ fees and reasonable costs of the appeal to
139 the prevailing appellant.

140 7. A taxpayer may not submit records pertaining to an
141 assessment or refund claim as evidence in any proceeding brought
142 pursuant to this chapter as authorized by s. 72.011(1) if those
143 records were available to, or required to be kept by, the
144 taxpayer and not timely provided to the Department of Revenue
145 after a written request for the records during the audit or
146 protest period and before submission of a petition for hearing
147 under this chapter.

148 Section 3. Paragraph (f) is added to subsection (4) of
149 section 202.34, Florida Statutes, and subsection (6) is added to
150 that section, to read:

151 202.34 Records required to be kept; power to inspect;
 152 audit procedure.—

153 (4)

154 (f) Once the notification required by paragraph (a) is
 155 issued, the department, at any time, may respond to contact
 156 initiated by a taxpayer to discuss the audit, and the taxpayer
 157 may provide records or other information, electronically or
 158 otherwise, to the department. The department may examine, at any
 159 time, documentation and other information voluntarily provided
 160 by the taxpayer, its representative, or other parties,
 161 information already in the department's possession, or publicly
 162 available information. Examination by the department of such
 163 information does not commence an audit if the review takes place
 164 within 60 days of the notice of intent to conduct an audit. The
 165 requirement in paragraph (a) does not limit the department from
 166 making initial contact with the taxpayer to confirm receipt of
 167 the notification or to confirm the date that the audit will
 168 begin. If the taxpayer has not previously waived the 60 day
 169 notice period and believes the department commenced the audit
 170 before the 61st day, the taxpayer must object in writing to the
 171 department before the assessment is issued or the objection is
 172 waived. If the objection is not waived and it is determined
 173 during a formal or informal protest that the audit was commenced
 174 before the 61st day after the notice of intent to audit was
 175 issued, the tolling period provided for in s. 213.345 shall be

176 considered lifted for the number of days equal to the difference
177 between the date the audit commenced and the 61st day from the
178 date of the department's notice of intent to audit.

179 (6) The department may adopt rules to administer this
180 section.

181 Section 4. Paragraph (a) of subsection (4) of section
182 202.36, Florida Statutes, is amended to read:

183 202.36 Departmental powers; hearings; distress warrants;
184 bonds; subpoenas and subpoenas duces tecum.—

185 (4)(a) The department may issue subpoenas or subpoenas
186 duces tecum compelling the attendance and testimony of witnesses
187 and the production of books, records, written materials, and
188 electronically recorded information. Subpoenas must be issued
189 with the written and signed approval of the executive director
190 or his or her designee on a written and sworn application by any
191 employee of the department. The application must set forth the
192 reason for the application, the name of the person subpoenaed,
193 the time and place of appearance of the witness, and a
194 description of any books, records, or electronically recorded
195 information to be produced, together with a statement by the
196 applicant that the department has unsuccessfully attempted other
197 reasonable means of securing information and that the testimony
198 of the witness or the written or electronically recorded
199 materials sought in the subpoena are necessary for the
200 collection of taxes, penalty, or interest or the enforcement of

201 the taxes levied or administered under this chapter. A subpoena
202 shall be served in the manner provided by law and by the Florida
203 Rules of Civil Procedure and shall be returnable only during
204 regular business hours and at least 20 calendar days after the
205 date of service of the subpoena. Any subpoena to which this
206 subsection applies must identify the taxpayer to whom the
207 subpoena relates and to whom the records pertain and must
208 provide other information to enable the person subpoenaed to
209 locate the records required under the subpoena. The department
210 shall give notice to the taxpayer to whom the subpoena relates
211 within 3 days after the day on which the service of the subpoena
212 is made. Within 14 days after service of the subpoena, the
213 person to whom the subpoena is directed may serve written
214 objection to the inspection or copying of any of the designated
215 materials. If objection is made, the department may not inspect
216 or copy the materials, except pursuant to an order of the
217 circuit court. If an objection is made, the department may
218 petition any circuit court for an order to comply with the
219 subpoena. The subpoena must contain a written notice of the
220 right to object to the subpoena. Every subpoena served upon the
221 witness or custodian of records must be accompanied by a copy of
222 ~~the provisions of~~ this subsection. If a person refuses to obey a
223 subpoena or subpoena duces tecum, the department may apply to
224 any circuit court of this state to enforce compliance with the
225 subpoena. Witnesses are entitled to be paid a mileage allowance

226 and witness fees as authorized for witnesses in civil cases. The
227 failure of a taxpayer to provide documents available to, or
228 required to be kept by, the taxpayer and requested by a subpoena
229 issued under this section creates a presumption that the
230 resulting proposed final agency action by the department, as to
231 the requested documents, is correct and that the requested
232 documents not produced by the taxpayer would be adverse to the
233 taxpayer's position as to the proposed final agency action. If a
234 taxpayer fails to provide documents requested by a subpoena
235 issued under this section, the department may make an assessment
236 from an estimate based upon the best information then available
237 to the department for the taxable period of retail sales of the
238 taxpayer, together with any accrued interest and penalties. The
239 assessment shall be deemed prima facie correct and the burden to
240 show the contrary rests upon the taxpayer. The presumption and
241 authority to use estimates for the purpose of an assessment
242 under this paragraph do not apply solely because a taxpayer or
243 the taxpayer's representative requests a conference to negotiate
244 the production of a sample of records demanded by a subpoena.

245 Section 5. Subsection (4) of section 206.14, Florida
246 Statutes, is amended to read:

247 206.14 Inspection of records; audits; hearings; forms;
248 rules and regulations.—

249 (4) If any person unreasonably refuses access to such
250 records, books, papers or other documents, or equipment, or if

251 any person fails or refuses to obey such subpoenas duces tecum
252 or to testify, except for lawful reasons, before the department
253 or any of its authorized agents, the department shall certify
254 the names and facts to the clerk of the circuit court of any
255 county; and the circuit court shall enter such order against
256 such person in the premises as the enforcement of this law and
257 justice requires. The failure of a taxpayer to provide documents
258 available to, or required to be kept by, the taxpayer and
259 requested by a subpoena issued under this section creates a
260 presumption that the resulting proposed final agency action by
261 the department, as to the requested documents, is correct and
262 that the requested documents not produced by the taxpayer would
263 be adverse to the taxpayer's position as to the proposed final
264 agency action. If a taxpayer fails to provide documents
265 requested by a subpoena issued under this section, the
266 department may make an assessment from an estimate of the
267 taxpayer's liability based upon the best information then
268 available to the department. The assessment shall be deemed
269 prima facie correct and the burden to show the contrary rests
270 upon the taxpayer. The presumption and authority to use
271 estimates for the purpose of an assessment under this paragraph
272 do not apply solely because a taxpayer or the taxpayer's
273 representative requests a conference to negotiate the production
274 of a sample of records demanded by a subpoena.

275 Section 6. Subsection (1) of section 206.9931, Florida

276 Statutes, is amended to read:

277 206.9931 Administrative provisions.—

278 (1) Any person producing in, importing into, or causing to
 279 be imported into this state taxable pollutants for sale, use, or
 280 otherwise and who is not registered or licensed pursuant to
 281 other parts of this chapter is hereby required to register and
 282 become licensed for the purposes of this part. Such person shall
 283 register as either a producer or importer of pollutants and
 284 shall be subject to all applicable registration and licensing
 285 provisions of this chapter, as if fully set out in this part and
 286 made expressly applicable to the taxes imposed herein,
 287 including, but not limited to, ss. 206.02, 206.021, 206.022,
 288 206.025, 206.03, 206.04, and 206.05. For the purposes of this
 289 section, registrations required exclusively for this part shall
 290 be made within 90 days of July 1, 1986, for existing businesses,
 291 or before ~~prior to~~ the first production or importation of
 292 pollutants for businesses created after July 1, 1986. ~~The fee~~
 293 ~~for registration shall be \$30.~~ Failure to timely register is a
 294 misdemeanor of the first degree, punishable as provided in s.
 295 775.082 or s. 775.083.

296 Section 7. Paragraph (b) of subsection (3) of section
 297 211.125, Florida Statutes, is amended to read:

298 211.125 Administration of law; books and records; powers
 299 of the department; refunds; enforcement provisions;
 300 confidentiality.—

301 (3)
 302 (b) The department may ~~shall have the power to~~ inspect or
 303 examine the books, records, or papers of any operator, producer,
 304 purchaser, royalty interest owner, taxpayer, or transporter of
 305 taxable products which are reasonably required for the purposes
 306 of this part and may require such person to testify under oath
 307 or affirmation or to answer competent questions touching upon
 308 such person's business or production of taxable products in this
 309 ~~the~~ state.

310 1. The department may issue subpoenas to compel third
 311 parties to testify or to produce records or other evidence held
 312 by them.

313 2. Any duly authorized representative of the department
 314 may administer an oath or affirmation.

315 3. If any person fails to comply with a request of the
 316 department for the inspection of records, fails to give
 317 testimony or respond to competent questions, or fails to comply
 318 with a subpoena, a circuit court having jurisdiction over such
 319 person may, upon application by the department, issue orders
 320 necessary to secure compliance. The failure of a taxpayer to
 321 provide documents available to, or required to be kept by, the
 322 taxpayer and requested by a subpoena issued under this section
 323 creates a presumption that the resulting proposed final agency
 324 action by the department, as to the requested documents, is
 325 correct and that the requested documents not produced by the

326 taxpayer would be adverse to the taxpayer's position as to the
 327 proposed final agency action. If a taxpayer fails to provide
 328 documents requested by a subpoena issued under this section, the
 329 department may make an assessment from an estimate based upon
 330 the best information then available to the department. The
 331 assessment shall be considered prima facie correct and the
 332 taxpayer shall have the burden of showing any error in it.

333 Section 8. Paragraph (a) of subsection (1) of section
 334 212.05, Florida Statutes, is amended to read:

335 212.05 Sales, storage, use tax.—It is hereby declared to
 336 be the legislative intent that every person is exercising a
 337 taxable privilege who engages in the business of selling
 338 tangible personal property at retail in this state, including
 339 the business of making or facilitating remote sales; who rents
 340 or furnishes any of the things or services taxable under this
 341 chapter; or who stores for use or consumption in this state any
 342 item or article of tangible personal property as defined herein
 343 and who leases or rents such property within the state.

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

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

351 including each and every retail sale.

352 b. Each occasional or isolated sale of an aircraft, boat,
353 mobile home, or motor vehicle of a class or type which is
354 required to be registered, licensed, titled, or documented in
355 this state or by the United States Government is ~~shall be~~
356 subject to tax at the rate provided in this paragraph. The
357 department shall by rule adopt any nationally recognized
358 publication for valuation of used motor vehicles as the
359 reference price list for any used motor vehicle which is
360 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
361 (b), (c), or (e), or (9). If any party to an occasional or
362 isolated sale of such a vehicle reports to the tax collector a
363 sales price which is less than 80 percent of the average loan
364 price for the specified model and year of such vehicle as listed
365 in the most recent reference price list, the tax levied under
366 this paragraph shall be computed by the department on such
367 average loan price unless the parties to the sale have provided
368 to the tax collector an affidavit signed by each party, or other
369 substantial proof, stating the actual sales price. Any party to
370 such sale who reports a sales price less than the actual sales
371 price is guilty of a misdemeanor of the first degree, punishable
372 as provided in s. 775.082 or s. 775.083. The department shall
373 collect or attempt to collect from such party any delinquent
374 sales taxes. In addition, such party shall pay any tax due and
375 any penalty and interest assessed plus a penalty equal to twice

376 the amount of the additional tax owed. Notwithstanding any other
377 provision of law, the Department of Revenue may waive or
378 compromise any penalty imposed pursuant to this subparagraph.

379 2. This paragraph does not apply to the sale of a boat or
380 aircraft by or through a registered dealer under this chapter to
381 a purchaser who, at the time of taking delivery, is a
382 nonresident of this state, does not make his or her permanent
383 place of abode in this state, and is not engaged in carrying on
384 in this state any employment, trade, business, or profession in
385 which the boat or aircraft will be used in this state, or is a
386 corporation none of the officers or directors of which is a
387 resident of, or makes his or her permanent place of abode in,
388 this state, or is a noncorporate entity that has no individual
389 vested with authority to participate in the management,
390 direction, or control of the entity's affairs who is a resident
391 of, or makes his or her permanent abode in, this state. For
392 purposes of this exemption, either a registered dealer acting on
393 his or her own behalf as seller, a registered dealer acting as
394 broker on behalf of a seller, or a registered dealer acting as
395 broker on behalf of the nonresident purchaser may be deemed to
396 be the selling dealer. This exemption is ~~shall~~ not be allowed
397 unless:

398 a. The nonresident purchaser removes a qualifying boat, as
399 described in sub-subparagraph f., from this ~~the~~ state within 90
400 days after the date of purchase or extension, or the nonresident

401 purchaser removes a nonqualifying boat or an aircraft from this
402 state within 10 days after the date of purchase or, when the
403 boat or aircraft is repaired or altered, within 20 days after
404 completion of the repairs or alterations; or if the aircraft
405 will be registered in a foreign jurisdiction and:

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

409 (II) The nonresident purchaser removes the aircraft from
410 this ~~the~~ state to a foreign jurisdiction within 10 days after
411 the date the aircraft is registered by the applicable foreign
412 airworthiness authority; and

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

415

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

419 b. The nonresident purchaser, within 90 days after ~~from~~
420 the date of departure, provides the department with written
421 proof that the nonresident purchaser licensed, registered,
422 titled, or documented the boat or aircraft outside this ~~the~~
423 state. If such written proof is unavailable, within 90 days the
424 nonresident purchaser must ~~shall~~ provide proof that the
425 nonresident purchaser applied for such license, title,

426 registration, or documentation. The nonresident purchaser shall
427 forward to the department proof of title, license, registration,
428 or documentation upon receipt;

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

435 d. The selling dealer, within 30 days after the date of
436 sale, provides to the department a copy of the sales invoice,
437 closing statement, bills of sale, and the original affidavit
438 signed by the nonresident purchaser affirming that the
439 nonresident purchaser qualifies for exemption from sales tax
440 pursuant to this subparagraph and attesting that the nonresident
441 purchaser will provide the documentation required to
442 substantiate the exemption claimed under this subparagraph
443 ~~attesting that he or she has read the provisions of this~~
444 ~~section;~~

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

447 f. Unless the nonresident purchaser of a boat of 5 net
448 tons of admeasurement or larger intends to remove the boat from
449 this state within 10 days after the date of purchase or when the
450 boat is repaired or altered, within 20 days after completion of

451 the repairs or alterations, the nonresident purchaser applies to
452 the selling dealer for a decal which authorizes 90 days after
453 the date of purchase for removal of the boat. The nonresident
454 purchaser of a qualifying boat may apply to the selling dealer
455 within 60 days after the date of purchase for an extension decal
456 that authorizes the boat to remain in this state for an
457 additional 90 days, but not more than a total of 180 days,
458 before the nonresident purchaser is required to pay the tax
459 imposed by this chapter. The department is authorized to issue
460 decals in advance to dealers. The number of decals issued in
461 advance to a dealer shall be consistent with the volume of the
462 dealer's past sales of boats which qualify under this sub-
463 subparagraph. The selling dealer or his or her agent shall mark
464 and affix the decals to qualifying boats in the manner
465 prescribed by the department, before delivery of the boat.

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

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

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

474 (IV) The department is authorized to require dealers who
475 purchase decals to file reports with the department and may

476 prescribe all necessary records by rule. All such records are
477 subject to inspection by the department.

478 (V) Any dealer or his or her agent who issues a decal
479 falsely, fails to affix a decal, mismarks the expiration date of
480 a decal, or fails to properly account for decals will be
481 considered prima facie to have committed a fraudulent act to
482 evade the tax and will be liable for payment of the tax plus a
483 mandatory penalty of 200 percent of the tax, and shall be liable
484 for fine and punishment as provided by law for a conviction of a
485 misdemeanor of the first degree, as provided in s. 775.082 or s.
486 775.083.

487 (VI) Any nonresident purchaser of a boat who removes a
488 decal before permanently removing the boat from this ~~the~~ state,
489 or defaces, changes, modifies, or alters a decal in a manner
490 affecting its expiration date before its expiration, or who
491 causes or allows the same to be done by another, will be
492 considered prima facie to have committed a fraudulent act to
493 evade the tax and will be liable for payment of the tax plus a
494 mandatory penalty of 200 percent of the tax, and shall be liable
495 for fine and punishment as provided by law for a conviction of a
496 misdemeanor of the first degree, as provided in s. 775.082 or s.
497 775.083.

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

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

504
 505 If the nonresident purchaser fails to remove the qualifying boat
 506 from this state within the maximum 180 days after purchase or a
 507 nonqualifying boat or an aircraft from this state within 10 days
 508 after purchase or, when the boat or aircraft is repaired or
 509 altered, within 20 days after completion of such repairs or
 510 alterations, or permits the boat or aircraft to return to this
 511 state within 6 months after ~~from~~ the date of departure, except
 512 as provided in s. 212.08(7)(fff), or if the nonresident
 513 purchaser fails to furnish the department with any of the
 514 documentation required by this subparagraph within the
 515 prescribed time period, the nonresident purchaser ~~is shall be~~
 516 liable for use tax on the cost price of the boat or aircraft
 517 and, in addition thereto, payment of a penalty to the Department
 518 of Revenue equal to the tax payable. This penalty shall be in
 519 lieu of the penalty imposed by s. 212.12(2). The maximum 180-day
 520 period following the sale of a qualifying boat tax-exempt to a
 521 nonresident may not be tolled for any reason.

522 Section 9. Subsections (2) and (5) of section 212.13,
 523 Florida Statutes, are amended, and subsection (7) is added to
 524 that section, to read:

525 212.13 Records required to be kept; power to inspect;

526 | audit procedure.—

527 | (2) (a) Each dealer, as defined in this chapter, shall
528 | secure, maintain, and keep as long as required by s. 213.35 a
529 | complete record of tangible personal property or services
530 | received, used, sold at retail, distributed or stored, leased or
531 | rented by said dealer, together with invoices, bills of lading,
532 | gross receipts from such sales, and other pertinent records and
533 | papers as may be required by the department for the reasonable
534 | administration of this chapter. All such records must be made
535 | available to the department at reasonable times and places and
536 | by reasonable means, including in an electronic format when so
537 | kept by the dealer. Any dealer subject to this chapter who
538 | violates this subsection commits a misdemeanor of the first
539 | degree, punishable as provided in s. 775.082 or s. 775.083. If,
540 | however, any subsequent offense involves intentional destruction
541 | of such records with an intent to evade payment of or deprive
542 | the state of any tax revenues, such subsequent offense is a
543 | felony of the third degree, punishable as provided in s. 775.082
544 | or s. 775.083.

545 | (b) Dealers licensed under chapter 561 shall maintain
546 | records of all monthly sales and all monthly purchases of
547 | alcoholic beverages and produce such records for inspection by
548 | any department employee within 10 days after written request
549 | therefor. The failure of a dealer licensed under chapter 561 to
550 | comply with such a request is deemed sufficient cause under s.

551 561.29(1) (a), and the department shall promptly notify the
552 Division of Alcoholic Beverages and Tobacco and the dealer of
553 such failure for further appropriate action by the division. The
554 department may suspend the resale certificate issued to a dealer
555 licensed under chapter 561 if the dealer fails to produce the
556 records requested by the department under this section, unless
557 the dealer, within 30 days after the receipt of notice to
558 suspend the resale certificate by the department, corrects such
559 failure or establishes reasonable cause to the department why
560 the requested records do not exist. A dealer licensed under
561 chapter 561 whose resale certificate is suspended may apply to
562 the department within 30 days after the receipt of the notice of
563 suspension for an administrative hearing pursuant to chapter
564 120.

565 (5) (a) The department shall send written notification at
566 least 60 days before ~~prior to~~ the date an auditor is scheduled
567 to begin an audit, informing the taxpayer of the audit. The
568 department is not required to give 60 days' prior notification
569 of a forthcoming audit in any instance in which the taxpayer
570 requests an emergency audit.

571 (b) Such written notification must ~~shall~~ contain:

572 1. The approximate date on which the auditor is scheduled
573 to begin the audit.

574 2. A reminder that all of the records, receipts, invoices,
575 resale certificates, and related documentation of the taxpayer

576 | must be made available to the auditor.

577 | 3. Any other requests or suggestions the department may
578 | deem necessary.

579 | (c) Only records, receipts, invoices, resale certificates,
580 | and related documentation that ~~which~~ are available to the
581 | auditor when such audit begins are ~~shall be~~ deemed acceptable
582 | for the purposes of conducting such audit. A resale certificate
583 | containing a date before ~~prior to~~ the date the audit commences
584 | is ~~shall be~~ deemed acceptable documentation of the specific
585 | transaction or transactions which occurred in the past, for the
586 | purpose of conducting an audit.

587 | (d) The provisions of this chapter concerning fraudulent
588 | or improper records, receipts, invoices, resale certificates,
589 | and related documentation ~~shall~~ apply when conducting any audit.

590 | (e) The requirement in paragraph (a) of 60 days' written
591 | notification does not apply to the distress or jeopardy
592 | situations referred to in s. 212.14 or s. 212.15.

593 | (f) Once the notification required by paragraph (a) is
594 | issued, the department, at any time, may respond to contact
595 | initiated by a taxpayer to discuss the audit, and the taxpayer
596 | may provide documentation or other information, electronically
597 | or otherwise, to the department. The department may examine, at
598 | any time, documentation and other information voluntarily
599 | provided by the taxpayer, its representative, or other parties,
600 | information already in the department's possession, or publicly

601 available information. Examination by the department of such
602 information does not commence an audit if the review takes place
603 within 60 days of the notice of intent to conduct an audit. The
604 requirement in paragraph (a) does not limit the department from
605 making initial contact with the taxpayer to confirm receipt of
606 the notification or to confirm the date that the audit will
607 begin. If the taxpayer has not previously waived the 60 day
608 notice period and believes the department commenced the audit
609 before the 61st day, the taxpayer must object in writing to the
610 department before an assessment is issued or the objection is
611 waived. If the objection is not waived and it is determined
612 during a formal or informal protest that the audit was commenced
613 before the 61st day after the notice of intent to audit was
614 issued, the tolling period provided for in s. 213.345 shall be
615 considered lifted for the number of days equal to the difference
616 between the date the audit commenced and the 61st day from the
617 date of the department's notice of intent to audit.

618 (7) The department may adopt rules to administer this
619 section.

620 Section 10. Paragraph (a) of subsection (7) of section
621 212.14, Florida Statutes, is amended to read:

622 212.14 Departmental powers; hearings; distress warrants;
623 bonds; subpoenas and subpoenas duces tecum.—

624 (7) (a) For purposes of collection and enforcement of
625 taxes, penalties, and interest levied under this chapter, the

626 department may issue subpoenas or subpoenas duces tecum
627 compelling the attendance and testimony of witnesses and the
628 production of books, records, written materials, and
629 electronically recorded information. Subpoenas shall be issued
630 with the written and signed approval of the executive director
631 or his or her designee on written and sworn application by any
632 employee of the department. The application must set forth the
633 reason for the application, the name of the person subpoenaed,
634 the time and place of appearance of the witness, and a
635 description of any books, records, or electronically recorded
636 information to be produced, together with a statement by the
637 applicant that the department has unsuccessfully attempted other
638 reasonable means of securing information and that the testimony
639 of the witness or the written or electronically recorded
640 materials sought in the subpoena are necessary for the
641 collection of taxes, penalty, or interest or the enforcement of
642 the taxes levied under this chapter. A subpoena must ~~shall~~ be
643 served in the manner provided by law and by the Florida Rules of
644 Civil Procedure and is ~~shall be~~ returnable only during regular
645 business hours and at least 20 calendar days after the date of
646 service of the subpoena. Any subpoena to which this subsection
647 applies must ~~shall~~ identify the taxpayer to whom the subpoena
648 relates and to whom the records pertain and must ~~shall~~ provide
649 other information to enable the person subpoenaed to locate the
650 records required under the subpoena. The department shall give

651 notice to the taxpayer to whom the subpoena relates within 3
652 days after ~~of~~ the day on which the service of the subpoena is
653 made. Within 14 days after service of the subpoena, the person
654 to whom the subpoena is directed may serve written objection to
655 inspection or copying of any of the designated materials. If
656 objection is made, the department is ~~shall~~ not be entitled to
657 inspect and copy the materials, except pursuant to an order of
658 the circuit court. If an objection is made, the department may
659 petition any circuit court for an order to comply with the
660 subpoena. The subpoena must ~~shall~~ contain a written notice of
661 the right to object to the subpoena. Every subpoena served upon
662 the witness or records custodian must be accompanied by a copy
663 of ~~the provisions of~~ this subsection. If a person refuses to
664 obey a subpoena or subpoena duces tecum, the department may
665 apply to any circuit court of this state to enforce compliance
666 with the subpoena. Witnesses must ~~shall~~ be paid mileage and
667 witness fees as authorized for witnesses in civil cases. The
668 failure of a taxpayer to provide documents available to, or
669 required to be kept by, the taxpayer and requested by a subpoena
670 issued under this section creates a presumption that the
671 resulting proposed final agency action by the department, as to
672 the requested documents, is correct and that the requested
673 documents not produced by the taxpayer would be adverse to the
674 taxpayer's position as to the proposed final agency action. If a
675 taxpayer fails to provide documents requested by a subpoena

676 issued under this section, the department may make an assessment
677 from an estimate based upon the best information then available
678 to the department for the taxable period of retail sales of the
679 taxpayer, together with any accrued interest and penalties. The
680 assessment shall be deemed prima facie correct and the burden to
681 show the contrary rests upon the taxpayer. The presumption and
682 authority to use estimates for the purpose of assessment under
683 this paragraph do not apply solely because a taxpayer or the
684 taxpayer's representative requests a conference to negotiate the
685 production of a sample of records demanded by a subpoena.

686 Section 11. Section 213.051, Florida Statutes, is amended
687 to read:

688 213.051 Service of subpoenas.—

689 (1) For the purpose of administering and enforcing ~~the~~
690 ~~provisions of~~ the revenue laws of this state, the executive
691 director of the Department of Revenue, or any of his or her
692 assistants designated in writing by the executive director, may
693 ~~shall be authorized to~~ serve subpoenas and subpoenas duces tecum
694 issued by the state attorney relating to investigations
695 concerning the taxes enumerated in s. 213.05.

696 (2) In addition to the procedures for service prescribed
697 by chapter 48, the department may serve subpoenas it issues
698 pursuant to ss. 202.36, 206.14, 211.125, 212.14, and 220.735
699 upon any business registered with the department at the address
700 on file with the department if it received correspondence from

701 the business from that address within 30 days after a subpoena
702 is issued or if the address is listed with the Department of
703 State Division of Corporations as a principal or business
704 address. If a business's address is not in this state, service
705 is made upon proof of delivery by registered mail or under the
706 notice provisions of s. 213.0537.

707 Section 12. Section 213.06, Florida Statutes, is amended,
708 to read:

709 213.06 Rules of department; circumstances requiring
710 emergency rules.—

711 (1) The Department of Revenue may ~~has the authority to~~
712 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
713 provisions of the revenue laws.

714 (2) The executive director of the department may adopt
715 emergency rules pursuant to s. 120.54 on behalf of the
716 department when the effective date of a legislative change
717 occurs sooner than 120 ~~60~~ days after the close of a legislative
718 session in which enacted or after the governor approves or fails
719 to veto the legislative change, whichever is later, and the
720 change affects a tax rate or a collection or reporting procedure
721 which affects a substantial number of dealers or persons subject
722 to the tax change or procedure. The Legislature finds that such
723 circumstances qualify as an exception to the prerequisite of a
724 finding of immediate danger to the public health, safety, or
725 welfare as set forth in s. 120.54(4)(a) and qualify as

726 | circumstances requiring an emergency rule. Emergency rules
727 | adopted under this subsection are exempt from s. 120.54(4)(c),
728 | remain in effect for 6 months or until replaced by rules adopted
729 | under the nonemergency rulemaking procedures of the
730 | Administrative Procedure Act, and may be renewed for no more
731 | than 3 additional 6 month periods during the pendency of
732 | procedures to adopt permanent rules addressing the subject of
733 | the emergency rules.

734 | (3) The grants of rulemaking authority in subsections (1)
735 | and (2) are sufficient to allow the department to adopt rules
736 | implementing all revenue laws administered by the department.
737 | Each revenue law administered by the department is an enabling
738 | statute authorizing the department to implement it, regardless
739 | of whether the enabling statute contains its own grant of
740 | rulemaking authority.

741 | Section 13. Paragraph (b) of subsection (1) and paragraph
742 | (a) of subsection (3) of section 213.21, Florida Statutes, are
743 | amended, and subsections (11) and (12) are added to that
744 | section, to read:

745 | 213.21 Informal conferences; compromises.—

746 | (1)(b) The statute of limitations upon the issuance of
747 | ~~final~~ assessments and the period for filing a claim for refund
748 | as required by s. 215.26(2) for any transactions occurring
749 | during the audit period shall be tolled during the period in
750 | which the taxpayer is engaged in a procedure under this section.

751 (3)(a) A taxpayer's liability for any tax or interest
752 specified in s. 72.011(1) may be compromised by the department
753 upon the grounds of doubt as to liability for or collectibility
754 of such tax or interest. A taxpayer's liability for interest
755 under any of the chapters specified in s. 72.011(1) shall be
756 settled or compromised in whole or in part whenever or to the
757 extent that the department determines that the delay in the
758 determination of the amount due is attributable to the action or
759 inaction of the department. A taxpayer's liability for penalties
760 under any of the chapters specified in s. 72.011(1) greater than
761 25 percent of the tax must ~~may~~ be settled or compromised if ~~it~~
762 ~~is determined by~~ the department determines that the
763 noncompliance is not due to ~~reasonable cause and not to~~ willful
764 negligence, willful neglect, or fraud. There is a rebuttable
765 presumption that a taxpayer's noncompliance is due to willful
766 negligence, willful neglect, or fraud when adequate records as
767 requested by the department are not provided to the department
768 before assessment is issued. In addition, a taxpayer's liability
769 for penalties under any of the chapters specified in s.
770 72.011(1) up to and including 25 percent of the tax may be
771 settled or compromised if the department determines that
772 reasonable cause exists and the penalties greater than 25
773 percent of the tax were compromised because the noncompliance is
774 not due to willful negligence, willful neglect, or fraud. The
775 facts and circumstances are subject to de novo review to

776 determine the existence of reasonable cause in any
 777 administrative proceeding or judicial action challenging an
 778 assessment of penalty under any of the chapters specified in s.
 779 72.011(1). A taxpayer who establishes reasonable reliance on the
 780 written advice issued by the department to the taxpayer is will
 781 ~~be~~ deemed to have shown reasonable cause for the noncompliance.
 782 ~~In addition, a taxpayer's liability for penalties under any of~~
 783 ~~the chapters specified in s. 72.011(1) in excess of 25 percent~~
 784 ~~of the tax shall be settled or compromised if the department~~
 785 ~~determines that the noncompliance is due to reasonable cause and~~
 786 ~~not to willful negligence, willful neglect, or fraud.~~ The
 787 department shall maintain records of all compromises, and the
 788 records shall state the basis for the compromise. The records of
 789 compromise under this paragraph are ~~shall~~ not ~~be~~ subject to
 790 disclosure pursuant to s. 119.07(1) and are ~~shall be~~ considered
 791 confidential information governed by ~~the provisions of~~ s.
 792 213.053.

793 (11) Following the expiration of time for a taxpayer to
 794 challenge an assessment or denial of a refund as provided in s.
 795 72.011, the department may consider a request to settle or
 796 compromise any tax, interest, penalty, or other liability under
 797 this section if the taxpayer demonstrates that the failure to
 798 initiate a timely challenge was due to a qualified event that
 799 directly impacted compliance with that section. For purposes of
 800 this subsection, a qualified event is limited to the occurrence

801 of events during an audit or the expired protest period which
 802 were beyond the control of the taxpayer, including the death or
 803 life-threatening injury or illness of the taxpayer or an
 804 immediate family member of the taxpayer; the death or life-
 805 threatening injury or illness of the responsible party that
 806 controlled, managed, or directed the affected business entity;
 807 acts of war or terrorism; natural disasters; fire; or other
 808 catastrophic loss. The department may not consider a request
 809 received more than 180 days after the expiration of time allowed
 810 under s. 72.011.

811 (12) Any decision by the department regarding a taxpayer's
 812 request to compromise or settle a liability under this section
 813 is not a final order subject to review under chapter 120.

814 Section 14. Section 213.34, Florida Statutes, is amended
 815 to read:

816 213.34 Authority to audit.—

817 (1) The Department of Revenue may ~~shall have the authority~~
 818 ~~to~~ audit and examine the accounts, books, or records of all
 819 persons ~~who are~~ subject to a revenue law made applicable to this
 820 chapter, or otherwise placed under the control and
 821 administration of the department, for the purpose of
 822 ascertaining the correctness of any return which has been filed
 823 or payment which has been made, or for the purpose of making a
 824 return where none has been made.

825 (2) The department, or its duly authorized agents, may

826 inspect such books and records necessary to ascertain a
827 taxpayer's compliance with the revenue laws of this state,
828 provided that the department's power to make an assessment or
829 grant a refund has not terminated under s. 95.091(3).

830 (a) During the course of an audit, but before an
831 assessment other than a jeopardy assessment is issued, the
832 department shall issue to the taxpayer a notice explaining the
833 audit findings. No later than 14 days after the notice is
834 issued, the taxpayer may request an exit conference in writing
835 at a mutually agreeable date and time with the department's
836 audit staff to discuss the audit findings. The exit conference
837 must be conducted no later than 30 days after the date of the
838 notice, unless the taxpayer and the department enter into an
839 agreement to extend the audit tolling period pursuant to s.
840 213.23. The taxpayer shall be given an opportunity at or before
841 the exit conference to provide additional information and
842 documents to the department to rebut the audit findings. Upon
843 the mutual written agreement between the department and the
844 taxpayer to extend the audit tolling period pursuant to s.
845 213.23, the exit conference may be continued to allow the
846 taxpayer additional time to provide information and documents to
847 the department. The department shall review any information
848 provided by the taxpayer and, if the department revises the
849 audit findings, a copy of the revised audit findings must be
850 provided to the taxpayer. Such revision of the audit findings

851 does not provide a right to any additional conference.

852 (b) If an exit conference is timely requested in writing,
853 the limitations in s. 95.091(3) are tolled an additional 30
854 days. If the department fails to offer a taxpayer the
855 opportunity to hold an exit conference despite a timely written
856 request, the limitations period in s. 95.091(3) shall not be
857 tolled for the additional 30 days. If the assessment is issued
858 outside of the limitations period, the assessment shall be
859 reduced by the amount of those taxes, penalties, and interest
860 for reporting periods outside of the limitations period, as
861 modified by any other tolling or extension provisions.

862 (c) If a request for an exit conference is not timely
863 made, the right to a conference is waived. A taxpayer may also
864 affirmatively waive its right to an exit conference. Failure to
865 hold an exit conference does not preclude the department from
866 issuing an assessment.

867 (d) The department may adopt rules to implement this
868 subsection.

869 (3) The department may correct by credit or refund any
870 overpayment of tax, penalty, or interest revealed by an audit
871 and shall make assessment of any deficiency in tax, penalty, or
872 interest determined to be due.

873 (4) Notwithstanding ~~the provisions of~~ s. 215.26, the
874 department shall offset the overpayment of any tax during an
875 audit period against a deficiency of any tax, penalty, or

876 interest determined to be due during the same audit period.

877 (5) After application of subsection (4), if the
878 department's audit finds that the tax paid is more than the
879 correct amount, the department shall refund the overpayment that
880 is within the applicable period provided by s. 215.26. Such
881 action by the department does not prevent a taxpayer from
882 challenging the amount of the refund pursuant to chapters 120
883 and 213 or applying for a refund of additional tax within the
884 applicable period.

885 Section 15. Subsections (1), (3), and (6) of section
886 213.67, Florida Statutes, are amended to read:

887 213.67 Garnishment.—

888 (1) If a person is delinquent in the payment of any taxes,
889 penalties, ~~and~~ interest, additional daily accrued interest,
890 costs, and fees owed to the department, the executive director
891 or his or her designee may give notice of the amount of such
892 delinquency by registered mail, by personal service, or by
893 electronic means, including, but not limited to, facsimile
894 transmissions, electronic data interchange, or use of the
895 Internet, to all persons having in their possession or under
896 their control any credits or personal property, exclusive of
897 wages, belonging to the delinquent taxpayer, or owing any debts
898 to such delinquent taxpayer at the time of receipt by them of
899 such notice. Thereafter, any person ~~who has been~~ notified may
900 not transfer or make any other disposition of such credits,

901 other personal property, or debts until the executive director
902 or his or her designee consents to a transfer or disposition or
903 until 60 days after the receipt of such notice. However, the
904 credits, other personal property, or debts that exceed the
905 delinquent amount stipulated in the notice are not subject to
906 this section, wherever held, if the taxpayer does not have a
907 prior history of tax delinquencies. If during the effective
908 period of the notice to withhold, any person so notified makes
909 any transfer or disposition of the property or debts required to
910 be withheld under this section, he or she is liable to the state
911 for any indebtedness owed to the department by the person with
912 respect to whose obligation the notice was given to the extent
913 of the value of the property or the amount of the debts thus
914 transferred or paid if, solely by reason of such transfer or
915 disposition, the state is unable to recover the indebtedness of
916 the person with respect to whose obligation the notice was
917 given. If the delinquent taxpayer contests the intended levy in
918 circuit court or under chapter 120, the notice under this
919 section remains effective until that final resolution of the
920 contest. Any financial institution receiving such notice
921 maintains ~~will maintain~~ a right of setoff for any transaction
922 involving a debit card occurring on or before the date of
923 receipt of such notice.

924 (3) During the last 30 days of the 60-day period set forth
925 in subsection (1), the executive director or his or her designee

926 | may levy upon such credits, other personal property, or debts.
 927 | The levy must be accomplished by delivery of a notice of levy by
 928 | registered mail, by personal service, or by secure electronic
 929 | means. Upon receipt of the notice of levy, ~~which~~ the person
 930 | possessing the credits, other personal property, or debts shall
 931 | transfer them to the department or pay to the department the
 932 | amount owed to the delinquent taxpayer.

933 | (6) (a) Levy may be made under subsection (3) upon credits,
 934 | other personal property, or debt of any person with respect to
 935 | any unpaid tax, penalties, ~~and~~ interest, additional daily
 936 | accrued interest, costs, and fees only after the executive
 937 | director or his or her designee has notified such person in
 938 | writing of the intention to make such levy.

939 | (b) No less than 30 days before the day of the levy, the
 940 | notice of intent to levy required under paragraph (a) must ~~shall~~
 941 | be given in person or sent by certified or registered mail to
 942 | the person's last known address.

943 | (c) The notice required in paragraph (a) must include a
 944 | brief statement that sets forth in simple and nontechnical
 945 | terms:

946 | 1. The provisions of this section relating to levy and
 947 | sale of property;

948 | 2. The procedures applicable to the levy under this
 949 | section;

950 | 3. The administrative and judicial appeals available to

951 the taxpayer with respect to such levy and sale, and the
 952 procedures relating to such appeals; and

953 4. Any ~~The~~ alternatives, ~~if any,~~ available to taxpayers
 954 which could prevent levy on the property.

955 Section 16. Section 213.345, Florida Statutes, is amended
 956 to read:

957 213.345 Tolling of periods during an audit.—The
 958 limitations in s. 95.091(3) and the period for filing a claim
 959 for refund as required by s. 215.26(2) are ~~shall be~~ tolled for a
 960 period of 1 year if the Department of Revenue has, on or after
 961 July 1, 1999, issued a notice of intent to conduct an audit or
 962 investigation of the taxpayer's account within the applicable
 963 period of time. The 1-year period is tolled upon receipt of
 964 written objections to the subpoena and for the entire pendency
 965 of any action that seeks an order to enforce compliance with or
 966 to challenge any subpoena issued by the department compelling
 967 the attendance and testimony of witnesses and the production of
 968 books, records, written materials, and electronically recorded
 969 information. The department must commence an audit within 120
 970 days after it issues a notice of intent to conduct an audit,
 971 unless the taxpayer requests a delay. If the taxpayer does not
 972 request a delay and the department does not begin the audit
 973 within 120 days after issuing the notice, the tolling period
 974 terminates ~~shall terminate~~ unless the taxpayer and the
 975 department enter into an agreement to extend the period pursuant

976 | to s. 213.23. If the department issues a notice explaining audit
 977 | findings under s. 213.34(2) (a) based on an estimate because the
 978 | taxpayer has failed or refuses to provide records, the audit
 979 | will be deemed to have commenced for purposes of this section.
 980 | In the event the department issues an assessment beyond the
 981 | tolling period, the assessment will be considered late and the
 982 | assessment shall be reduced by the amount of those taxes,
 983 | penalties, and interest for reporting periods outside of the
 984 | limitations period, as modified by any other tolling or
 985 | extension provisions.

986 | Section 17. Section 220.42, Florida Statutes, is amended
 987 | to read:

988 | 220.42 Methods of accounting.—

989 | (1) For purposes of this code, a taxpayer's method of
 990 | accounting must ~~shall~~ be the same as such taxpayer's method of
 991 | accounting for federal income tax purposes, ~~except as provided~~
 992 | ~~in subsection (3)~~. If no method of accounting has been regularly
 993 | used by a taxpayer, net income for purposes of this code must
 994 | ~~shall~~ be computed by the ~~such~~ method that ~~as in the opinion of~~
 995 | the department determines most fairly reflects income.

996 | (2) If a taxpayer's method of accounting is changed for
 997 | federal income tax purposes, the taxpayer's method of accounting
 998 | for purposes of this code must ~~shall~~ be similarly changed.

999 | ~~(3) Any taxpayer which has elected for federal income tax~~
 1000 | ~~purposes to report any portion of its income on the completed~~

1001 ~~contract method of accounting under Treasury Regulation 1.451-~~
 1002 ~~3(b)(2) may elect to return the income so reported on the~~
 1003 ~~percentage of completion method of accounting under Treasury~~
 1004 ~~Regulation 1.451-3(b)(1), provided the taxpayer regularly~~
 1005 ~~maintains its books of account and reports to its shareholders~~
 1006 ~~on the percentage of completion method. The election provided by~~
 1007 ~~this subsection shall be allowed only if it is made, in such~~
 1008 ~~manner as the department may prescribe, not later than the due~~
 1009 ~~date, including any extensions thereof, for filing a return for~~
 1010 ~~the taxpayer's first taxable year under this code in which a~~
 1011 ~~portion of its income is returned on the completed contract~~
 1012 ~~method of accounting for federal tax purposes. An election made~~
 1013 ~~pursuant to this subsection shall apply to all subsequent~~
 1014 ~~taxable years of the taxpayers unless the department consents in~~
 1015 ~~writing to its revocation.~~

1016 Section 18. Subsection (4) is added to section 220.735,
 1017 Florida Statutes, to read:

1018 220.735 Production of witnesses and records.—

1019 (4) The failure of a taxpayer to provide documents
 1020 available to, or required to be kept by, the taxpayer and
 1021 requested by a subpoena issued under this section creates a
 1022 presumption that the resulting proposed final agency action by
 1023 the department, as to the requested documents, is correct and
 1024 that the requested documents not produced by the taxpayer would
 1025 be adverse to the taxpayer's position as to the proposed final

1026 agency action. If a taxpayer fails to provide documents
1027 requested by a subpoena issued under this section, the
1028 department may determine the amount of tax due according to its
1029 best judgement and may issue a notice of deficiency to the
1030 taxpayer, setting forth the amount of tax and any penalties
1031 proposed to be assessed. The amount so determined shall be prima
1032 facie correct and shall be prima facie evidence of the
1033 correctness of the amount of tax due. The burden to show the
1034 contrary rests upon the taxpayer.

1035 Section 19. Paragraph (e) of subsection (3) of section
1036 443.131, Florida Statutes, is amended to read:

1037 443.131 Contributions.—

1038 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
1039 EXPERIENCE.—

1040 (e) *Assignment of variations from the standard rate.*—

1041 1. As used in this paragraph, the terms "total benefit
1042 payments," "benefits paid to an individual," and "benefits
1043 charged to the employment record of an employer" mean the amount
1044 of benefits paid to individuals multiplied by:

1045 a. For benefits paid before ~~prior to~~ July 1, 2007, 1.

1046 b. For benefits paid during the period beginning on July
1047 1, 2007, and ending March 31, 2011, 0.90.

1048 c. For benefits paid after March 31, 2011, 1.

1049 d. For benefits paid during the period beginning April 1,
1050 2020, and ending December 31, 2020, 0.

1051 e. For benefits paid during the period beginning January
 1052 1, 2021, and ending June 30, 2021, 1, except as otherwise
 1053 adjusted in accordance with paragraph (f).

1054 2. For the calculation of contribution rates effective
 1055 January 1, 2012, and thereafter:

1056 a. The tax collection service provider shall assign a
 1057 variation from the standard rate of contributions for each
 1058 calendar year to each eligible employer. In determining the
 1059 contribution rate, varying from the standard rate to be assigned
 1060 each employer, adjustment factors computed under sub-sub-
 1061 subparagraphs (I)-(IV) are added to the benefit ratio. This
 1062 addition shall be accomplished in two steps by adding a variable
 1063 adjustment factor and a final adjustment factor. The sum of
 1064 these adjustment factors computed under sub-sub-subparagraphs
 1065 (I)-(IV) shall first be algebraically summed. The sum of these
 1066 adjustment factors shall next be divided by a gross benefit
 1067 ratio determined as follows: Total benefit payments for the 3-
 1068 year period described in subparagraph (b)3. are charged to
 1069 employers eligible for a variation from the standard rate, minus
 1070 excess payments for the same period, divided by taxable payroll
 1071 entering into the computation of individual benefit ratios for
 1072 the calendar year for which the contribution rate is being
 1073 computed. The ratio of the sum of the adjustment factors
 1074 computed under sub-sub-subparagraphs (I)-(IV) to the gross
 1075 benefit ratio is multiplied by each individual benefit ratio

1076 that is less than the maximum contribution rate to obtain
 1077 variable adjustment factors; except that if the sum of an
 1078 employer's individual benefit ratio and variable adjustment
 1079 factor exceeds the maximum contribution rate, the variable
 1080 adjustment factor is reduced in order for the sum to equal the
 1081 maximum contribution rate. The variable adjustment factor for
 1082 each of these employers is multiplied by his or her taxable
 1083 payroll entering into the computation of his or her benefit
 1084 ratio. The sum of these products is divided by the taxable
 1085 payroll of the employers who entered into the computation of
 1086 their benefit ratios. The resulting ratio is subtracted from the
 1087 sum of the adjustment factors computed under sub-sub-
 1088 subparagraphs (I)-(IV) to obtain the final adjustment factor.
 1089 The variable adjustment factors and the final adjustment factor
 1090 must be computed to five decimal places and rounded to the
 1091 fourth decimal place. This final adjustment factor is added to
 1092 the variable adjustment factor and benefit ratio of each
 1093 employer to obtain each employer's contribution rate. An
 1094 employer's contribution rate may not, however, be rounded to
 1095 less than 0.1 percent. In determining the contribution rate,
 1096 varying from the standard rate to be assigned, the computation
 1097 shall exclude any benefit that is excluded by the multipliers
 1098 under subparagraph (b)2. and subparagraph 1. for rates effective
 1099 January 1, 2021, through December 31, 2025, notwithstanding the
 1100 repeal of subparagraph 5. as provided in chapter 2021-2, Laws of

1101 Florida. The computation of the contribution rate, varying from
1102 the standard rate to be assigned, shall also exclude any benefit
1103 paid as a result of a governmental order related to COVID-19 to
1104 close or reduce capacity of a business. In addition, the
1105 contribution rate for the 2021 and 2022 calendar years shall be
1106 calculated without the application of the positive adjustment
1107 factor in sub-sub-subparagraph (III).

1108 (I) An adjustment factor for noncharge benefits is
1109 computed to the fifth decimal place and rounded to the fourth
1110 decimal place by dividing the amount of noncharge benefits
1111 during the 3-year period described in subparagraph (b)3. by the
1112 taxable payroll of employers eligible for a variation from the
1113 standard rate who have a benefit ratio for the current year
1114 which is less than the maximum contribution rate. For purposes
1115 of computing this adjustment factor, the taxable payroll of
1116 these employers is the taxable payrolls for the 3 years ending
1117 June 30 of the current calendar year as reported to the tax
1118 collection service provider by September 30 of the same calendar
1119 year. As used in this sub-sub-subparagraph, the term "noncharge
1120 benefits" means benefits paid to an individual, as adjusted
1121 pursuant to subparagraph (b)2. and subparagraph 1., from the
1122 Unemployment Compensation Trust Fund which were not charged to
1123 the employment record of any employer, but excluding any benefit
1124 paid as a result of a governmental order related to COVID-19 to
1125 close or reduce capacity of a business.

1126 (II) An adjustment factor for excess payments is computed
1127 to the fifth decimal place, and rounded to the fourth decimal
1128 place by dividing the total excess payments during the 3-year
1129 period described in subparagraph (b)3. by the taxable payroll of
1130 employers eligible for a variation from the standard rate who
1131 have a benefit ratio for the current year which is less than the
1132 maximum contribution rate. For purposes of computing this
1133 adjustment factor, the taxable payroll of these employers is the
1134 same figure used to compute the adjustment factor for noncharge
1135 benefits under sub-sub-subparagraph (I). As used in this sub-
1136 subparagraph, the term "excess payments" means the amount of
1137 benefits charged to the employment record of an employer, as
1138 adjusted pursuant to subparagraph (b)2. and subparagraph 1.,
1139 during the 3-year period described in subparagraph (b)3., but
1140 excluding any benefit paid as a result of a governmental order
1141 related to COVID-19 to close or reduce capacity of a business,
1142 less the product of the maximum contribution rate and the
1143 employer's taxable payroll for the 3 years ending June 30 of the
1144 current calendar year as reported to the tax collection service
1145 provider by September 30 of the same calendar year. As used in
1146 this sub-sub-subparagraph, the term "total excess payments"
1147 means the sum of the individual employer excess payments for
1148 those employers that were eligible for assignment of a
1149 contribution rate different from the standard rate.

1150 (III) With respect to computing a positive adjustment

1151 factor:

1152 (A) Beginning January 1, 2012, if the balance of the
1153 Unemployment Compensation Trust Fund on September 30 of the
1154 calendar year immediately preceding the calendar year for which
1155 the contribution rate is being computed is less than 4 percent
1156 of the taxable payrolls for the year ending June 30 as reported
1157 to the tax collection service provider by September 30 of that
1158 calendar year, a positive adjustment factor shall be computed.
1159 The positive adjustment factor is computed annually to the fifth
1160 decimal place and rounded to the fourth decimal place by
1161 dividing the sum of the total taxable payrolls for the year
1162 ending June 30 of the current calendar year as reported to the
1163 tax collection service provider by September 30 of that calendar
1164 year into a sum equal to one-fifth of the difference between the
1165 balance of the fund as of September 30 of that calendar year and
1166 the sum of 5 percent of the total taxable payrolls for that
1167 year. The positive adjustment factor remains in effect for
1168 subsequent years until the balance of the Unemployment
1169 Compensation Trust Fund as of September 30 of the year
1170 immediately preceding the effective date of the contribution
1171 rate equals or exceeds 4 percent of the taxable payrolls for the
1172 year ending June 30 of the current calendar year as reported to
1173 the tax collection service provider by September 30 of that
1174 calendar year.

1175 (B) Beginning January 1, 2018, and for each year

1176 thereafter, the positive adjustment shall be computed by
1177 dividing the sum of the total taxable payrolls for the year
1178 ending June 30 of the current calendar year as reported to the
1179 tax collection service provider by September 30 of that calendar
1180 year into a sum equal to one-fourth of the difference between
1181 the balance of the fund as of September 30 of that calendar year
1182 and the sum of 5 percent of the total taxable payrolls for that
1183 year. The positive adjustment factor remains in effect for
1184 subsequent years until the balance of the Unemployment
1185 Compensation Trust Fund as of September 30 of the year
1186 immediately preceding the effective date of the contribution
1187 rate equals or exceeds 4 percent of the taxable payrolls for the
1188 year ending June 30 of the current calendar year as reported to
1189 the tax collection service provider by September 30 of that
1190 calendar year.

1191 (IV) If, beginning January 1, 2015, and each year
1192 thereafter, the balance of the Unemployment Compensation Trust
1193 Fund as of September 30 of the year immediately preceding the
1194 calendar year for which the contribution rate is being computed
1195 exceeds 5 percent of the taxable payrolls for the year ending
1196 June 30 of the current calendar year as reported to the tax
1197 collection service provider by September 30 of that calendar
1198 year, a negative adjustment factor must be computed. The
1199 negative adjustment factor shall be computed annually beginning
1200 on January 1, 2015, and each year thereafter, to the fifth

1201 decimal place and rounded to the fourth decimal place by
 1202 dividing the sum of the total taxable payrolls for the year
 1203 ending June 30 of the current calendar year as reported to the
 1204 tax collection service provider by September 30 of the calendar
 1205 year into a sum equal to one-fourth of the difference between
 1206 the balance of the fund as of September 30 of the current
 1207 calendar year and 5 percent of the total taxable payrolls of
 1208 that year. The negative adjustment factor remains in effect for
 1209 subsequent years until the balance of the Unemployment
 1210 Compensation Trust Fund as of September 30 of the year
 1211 immediately preceding the effective date of the contribution
 1212 rate is less than 5 percent, but more than 4 percent of the
 1213 taxable payrolls for the year ending June 30 of the current
 1214 calendar year as reported to the tax collection service provider
 1215 by September 30 of that calendar year. The negative adjustment
 1216 authorized by this section is suspended in any calendar year in
 1217 which repayment of the principal amount of an advance received
 1218 from the federal Unemployment Compensation Trust Fund under 42
 1219 U.S.C. s. 1321 is due to the Federal Government.

1220 (V) The maximum contribution rate that may be assigned to
 1221 an employer is 5.4 percent, except employers participating in an
 1222 approved short-time compensation plan may be assigned a maximum
 1223 contribution rate that is 1 percent greater than the maximum
 1224 contribution rate for other employers in any calendar year in
 1225 which short-time compensation benefits are charged to the

1226 employer's employment record.

1227 (VI) As used in this subsection, "taxable payroll" shall
1228 be determined by excluding any part of the remuneration paid to
1229 an individual by an employer for employment during a calendar
1230 year in excess of the first \$7,000. Beginning January 1, 2012,
1231 "taxable payroll" shall be determined by excluding any part of
1232 the remuneration paid to an individual by an employer for
1233 employment during a calendar year as described in s.

1234 443.1217(2). For the purposes of the employer rate calculation
1235 that will take effect in January 1, 2012, and in January 1,
1236 2013, the tax collection service provider shall use the data
1237 available for taxable payroll from 2009 based on excluding any
1238 part of the remuneration paid to an individual by an employer
1239 for employment during a calendar year in excess of the first
1240 \$7,000, and from 2010 and 2011, the data available for taxable
1241 payroll based on excluding any part of the remuneration paid to
1242 an individual by an employer for employment during a calendar
1243 year in excess of the first \$8,500.

1244 b. If the transfer of an employer's employment record to
1245 an employing unit under paragraph (g) which, before the
1246 transfer, was an employer, the tax collection service provider
1247 shall recompute a benefit ratio for the successor employer based
1248 on the combined employment records and reassign an appropriate
1249 contribution rate to the successor employer effective on the
1250 first day of the calendar quarter immediately after the

1251 effective date of the transfer.

1252 3. The tax collection service provider shall reissue rates
1253 for the 2021 calendar year. However, an employer shall continue
1254 to timely file its employer's quarterly reports and pay the
1255 contributions due in a timely manner in accordance with the
1256 rules of the Department of Economic Opportunity. The Department
1257 of Revenue shall post the revised rates on its website to enable
1258 employers to securely review the revised rates. For
1259 contributions for the first quarter of the 2021 calendar year,
1260 if any employer remits to the tax collection service provider an
1261 amount in excess of the amount that would be due as calculated
1262 pursuant to this paragraph, the tax collection service provider
1263 shall refund the excess amount from the amount erroneously
1264 collected. Notwithstanding s. 443.141(6), refunds issued through
1265 August 31, 2021, for first quarter 2021 contributions must be
1266 paid from the General Revenue Fund.

1267 4. The tax collection service provider shall calculate and
1268 assign contribution rates effective January 1, 2022, through
1269 December 31, 2022, excluding any benefit charge that is excluded
1270 by the multipliers under subparagraph (b)2. and subparagraph 1.;
1271 without the application of the positive adjustment factor in
1272 sub-sub-subparagraph 2.a.(III); and without the inclusion of any
1273 benefit charge directly related to COVID-19 as a result of a
1274 governmental order to close or reduce capacity of a business, as
1275 determined by the Department of Economic Opportunity, for each

1276 employer ~~who is~~ eligible for a variation from the standard rate
1277 pursuant to paragraph (d). The Department of Economic
1278 Opportunity shall provide the tax collection service provider
1279 with all necessary benefit charge information by August 1, 2021,
1280 including specific information for adjustments related to COVID-
1281 19 charges resulting from a governmental order to close or
1282 reduce capacity of a business, to enable the tax collection
1283 service provider to calculate and issue tax rates effective
1284 January 1, 2022. The tax collection service provider shall
1285 calculate and post rates for the 2022 calendar year by March 1,
1286 2022.

1287 5. Subject to subparagraph 6., the tax collection service
1288 provider shall calculate and assign contribution rates effective
1289 January 1, 2023, through December 31, 2025, excluding any
1290 benefit charge that is excluded by the multipliers under
1291 subparagraph (b)2. and subparagraph 1.; without the application
1292 of the positive adjustment factor in sub-sub-subparagraph
1293 2.a.(III); and without the inclusion of any benefit charge
1294 directly related to COVID-19 as a result of a governmental order
1295 to close or reduce capacity of a business, as determined by the
1296 Department of Economic Opportunity, for each employer ~~who is~~
1297 eligible for a variation from the standard rate pursuant to
1298 paragraph (d). The Department of Economic Opportunity shall
1299 provide the tax collection service provider with all necessary
1300 benefit charge information by August 1 of each year, including

1301 specific information for adjustments related to COVID-19 charges
 1302 resulting from a governmental order to close or reduce capacity
 1303 of a business, to enable the tax collection service provider to
 1304 calculate and issue tax rates effective the following January.

1305 6. If the balance of the Unemployment Compensation Trust
 1306 Fund on June 30 of any year exceeds \$4,071,519,600, subparagraph
 1307 5. is repealed for rates effective the following years. The
 1308 Office of Economic and Demographic Research shall advise the tax
 1309 collection service provider of the balance of the trust fund on
 1310 June 30 by August 1 of that year. After the repeal of
 1311 subparagraph 5. and notwithstanding the dates specified in that
 1312 subparagraph, the tax collection service provider shall
 1313 calculate and assign contribution rates for each subsequent
 1314 calendar year as otherwise provided in this section.

1315 Section 20. Paragraph (a) of subsection (9) of section
 1316 443.171, Florida Statutes, is amended to read:

1317 443.171 Department of Economic Opportunity and commission;
 1318 powers and duties; records and reports; proceedings; state-
 1319 federal cooperation.—

1320 (9) STATE-FEDERAL COOPERATION.—

1321 (a)1. In the administration of this chapter, the
 1322 Department of Economic Opportunity and its tax collection
 1323 service provider shall cooperate with the United States
 1324 Department of Labor to the fullest extent consistent with this
 1325 chapter and shall take those actions, through the adoption of

1326 appropriate rules, administrative methods, and standards,
 1327 necessary to secure for this state all advantages available
 1328 under the provisions of federal law relating to reemployment
 1329 assistance.

1330 2. In the administration of the provisions in s. 443.1115,
 1331 which are enacted to conform with the Federal-State Extended
 1332 Unemployment Compensation Act of 1970, the department shall take
 1333 those actions necessary to ensure that those provisions are
 1334 interpreted and applied to meet the requirements of the federal
 1335 act as interpreted by the United States Department of Labor and
 1336 to secure for this state the full reimbursement of the federal
 1337 share of extended benefits paid under this chapter which is
 1338 reimbursable under the federal act.

1339 3. The department and its tax collection service provider
 1340 shall comply with the regulations of the United States
 1341 Department of Labor relating to the receipt or expenditure by
 1342 this state of funds granted under federal law; shall submit the
 1343 reports in the form and containing the information the United
 1344 States Department of Labor requires; and shall comply with
 1345 directions of the United States Department of Labor necessary to
 1346 assure the correctness and verification of these reports.

1347 4. The department and its tax collection service provider
 1348 shall comply with the requirements of the federal Treasury
 1349 Offset Program as it pertains to the recovery of unemployment
 1350 compensation debts as required by the United States Department

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1351 | of Labor pursuant to 26 U.S.C. 6402. The department or the tax
1352 | collection service provider may adopt rules to implement this
1353 | subparagraph.

1354 | Section 21. This act shall take effect July 1, 2022.