

By the Committee on Finance and Tax; and Senator Gruters

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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 certain
5 circumstances; amending s. 120.80, F.S.; prohibiting
6 taxpayers from submitting certain records in tax
7 proceedings under certain circumstances; amending s.
8 202.34, F.S.; authorizing the Department of Revenue to
9 respond to contact initiated by taxpayers to discuss
10 audits; authorizing taxpayers to provide records and
11 other information to the department; authorizing the
12 department to examine documentation and other
13 information; providing construction; requiring
14 taxpayers to object to premature audits within a
15 certain timeframe; providing that a tolling period is
16 considered lifted under certain circumstances;
17 authorizing the department to adopt rules; amending
18 ss. 202.36, 206.14, 211.125, 212.14, and 220.735,
19 F.S.; creating rebuttable presumptions regarding
20 proposed final agency action by the department;
21 authorizing the department to make assessments and
22 determine taxes using specified methods under certain
23 circumstances; requiring the department to inform the
24 taxpayer of certain information; providing
25 construction; amending s. 206.9931, F.S.; deleting
26 obsolete language; amending s. 212.05, F.S.;
27 clarifying conditions for application of an exemption
28 for sales taxes for certain nonresident purchasers of
29 boats or aircraft; revising requirements for an

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30 affidavit; amending s. 212.13, F.S.; defining the
31 terms "dealer," "division," and "transferor";
32 requiring dealers to maintain specified records;
33 authorizing the department to issue written requests
34 for such records under certain circumstances;
35 authorizing the department to suspend resale
36 certificates issued to dealers under certain
37 circumstances; specifying procedures for suspension of
38 resale certificates; providing construction; requiring
39 the department to notify the Division of Alcoholic
40 Beverages and Tobacco of the Department of Business
41 and Professional Regulation and dealers upon dealers'
42 failure to comply with department requests for
43 records; requiring the department to publish certain
44 information regarding dealers with suspended resale
45 certificates; authorizing transferors to discontinue
46 accepting orders from dealers with suspended resale
47 certificates within a specified timeframe; providing
48 construction; authorizing the department to adopt
49 rules; authorizing the department to respond to
50 contact initiated by taxpayers to discuss audits;
51 authorizing taxpayers to provide records and other
52 information; authorizing the department to examine
53 documentation and other information; providing
54 construction; requiring taxpayers to object in writing
55 to premature audits within a certain timeframe;
56 providing that a tolling period is considered lifted
57 under certain circumstances; authorizing the
58 department to adopt rules; amending s. 213.051, F.S.;

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59 authorizing the department to serve subpoenas on
60 businesses registered with the department; providing
61 construction; amending s. 215.053, F.S.; authorizing
62 the department to publish certain information
63 regarding dealers with suspended resale certificates;
64 requiring the department to update such information;
65 authorizing the department to adopt rules; amending s.
66 213.06, F.S.; revising the period in which, and
67 conditions under which, the executive director of the
68 department may adopt emergency rules; providing for an
69 exemption from the Administrative Procedure Act for
70 any such emergency rules; specifying conditions
71 regarding the effectiveness and the renewal of
72 emergency rules; providing construction; amending s.
73 213.21, F.S.; providing for tolling of the statute of
74 limitations upon the issuance of assessments, rather
75 than final assessments; authorizing a taxpayer's
76 liability to be settled or compromised under certain
77 circumstances; creating a rebuttable presumption;
78 conforming a provision to changes made by the act;
79 specifying the conditions for the department to
80 consider requests to settle or compromise any tax,
81 interest, penalty, or other liability; providing
82 construction; amending s. 213.34, F.S.; revising audit
83 procedures of the department; authorizing the
84 department to adopt rules; requiring the department to
85 refund any overpayments; amending s. 213.345, F.S.;
86 specifying conditions under which a period is tolled
87 during an audit; providing construction; amending s.

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88 213.67, F.S.; authorizing the executive director of
89 the department or his or her designee to include
90 additional daily accrued interest, costs, and fees in
91 a garnishment levy notice; revising methods for
92 delivery of levy notices; amending s. 220.42, F.S.;
93 deleting obsolete language; amending s. 443.131, F.S.;
94 excluding certain benefit charges from the employer
95 reemployment assistance contribution rate calculation;
96 amending s. 443.171, F.S.; requiring the department
97 and its tax collection service provider to comply with
98 requirements of the federal Treasury Offset Program;
99 authorizing the department or the tax collection
100 service provider to adopt rules; providing an
101 effective date.

102
103 Be It Enacted by the Legislature of the State of Florida:

104
105 Section 1. Paragraph (c) is added to subsection (1) of
106 section 72.011, Florida Statutes, to read:

107 72.011 Jurisdiction of circuit courts in specific tax
108 matters; administrative hearings and appeals; time for
109 commencing action; parties; deposits.-

110 (1)

111 (c) A taxpayer may not submit records pertaining to an
112 assessment or refund claim as evidence in any proceeding under
113 this section if those records were available to, or required to
114 be kept by, the taxpayer and were not timely provided to the
115 Department of Revenue after a written request for the records
116 during the audit or protest period and before submission of a

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117 petition for hearing pursuant to chapter 120 or the filing of an
118 action under paragraph (a), unless the taxpayer demonstrates to
119 the court or presiding officer good cause for its failure to
120 previously provide such records to the department.

121 Section 2. Paragraph (b) of subsection (14) of section
122 120.80, Florida Statutes, is amended to read:

123 120.80 Exceptions and special requirements; agencies.—

124 (14) DEPARTMENT OF REVENUE.—

125 (b) *Taxpayer contest proceedings.*—

126 1. In any administrative proceeding brought pursuant to
127 this chapter as authorized by s. 72.011(1), the taxpayer shall
128 be designated the "petitioner" and the Department of Revenue
129 shall be designated the "respondent," except that for actions
130 contesting an assessment or denial of refund under chapter 207,
131 the Department of Highway Safety and Motor Vehicles shall be
132 designated the "respondent," and for actions contesting an
133 assessment or denial of refund under chapters 210, 550, 561,
134 562, 563, 564, and 565, the Department of Business and
135 Professional Regulation shall be designated the "respondent."

136 2. In any such administrative proceeding, the applicable
137 department's burden of proof, except as otherwise specifically
138 provided by general law, shall be limited to a showing that an
139 assessment has been made against the taxpayer and the factual
140 and legal grounds upon which the applicable department made the
141 assessment.

142 3.a. Before ~~Prior to~~ filing a petition under this chapter,
143 the taxpayer shall pay to the applicable department the amount
144 of taxes, penalties, and accrued interest assessed by that
145 department which are not being contested by the taxpayer.

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146 Failure to pay the uncontested amount shall result in the
147 dismissal of the action and imposition of an additional penalty
148 of 25 percent of the amount taxed.

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

154 4. Except as provided in s. 220.719, further collection and
155 enforcement of the contested amount of an assessment for
156 nonpayment or underpayment of any tax, interest, or penalty
157 shall be stayed beginning on the date a petition is filed. Upon
158 entry of a final order, an agency may resume collection and
159 enforcement action.

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

165 6. Upon review pursuant to s. 120.68 of final agency action
166 concerning an assessment of tax, penalty, or interest with
167 respect to a tax imposed under chapter 212, or the denial of a
168 refund of any tax imposed under chapter 212, if the court finds
169 that the Department of Revenue improperly rejected or modified a
170 conclusion of law, the court may award reasonable attorney
171 ~~attorney's~~ fees and reasonable costs of the appeal to the
172 prevailing appellant.

173 7. A taxpayer may not submit records pertaining to an
174 assessment or refund claim as evidence in any proceeding brought

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175 pursuant to this chapter as authorized by s. 72.011(1) if those
176 records were available to, or required to be kept by, the
177 taxpayer and were not timely provided to the Department of
178 Revenue after a written request for the records during the audit
179 or protest period and before submission of a petition for
180 hearing under this chapter, unless the taxpayer demonstrates
181 good cause to the presiding officer for its failure to
182 previously provide such records to the department.

183 Section 3. Paragraph (f) is added to subsection (4) of
184 section 202.34, Florida Statutes, and subsection (6) is added to
185 that section, to read:

186 202.34 Records required to be kept; power to inspect; audit
187 procedure.—

188 (4)

189 (f) Once the notification required by paragraph (a) is
190 issued, the department, at any time, may respond to contact
191 initiated by a taxpayer to discuss the audit, and the taxpayer
192 may provide records or other information, electronically or
193 otherwise, to the department. The department may examine, at any
194 time, documentation and other information voluntarily provided
195 by the taxpayer, its representative, or other parties;
196 information already in the department's possession; or publicly
197 available information. The department's examination of such
198 information does not mean an audit has commenced if the review
199 takes place within 60 days after the notice of intent to conduct
200 an audit. The requirement in paragraph (a) does not limit the
201 department in making initial contact with the taxpayer to
202 confirm receipt of the notification or to confirm the date that
203 the audit will begin. If the taxpayer has not previously waived

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204 the 60-day notice period and believes the department commenced
205 the audit prior to the 61st day, the taxpayer must object in
206 writing to the department before the issuance of an assessment
207 or the objection is waived. If the objection is not waived and
208 it is determined that the audit was commenced before the 61st
209 day after the issuance of the notice of intent to audit, the
210 tolling period provided for in s. 213.345 is considered lifted
211 for the number of days equal to the difference between the date
212 the audit commenced and the 61st day after the date of the
213 department's notice of intent to audit.

214 (6) The department may adopt rules to administer this
215 section.

216 Section 4. Paragraph (a) of subsection (4) of section
217 202.36, Florida Statutes, is amended to read:

218 202.36 Departmental powers; hearings; distress warrants;
219 bonds; subpoenas and subpoenas duces tecum.—

220 (4) (a) The department may issue subpoenas or subpoenas
221 duces tecum compelling the attendance and testimony of witnesses
222 and the production of books, records, written materials, and
223 electronically recorded information. Subpoenas must be issued
224 with the written and signed approval of the executive director
225 or his or her designee on a written and sworn application by any
226 employee of the department. The application must set forth the
227 reason for the application, the name of the person subpoenaed,
228 the time and place of appearance of the witness, and a
229 description of any books, records, or electronically recorded
230 information to be produced, together with a statement by the
231 applicant that the department has unsuccessfully attempted other
232 reasonable means of securing information and that the testimony

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233 of the witness or the written or electronically recorded
234 materials sought in the subpoena are necessary for the
235 collection of taxes, penalty, or interest or the enforcement of
236 the taxes levied or administered under this chapter. A subpoena
237 shall be served in the manner provided by law and by the Florida
238 Rules of Civil Procedure and shall be returnable only during
239 regular business hours and at least 20 calendar days after the
240 date of service of the subpoena. Any subpoena to which this
241 subsection applies must identify the taxpayer to whom the
242 subpoena relates and to whom the records pertain and must
243 provide other information to enable the person subpoenaed to
244 locate the records required under the subpoena. The department
245 shall give notice to the taxpayer to whom the subpoena relates
246 within 3 days after the day on which the service of the subpoena
247 is made. Within 14 days after service of the subpoena, the
248 person to whom the subpoena is directed may serve written
249 objection to the inspection or copying of any of the designated
250 materials. If objection is made, the department may not inspect
251 or copy the materials, except pursuant to an order of the
252 circuit court. If an objection is made, the department may
253 petition any circuit court for an order to comply with the
254 subpoena. The subpoena must contain a written notice of the
255 right to object to the subpoena. Every subpoena served upon the
256 witness or custodian of records must be accompanied by a copy of
257 ~~the provisions of~~ this subsection. If a person refuses to obey a
258 subpoena or subpoena duces tecum, the department may apply to
259 any circuit court of this state to enforce compliance with the
260 subpoena. Witnesses are entitled to be paid a mileage allowance
261 and witness fees as authorized for witnesses in civil cases. The

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262 failure of a taxpayer to provide documents available to, or
263 required to be kept by, the taxpayer and requested by a subpoena
264 issued under this section creates a rebuttable presumption that
265 the resulting proposed final agency action by the department, as
266 to the requested documents, is correct and that the requested
267 documents not produced by the taxpayer would be adverse to the
268 taxpayer's position as to the proposed final agency action. If a
269 taxpayer fails to provide documents requested by a subpoena
270 issued under this section, the department may make an assessment
271 from an estimate based upon the best information then available
272 to it for the taxable period of retail sales of the taxpayer,
273 together with any accrued interest and penalties. The department
274 shall inform the taxpayer of the reason for the estimate and the
275 information and methodology used to derive the estimate. Such
276 assessment shall be deemed prima facie correct, and the burden
277 to show the contrary rests upon the dealer or other person. The
278 presumption and authority to use estimates for the purpose of
279 assessment under this paragraph do not apply solely because a
280 taxpayer or its representative requests a conference to
281 negotiate the production of a sample of records demanded by a
282 subpoena.

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

285 206.14 Inspection of records; audits; hearings; forms;
286 rules and regulations.—

287 (4) If any person unreasonably refuses access to such
288 records, books, papers or other documents, or equipment, or if
289 any person fails or refuses to obey such subpoenas duces tecum
290 or to testify, except for lawful reasons, before the department

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291 or any of its authorized agents, the department shall certify
292 the names and facts to the clerk of the circuit court of any
293 county; and the circuit court shall enter such order against
294 such person in the premises as the enforcement of this law and
295 justice requires. The failure of a taxpayer to provide documents
296 available to, or required to be kept by, the taxpayer and
297 requested by a subpoena issued under this section creates a
298 rebuttable presumption that the resulting proposed final agency
299 action by the department, as to the requested documents, is
300 correct and that the requested documents not produced by the
301 taxpayer would be adverse to the taxpayer's position as to the
302 proposed final agency action. If a taxpayer fails to provide
303 documents requested by a subpoena issued under this section, the
304 department may make an assessment from an estimate of the
305 taxpayer's liability based upon the best information then
306 available to it. The department shall inform the taxpayer of the
307 reason for the estimate and the information and methodology used
308 to derive the estimate. Such assessment shall be deemed prima
309 facie correct, and the burden to show the contrary rests upon
310 the dealer or other person. The presumption and authority to use
311 estimates for the purpose of assessment under this paragraph do
312 not apply solely because a taxpayer or its representative
313 requests a conference to negotiate the production of a sample of
314 records demanded by a subpoena.

315 Section 6. Subsection (1) of section 206.9931, Florida
316 Statutes, is amended to read:

317 206.9931 Administrative provisions.—

318 (1) Any person producing in, importing into, or causing to
319 be imported into this state taxable pollutants for sale, use, or

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320 otherwise and who is not registered or licensed pursuant to
321 other parts of this chapter is hereby required to register and
322 become licensed for the purposes of this part. Such person shall
323 register as either a producer or importer of pollutants and
324 shall be subject to all applicable registration and licensing
325 provisions of this chapter, as if fully set out in this part and
326 made expressly applicable to the taxes imposed herein,
327 including, but not limited to, ss. 206.02, 206.021, 206.022,
328 206.025, 206.03, 206.04, and 206.05. For the purposes of this
329 section, registrations required exclusively for this part shall
330 be made within 90 days of July 1, 1986, for existing businesses,
331 or before ~~prior to~~ the first production or importation of
332 pollutants for businesses created after July 1, 1986. ~~The fee~~
333 ~~for registration shall be \$30.~~ Failure to timely register is a
334 misdemeanor of the first degree, punishable as provided in s.
335 775.082 or s. 775.083.

336 Section 7. Paragraph (b) of subsection (3) of section
337 211.125, Florida Statutes, is amended to read:

338 211.125 Administration of law; books and records; powers of
339 the department; refunds; enforcement provisions;
340 confidentiality.-

341 (3)

342 (b) The department may ~~shall have the power to~~ inspect or
343 examine the books, records, or papers of any operator, producer,
344 purchaser, royalty interest owner, taxpayer, or transporter of
345 taxable products which are reasonably required for the purposes
346 of this part and may require such person to testify under oath
347 or affirmation or to answer competent questions touching upon
348 such person's business or production of taxable products in this

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349 ~~the~~ state.

350 1. The department may issue subpoenas to compel third
351 parties to testify or to produce records or other evidence held
352 by them.

353 2. Any duly authorized representative of the department may
354 administer an oath or affirmation.

355 3. If any person fails to comply with a request of the
356 department for the inspection of records, fails to give
357 testimony or respond to competent questions, or fails to comply
358 with a subpoena, a circuit court having jurisdiction over such
359 person may, upon application by the department, issue orders
360 necessary to secure compliance. The failure of a taxpayer to
361 provide documents available to, or required to be kept by, the
362 taxpayer and requested by a subpoena issued under this section
363 creates a rebuttable presumption that the resulting proposed
364 final agency action by the department, as to the requested
365 documents, is correct and that the requested documents not
366 produced by the taxpayer would be adverse to the taxpayer's
367 position as to the proposed final agency action. If a taxpayer
368 fails to provide documents requested by a subpoena issued under
369 this section, the department may make an assessment from an
370 estimate based upon the best information then available to it.
371 The department shall inform the taxpayer of the reason for the
372 estimate and the information and methodology used to derive the
373 estimate. Such assessment shall be considered prima facie
374 correct, and the taxpayer shall have the burden of showing any
375 error in it.

376 Section 8. Paragraph (a) of subsection (1) of section
377 212.05, Florida Statutes, is amended to read:

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378 212.05 Sales, storage, use tax.—It is hereby declared to be
379 the legislative intent that every person is exercising a taxable
380 privilege who engages in the business of selling tangible
381 personal property at retail in this state, including the
382 business of making or facilitating remote sales; who rents or
383 furnishes any of the things or services taxable under this
384 chapter; or who stores for use or consumption in this state any
385 item or article of tangible personal property as defined herein
386 and who leases or rents such property within the state.

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

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

395 b. Each occasional or isolated sale of an aircraft, boat,
396 mobile home, or motor vehicle of a class or type which is
397 required to be registered, licensed, titled, or documented in
398 this state or by the United States Government is ~~shall be~~
399 subject to tax at the rate provided in this paragraph. The
400 department shall by rule adopt any nationally recognized
401 publication for valuation of used motor vehicles as the
402 reference price list for any used motor vehicle which is
403 required to be licensed pursuant to s. 320.08(1), (2), (3)(a),
404 (b), (c), or (e), or (9). If any party to an occasional or
405 isolated sale of such a vehicle reports to the tax collector a
406 sales price which is less than 80 percent of the average loan

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407 price for the specified model and year of such vehicle as listed
408 in the most recent reference price list, the tax levied under
409 this paragraph shall be computed by the department on such
410 average loan price unless the parties to the sale have provided
411 to the tax collector an affidavit signed by each party, or other
412 substantial proof, stating the actual sales price. Any party to
413 such sale who reports a sales price less than the actual sales
414 price is guilty of a misdemeanor of the first degree, punishable
415 as provided in s. 775.082 or s. 775.083. The department shall
416 collect or attempt to collect from such party any delinquent
417 sales taxes. In addition, such party shall pay any tax due and
418 any penalty and interest assessed plus a penalty equal to twice
419 the amount of the additional tax owed. Notwithstanding any other
420 provision of law, the Department of Revenue may waive or
421 compromise any penalty imposed pursuant to this subparagraph.

422 2. This paragraph does not apply to the sale of a boat or
423 aircraft by or through a registered dealer under this chapter to
424 a purchaser who, at the time of taking delivery, is a
425 nonresident of this state, does not make his or her permanent
426 place of abode in this state, and is not engaged in carrying on
427 in this state any employment, trade, business, or profession in
428 which the boat or aircraft will be used in this state, or is a
429 corporation none of the officers or directors of which is a
430 resident of, or makes his or her permanent place of abode in,
431 this state, or is a noncorporate entity that has no individual
432 vested with authority to participate in the management,
433 direction, or control of the entity's affairs who is a resident
434 of, or makes his or her permanent abode in, this state. For
435 purposes of this exemption, either a registered dealer acting on

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436 his or her own behalf as seller, a registered dealer acting as
437 broker on behalf of a seller, or a registered dealer acting as
438 broker on behalf of the nonresident purchaser may be deemed to
439 be the selling dealer. This exemption is ~~shall~~ not be allowed
440 unless:

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

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

452 (II) The nonresident purchaser removes the aircraft from
453 this ~~the~~ state to a foreign jurisdiction within 10 days after
454 the date the aircraft is registered by the applicable foreign
455 airworthiness authority; and

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

458
459 For purposes of this sub-subparagraph, the term "foreign
460 jurisdiction" means any jurisdiction outside of the United
461 States or any of its territories;

462 b. The nonresident purchaser, within 90 days after from ~~from~~ the
463 date of departure, provides the department with written proof
464 that the nonresident purchaser licensed, registered, titled, or

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465 documented the boat or aircraft outside this ~~the~~ state. If such
466 written proof is unavailable, within 90 days the nonresident
467 purchaser must ~~shall~~ provide proof that the nonresident
468 purchaser applied for such license, title, registration, or
469 documentation. The nonresident purchaser shall forward to the
470 department proof of title, license, registration, or
471 documentation upon receipt;

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

478 d. The selling dealer, within 30 days after the date of
479 sale, provides to the department a copy of the sales invoice,
480 closing statement, bills of sale, and the original affidavit
481 signed by the nonresident purchaser affirming that the
482 nonresident purchaser qualifies for exemption from sales tax
483 pursuant to this subparagraph and attesting that the nonresident
484 purchaser will provide the documentation required to
485 substantiate the exemption claimed under this subparagraph
486 ~~attesting that he or she has read the provisions of this~~
487 ~~section;~~

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

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

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494 repairs or alterations, the nonresident purchaser applies to the
495 selling dealer for a decal which authorizes 90 days after the
496 date of purchase for removal of the boat. The nonresident
497 purchaser of a qualifying boat may apply to the selling dealer
498 within 60 days after the date of purchase for an extension decal
499 that authorizes the boat to remain in this state for an
500 additional 90 days, but not more than a total of 180 days,
501 before the nonresident purchaser is required to pay the tax
502 imposed by this chapter. The department is authorized to issue
503 decals in advance to dealers. The number of decals issued in
504 advance to a dealer shall be consistent with the volume of the
505 dealer's past sales of boats which qualify under this sub-
506 subparagraph. The selling dealer or his or her agent shall mark
507 and affix the decals to qualifying boats in the manner
508 prescribed by the department, before delivery of the boat.

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

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

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

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

521 (V) Any dealer or his or her agent who issues a decal
522 falsely, fails to affix a decal, mismarks the expiration date of

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523 a decal, or fails to properly account for decals will be
524 considered prima facie to have committed a fraudulent act to
525 evade the tax and will be liable for payment of the tax plus a
526 mandatory penalty of 200 percent of the tax, and shall be liable
527 for fine and punishment as provided by law for a conviction of a
528 misdemeanor of the first degree, as provided in s. 775.082 or s.
529 775.083.

530 (VI) Any nonresident purchaser of a boat who removes a
531 decal before permanently removing the boat from this ~~the~~ state,
532 or defaces, changes, modifies, or alters a decal in a manner
533 affecting its expiration date before its expiration, or who
534 causes or allows the same to be done by another, will be
535 considered prima facie to have committed a fraudulent act to
536 evade the tax and will be liable for payment of the tax plus a
537 mandatory penalty of 200 percent of the tax, and shall be liable
538 for fine and punishment as provided by law for a conviction of a
539 misdemeanor of the first degree, as provided in s. 775.082 or s.
540 775.083.

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

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

547
548 If the nonresident purchaser fails to remove the qualifying boat
549 from this state within the maximum 180 days after purchase or a
550 nonqualifying boat or an aircraft from this state within 10 days
551 after purchase or, when the boat or aircraft is repaired or

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

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

568 212.13 Records required to be kept; power to inspect; audit
569 procedure.—

570 (2) (a) Each dealer, as defined in this chapter, shall
571 secure, maintain, and keep as long as required by s. 213.35 a
572 complete record of tangible personal property or services
573 received, used, sold at retail, distributed or stored, leased or
574 rented by said dealer, together with invoices, bills of lading,
575 gross receipts from such sales, and other pertinent records and
576 papers as may be required by the department for the reasonable
577 administration of this chapter. All such records must be made
578 available to the department at reasonable times and places and
579 by reasonable means, including in an electronic format when so
580 kept by the dealer. Any dealer subject to this chapter who

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581 violates this subsection commits a misdemeanor of the first
582 degree, punishable as provided in s. 775.082 or s. 775.083. If,
583 however, any subsequent offense involves intentional destruction
584 of such records with an intent to evade payment of or deprive
585 the state of any tax revenues, such subsequent offense is a
586 felony of the third degree, punishable as provided in s. 775.082
587 or s. 775.083.

588 (b)1. As used in this paragraph, the term:

589 a. "Dealer" means a dealer, as defined in s. 212.06, which
590 is licensed under chapter 561.

591 b. "Division" means the Division of Alcoholic Beverages and
592 Tobacco of the Department of Business and Professional
593 Regulation.

594 c. "Transferor" means an entity or person, licensed under
595 chapter 561, who sells and delivers alcoholic beverages to a
596 dealer for purposes of resale.

597 2. Dealers shall maintain records of all monthly sales and
598 all monthly purchases of alcoholic beverages and produce such
599 records for inspection by the department. During the course of
600 an audit, if the department has made a formal demand for such
601 records and a dealer has failed to comply with such a demand,
602 the department may issue a written request for such records to
603 the dealer, allowing the dealer an additional 20 days to provide
604 the requested records or show reasonable cause why the records
605 cannot be produced. If the dealer fails to produce the requested
606 records or show reasonable cause why the records cannot be
607 produced, the department shall issue a notice of intent to
608 suspend the dealer's resale certificate. The dealer shall then
609 have 20 days to file a petition with the department challenging

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610 the proposed action pursuant to s. 120.569. If the dealer fails
611 to timely file a petition or the department prevails in a
612 proceeding challenging the notice, the department shall suspend
613 the resale certificate. The failure of a dealer to comply with
614 such a request is also deemed sufficient cause under s.
615 561.29(1)(a), and the department shall promptly notify the
616 division and the dealer of such failure for further appropriate
617 action by the division.

618 3. The department shall notify the division when a dealer's
619 resale certificate is suspended, and shall publish a list of
620 dealers whose resale certificates have been suspended as
621 permitted by s. 213.053(21). The division shall include notice
622 of such suspension in its license verification database, or
623 provide a link to the department's published list from the
624 division's license verification page.

625 4. A transferor is allowed 7 days, inclusive of any
626 Saturday, Sunday, or legal holiday, after the date of
627 publication to the department's list that the resale certificate
628 of a dealer has been suspended to discontinue accepting orders
629 from and delivering alcohol beverages to the dealer.

630 5. A transferor who sells alcoholic beverages to a dealer
631 whose resale certificate has been suspended is not responsible
632 for any tax, penalty, or interest due if the alcoholic beverages
633 are delivered no more than 7 days, inclusive of any Saturday,
634 Sunday, or legal holiday, after the date of publication of the
635 suspension.

636 6. The department may adopt rules to implement this
637 paragraph.

638 (5) (a) The department shall send written notification at

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639 least 60 days before ~~prior to~~ the date an auditor is scheduled
640 to begin an audit, informing the taxpayer of the audit. The
641 department is not required to give 60 days' prior notification
642 of a forthcoming audit in any instance in which the taxpayer
643 requests an emergency audit.

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

645 1. The approximate date on which the auditor is scheduled
646 to begin the audit.

647 2. A reminder that all of the records, receipts, invoices,
648 resale certificates, and related documentation of the taxpayer
649 must be made available to the auditor.

650 3. Any other requests or suggestions the department may
651 deem necessary.

652 (c) Only records, receipts, invoices, resale certificates,
653 and related documentation that ~~which~~ are available to the
654 auditor when such audit begins are ~~shall be~~ deemed acceptable
655 for the purposes of conducting such audit. A resale certificate
656 containing a date before ~~prior to~~ the date the audit commences
657 is ~~shall be~~ deemed acceptable documentation of the specific
658 transaction or transactions which occurred in the past, for the
659 purpose of conducting an audit.

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

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

666 (f) Once the notification required by paragraph (a) is
667 issued, the department, at any time, may respond to contact

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668 initiated by a taxpayer to discuss the audit, and the taxpayer
669 may provide documentation or other information, electronically
670 or otherwise, to the department. The department may examine, at
671 any time, documentation and other information voluntarily
672 provided by the taxpayer, its representative, or other parties;
673 information already in the department's possession; or publicly
674 available information. The department's examination of such
675 information does not mean an audit has commenced if the review
676 takes place within 60 days after the notice of intent to conduct
677 an audit. The requirement in paragraph (a) does not limit the
678 department in making initial contact with the taxpayer to
679 confirm receipt of the notification or to confirm the date that
680 the audit will begin. If the taxpayer has not previously waived
681 the 60-day notice period and believes the department commenced
682 the audit prior to the 61st day, the taxpayer must object in
683 writing to the department before the issuance of an assessment
684 or else the objection is waived. If the objection is not waived
685 and it is determined that the audit was commenced before the
686 61st day after the issuance of the notice of intent to audit,
687 the tolling period provided for in s. 213.345 is considered
688 lifted for the number of days equal to the difference between
689 the date the audit commenced and the 61st day after the date of
690 the department's notice of intent to audit.

691 (7) The department may adopt rules to administer this
692 section.

693 Section 10. Paragraph (a) of subsection (7) of section
694 212.14, Florida Statutes, is amended to read:

695 212.14 Departmental powers; hearings; distress warrants;
696 bonds; subpoenas and subpoenas duces tecum.-

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697 (7) (a) For purposes of collection and enforcement of taxes,
698 penalties, and interest levied under this chapter, the
699 department may issue subpoenas or subpoenas duces tecum
700 compelling the attendance and testimony of witnesses and the
701 production of books, records, written materials, and
702 electronically recorded information. Subpoenas shall be issued
703 with the written and signed approval of the executive director
704 or his or her designee on written and sworn application by any
705 employee of the department. The application must set forth the
706 reason for the application, the name of the person subpoenaed,
707 the time and place of appearance of the witness, and a
708 description of any books, records, or electronically recorded
709 information to be produced, together with a statement by the
710 applicant that the department has unsuccessfully attempted other
711 reasonable means of securing information and that the testimony
712 of the witness or the written or electronically recorded
713 materials sought in the subpoena are necessary for the
714 collection of taxes, penalty, or interest or the enforcement of
715 the taxes levied under this chapter. A subpoena must ~~shall~~ be
716 served in the manner provided by law and by the Florida Rules of
717 Civil Procedure and is ~~shall be~~ returnable only during regular
718 business hours and at least 20 calendar days after the date of
719 service of the subpoena. Any subpoena to which this subsection
720 applies must ~~shall~~ identify the taxpayer to whom the subpoena
721 relates and to whom the records pertain and must ~~shall~~ provide
722 other information to enable the person subpoenaed to locate the
723 records required under the subpoena. The department shall give
724 notice to the taxpayer to whom the subpoena relates within 3
725 days after ~~of~~ the day on which the service of the subpoena is

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726 made. Within 14 days after service of the subpoena, the person
727 to whom the subpoena is directed may serve written objection to
728 inspection or copying of any of the designated materials. If
729 objection is made, the department is ~~shall~~ not ~~be~~ entitled to
730 inspect and copy the materials, except pursuant to an order of
731 the circuit court. If an objection is made, the department may
732 petition any circuit court for an order to comply with the
733 subpoena. The subpoena must ~~shall~~ contain a written notice of
734 the right to object to the subpoena. Every subpoena served upon
735 the witness or records custodian must be accompanied by a copy
736 of ~~the provisions of~~ this subsection. If a person refuses to
737 obey a subpoena or subpoena duces tecum, the department may
738 apply to any circuit court of this state to enforce compliance
739 with the subpoena. Witnesses must ~~shall~~ be paid mileage and
740 witness fees as authorized for witnesses in civil cases. The
741 failure of a taxpayer to provide documents available to, or
742 required to be kept by, the taxpayer and requested by a subpoena
743 issued under this section creates a rebuttable presumption that
744 the resulting proposed final agency action by the department, as
745 to the requested documents, is correct and that the requested
746 documents not produced by the taxpayer would be adverse to the
747 taxpayer's position as to the proposed final agency action. If a
748 taxpayer fails to provide documents requested by a subpoena
749 issued under this section, the department may make an assessment
750 from an estimate based upon the best information then available
751 to it for the taxable period of retail sales of the taxpayer,
752 together with any accrued interest and penalties. The department
753 shall inform the taxpayer of the reason for the estimate and the
754 information and methodology used to derive the estimate. Such

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755 assessment shall be deemed prima facie correct, and the burden
756 to show the contrary rests upon the dealer or other person. The
757 presumption and authority to use estimates for the purpose of
758 assessment under this paragraph do not apply solely because a
759 taxpayer or its representative requests a conference to
760 negotiate the production of a sample of records demanded by a
761 subpoena.

762 Section 11. Section 213.051, Florida Statutes, is amended
763 to read:

764 213.051 Service of subpoenas.—

765 (1) For the purpose of administering and enforcing the
766 provisions of the revenue laws of this state, the executive
767 director of the Department of Revenue, or any of his or her
768 assistants designated in writing by the executive director, may
769 shall be authorized to serve subpoenas and subpoenas duces tecum
770 issued by the state attorney relating to investigations
771 concerning the taxes enumerated in s. 213.05.

772 (2) In addition to the procedures for service prescribed by
773 chapter 48, the department may serve subpoenas it issues
774 pursuant to ss. 202.36, 206.14, 211.125, 212.14, and 220.735
775 upon any business registered with the department at the address
776 on file with the department if it received correspondence from
777 the business from that address within 30 days after issuance of
778 the subpoena or if the address is listed with the Department of
779 State Division of Corporations as a principal or business
780 address. If a business' address is not in this state, service is
781 made upon proof of delivery by certified mail or under the
782 notice provisions of s. 213.0537.

783 Section 12. Present subsections (21) and (22) of section

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784 213.053, Florida Statutes, are redesignated as subsections (22)
785 and (23), respectively, and a new subsection (21) is added to
786 that section, to read:

787 213.053 Confidentiality and information sharing.—

788 (21) (a) The department may publish a list of dealers whose
789 resale certificates have been suspended pursuant to s.

790 212.13(2) (b). The list may contain the name of the dealer,
791 including the name under which the dealer does business; the
792 address of the dealer; the dealer's employer identification
793 number or other taxpayer identification number; and the date on
794 which the dealer was added to the list.

795 (b) The department shall update the list daily as needed to
796 reflect additions to and deletions from the list.

797 (c) The department may adopt rules to administer this
798 subsection.

799 Section 13. Section 213.06, Florida Statutes, is amended to
800 read:

801 213.06 Rules of department; circumstances requiring
802 emergency rules.—

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

806 (2) The executive director of the department may adopt
807 emergency rules pursuant to s. 120.54 on behalf of the
808 department when the effective date of a legislative change
809 occurs sooner than 120 ~~60~~ days after the close of a legislative
810 session in which enacted or after the Governor approves or fails
811 to veto the legislative change, whichever is later, and the
812 change affects a tax rate or a collection or reporting procedure

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813 which affects a substantial number of dealers or persons subject
814 to the tax change or procedure. The Legislature finds that such
815 circumstances qualify as an exception to the prerequisite of a
816 finding of immediate danger to the public health, safety, or
817 welfare as set forth in s. 120.54(4) (a) and qualify as
818 circumstances requiring an emergency rule. Emergency rules
819 adopted under this subsection are exempt from s. 120.54(4) (c),
820 remain in effect for 6 months or until replaced by rules adopted
821 under the nonemergency rulemaking procedures of the
822 Administrative Procedure Act, and may be renewed for no more
823 than 3 additional 6-month periods during the pendency of
824 procedures to adopt permanent rules addressing the subject of
825 the emergency rules.

826 (3) The grants of rulemaking authority in subsections (1)
827 and (2) are sufficient to allow the department to adopt rules
828 implementing all revenue laws administered by the department.
829 Each revenue law administered by the department is an enabling
830 statute authorizing the department to implement it, regardless
831 of whether the enabling statute contains its own grant of
832 rulemaking authority.

833 Section 14. Paragraph (b) of subsection (1) and paragraph
834 (a) of subsection (3) of section 213.21, Florida Statutes, are
835 amended, and subsections (11) and (12) are added to that
836 section, to read:

837 213.21 Informal conferences; compromises.—

838 (1)

839 (b) The statute of limitations upon the issuance of ~~final~~
840 assessments and the period for filing a claim for refund as
841 required by s. 215.26(2) for any transactions occurring during

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842 the audit period shall be tolled during the period in which the
843 taxpayer is engaged in a procedure under this section.

844 (3) (a) A taxpayer's liability for any tax or interest
845 specified in s. 72.011(1) may be compromised by the department
846 upon the grounds of doubt as to liability for or collectibility
847 of such tax or interest. A taxpayer's liability for interest
848 under any of the chapters specified in s. 72.011(1) shall be
849 settled or compromised in whole or in part whenever or to the
850 extent that the department determines that the delay in the
851 determination of the amount due is attributable to the action or
852 inaction of the department. A taxpayer's liability for penalties
853 under any of the chapters specified in s. 72.011(1) greater than
854 25 percent of the tax must ~~may~~ be settled or compromised if ~~it~~
855 ~~is determined by~~ the department determines that the
856 noncompliance is not due to ~~reasonable cause and not to~~ willful
857 negligence, willful neglect, or fraud. In addition, a taxpayer's
858 liability for penalties under any of the chapters specified in
859 s. 72.011(1) up to and including 25 percent of the tax may be
860 settled or compromised if the department determines that
861 reasonable cause exists and the penalties greater than 25
862 percent of the tax were compromised because the noncompliance is
863 not due to willful negligence, willful neglect, or fraud. There
864 is a rebuttable presumption that a taxpayer's noncompliance is
865 due to willful negligence, willful neglect, or fraud when
866 adequate records as requested by the department are not provided
867 to the department before the issuance of an assessment. The
868 presumption may be rebutted by a showing of reasonable cause why
869 adequate records as requested were not provided or were
870 unavailable to the taxpayer. The facts and circumstances are

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871 subject to de novo review ~~to determine the existence of~~
872 ~~reasonable cause~~ in any administrative proceeding or judicial
873 action challenging an assessment of penalty under any of the
874 chapters specified in s. 72.011(1). A taxpayer who establishes
875 reasonable reliance on the written advice issued by the
876 department to the taxpayer is ~~will be~~ deemed to have shown
877 reasonable cause for the noncompliance. ~~In addition, a~~
878 ~~taxpayer's liability for penalties under any of the chapters~~
879 ~~specified in s. 72.011(1) in excess of 25 percent of the tax~~
880 ~~shall be settled or compromised if the department determines~~
881 ~~that the noncompliance is due to reasonable cause and not to~~
882 ~~willful negligence, willful neglect, or fraud.~~ The department
883 shall maintain records of all compromises, and the records shall
884 state the basis for the compromise. The records of compromise
885 under this paragraph are ~~shall~~ not be subject to disclosure
886 pursuant to s. 119.07(1) and are ~~shall be~~ considered
887 confidential information governed by ~~the provisions of~~ s.
888 213.053.

889 (11) Following the expiration of time for a taxpayer to
890 challenge an assessment or a denial of a refund as provided in
891 s. 72.011, the department may consider a request to settle or
892 compromise any tax, interest, penalty, or other liability under
893 this section if the taxpayer demonstrates that the failure to
894 initiate a timely challenge was due to a qualified event that
895 directly impacted compliance with that section. For purposes of
896 this subsection, a qualified event is limited to the occurrence
897 of events during an audit or the expired protest period which
898 were beyond the control of the taxpayer, including the death or
899 life-threatening injury or illness of the taxpayer or an

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900 immediate family member of the taxpayer; the death or life-
901 threatening injury or illness of the responsible party that
902 controlled, managed, or directed the affected business entity;
903 acts of war or terrorism; natural disasters; fire; or other
904 catastrophic loss. The department may not consider a request
905 received more than 180 days after the expiration of time allowed
906 under s. 72.011.

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

910 Section 15. Section 213.34, Florida Statutes, is amended to
911 read:

912 213.34 Authority to audit.—

913 (1) The Department of Revenue may ~~shall have the authority~~
914 ~~to~~ audit and examine the accounts, books, or records of all
915 persons ~~who are~~ subject to a revenue law made applicable to this
916 chapter, or otherwise placed under the control and
917 administration of the department, for the purpose of
918 ascertaining the correctness of any return which has been filed
919 or payment which has been made, or for the purpose of making a
920 return where none has been made.

921 (2) The department, or its duly authorized agents, may
922 inspect such books and records necessary to ascertain a
923 taxpayer's compliance with the revenue laws of this state,
924 provided that the department's power to make an assessment or
925 grant a refund has not terminated under s. 95.091(3).

926 (a) During the course of an audit, but before the issuance
927 of an assessment other than a jeopardy assessment, the
928 department shall issue to the taxpayer a notice explaining the

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929 audit findings. No later than 30 days after the issuance of the
930 notice, the taxpayer may request in writing an exit conference
931 at a mutually agreeable date and time with the department's
932 audit staff to discuss the audit findings. The exit conference
933 must be conducted no later than 30 days after a request for the
934 conference, unless the taxpayer and the department enter into an
935 agreement to extend the audit tolling period pursuant to s.
936 213.23. The taxpayer shall be given an opportunity at or before
937 the exit conference to provide additional information and
938 documents to the department to rebut the audit findings. Upon
939 the mutual written agreement between the department and the
940 taxpayer to extend the audit tolling period pursuant to s.
941 213.23, the exit conference may be continued to allow the
942 taxpayer additional time to provide information and documents to
943 the department. The department shall review any information
944 provided by the taxpayer and, if the department revises the
945 audit findings, a copy of the revised audit findings must be
946 provided to the taxpayer. Such revision of the audit findings
947 does not provide a right to any additional conference.

948 (b) If an exit conference is timely requested in writing,
949 the limitations in s. 95.091(3) are tolled an additional 60
950 days. If the department fails to offer a taxpayer the
951 opportunity to hold an exit conference despite a timely written
952 request, the limitations period in s. 95.091(3) may not be
953 tolled for the additional 60 days. If the assessment is issued
954 outside of the limitations period, the assessment must be
955 reduced by the amount of those taxes, penalties, and interest
956 for reporting periods outside of the limitations period, as
957 modified by any other tolling or extension provisions.

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958 (c) If a request for an exit conference is not timely made,
959 the right to a conference is waived. A taxpayer may also
960 affirmatively waive its right to an exit conference. Failure to
961 hold an exit conference does not preclude the department from
962 issuing an assessment.

963 (d) The department may adopt rules to implement this
964 subsection.

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

969 (4) Notwithstanding ~~the provisions of~~ s. 215.26, the
970 department shall offset the overpayment of any tax during an
971 audit period against a deficiency of any tax, penalty, or
972 interest determined to be due during the same audit period.

973 (5) After the application of subsection (4), if the
974 department's audit finds that the tax paid is more than the
975 correct amount, the department must refund the overpayment that
976 is within the applicable period provided by s. 215.26. Such
977 action by the department does not prevent a taxpayer from
978 challenging the amount of the refund pursuant to chapters 72 and
979 120 or applying for a refund of additional tax within the
980 applicable period.

981 Section 16. Section 213.345, Florida Statutes, is amended
982 to read:

983 213.345 Tolling of periods during an audit.—The limitations
984 in s. 95.091(3) and the period for filing a claim for refund as
985 required by s. 215.26(2) are ~~shall be~~ tolled for a period of 1
986 year if the Department of Revenue has, on or after July 1, 1999,

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987 issued a notice of intent to conduct an audit or investigation
988 of the taxpayer's account within the applicable period of time.
989 The 1-year period is tolled upon receipt of written objections
990 to the subpoena and for the entire pendency of any action that
991 seeks an order to enforce compliance with or to challenge any
992 subpoena issued by the department compelling the attendance and
993 testimony of witnesses and the production of books, records,
994 written materials, and electronically recorded information. The
995 department must commence an audit within 120 days after it
996 issues a notice of intent to conduct an audit, unless the
997 taxpayer requests a delay. If the taxpayer does not request a
998 delay and the department does not begin the audit within 120
999 days after issuing the notice, the tolling period terminates
1000 ~~shall terminate~~ unless the taxpayer and the department enter
1001 into an agreement to extend the period pursuant to s. 213.23. If
1002 the department issues a notice explaining its audit findings
1003 under s. 213.34(2) (a) based on an estimate because the taxpayer
1004 has failed or refuses to provide records, the audit will be
1005 deemed to have commenced for purposes of this section. In the
1006 event the department issues an assessment beyond the tolling
1007 period, the assessment will be considered late and the
1008 assessment shall be reduced by the amount of those taxes,
1009 penalties, and interest for reporting periods outside of the
1010 limitations period, as modified by any other tolling or
1011 extension provisions.

1012 Section 17. Subsections (1), (3), and (6) of section
1013 213.67, Florida Statutes, are amended to read:

1014 213.67 Garnishment.—

1015 (1) If a person is delinquent in the payment of any taxes,

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1016 penalties, ~~and~~ interest, additional daily accrued interest,
1017 costs, and fees owed to the department, the executive director
1018 or his or her designee may give notice of the amount of such
1019 delinquency by registered mail, by personal service, or by
1020 electronic means, including, but not limited to, facsimile
1021 transmissions, electronic data interchange, or use of the
1022 Internet, to all persons having in their possession or under
1023 their control any credits or personal property, exclusive of
1024 wages, belonging to the delinquent taxpayer, or owing any debts
1025 to such delinquent taxpayer at the time of receipt by them of
1026 such notice. Thereafter, any person ~~who has been~~ notified may
1027 not transfer or make any other disposition of such credits,
1028 other personal property, or debts until the executive director
1029 or his or her designee consents to a transfer or disposition or
1030 until 60 days after the receipt of such notice. However, the
1031 credits, other personal property, or debts that exceed the
1032 delinquent amount stipulated in the notice are not subject to
1033 this section, wherever held, if the taxpayer does not have a
1034 prior history of tax delinquencies. If during the effective
1035 period of the notice to withhold, any person so notified makes
1036 any transfer or disposition of the property or debts required to
1037 be withheld under this section, he or she is liable to the state
1038 for any indebtedness owed to the department by the person with
1039 respect to whose obligation the notice was given to the extent
1040 of the value of the property or the amount of the debts thus
1041 transferred or paid if, solely by reason of such transfer or
1042 disposition, the state is unable to recover the indebtedness of
1043 the person with respect to whose obligation the notice was
1044 given. If the delinquent taxpayer contests the intended levy in

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1045 circuit court or under chapter 120, the notice under this
1046 section remains effective until that final resolution of the
1047 contest. Any financial institution receiving such notice
1048 maintains ~~will maintain~~ a right of setoff for any transaction
1049 involving a debit card occurring on or before the date of
1050 receipt of such notice.

1051 (3) During the last 30 days of the 60-day period set forth
1052 in subsection (1), the executive director or his or her designee
1053 may levy upon such credits, other personal property, or debts.
1054 The levy must be accomplished by delivery of a notice of levy by
1055 registered mail, by personal service, or by electronic means,
1056 including, but not limited to, facsimile transmission or
1057 electronic data exchange. Upon receipt of the notice of levy,
1058 ~~which~~ the person possessing the credits, other personal
1059 property, or debts shall transfer them to the department or pay
1060 to the department the amount owed to the delinquent taxpayer.

1061 (6) (a) Levy may be made under subsection (3) upon credits,
1062 other personal property, or debt of any person with respect to
1063 any unpaid tax, penalties, ~~and~~ interest, additional daily
1064 accrued interest, costs, and fees only after the executive
1065 director or his or her designee has notified such person in
1066 writing of the intention to make such levy.

1067 (b) No less than 30 days before the day of the levy, the
1068 notice of intent to levy required under paragraph (a) must ~~shall~~
1069 be given in person or sent by certified or registered mail to
1070 the person's last known address.

1071 (c) The notice required in paragraph (a) must include a
1072 brief statement that sets forth in simple and nontechnical
1073 terms:

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1074 1. The provisions of this section relating to levy and sale
1075 of property;

1076 2. The procedures applicable to the levy under this
1077 section;

1078 3. The administrative and judicial appeals available to the
1079 taxpayer with respect to such levy and sale, and the procedures
1080 relating to such appeals; and

1081 4. Any ~~The~~ alternatives, ~~if any,~~ available to taxpayers
1082 which could prevent levy on the property.

1083 Section 18. Section 220.42, Florida Statutes, is amended to
1084 read:

1085 220.42 Methods of accounting.—

1086 (1) For purposes of this code, a taxpayer's method of
1087 accounting must ~~shall~~ be the same as such taxpayer's method of
1088 accounting for federal income tax purposes, ~~except as provided~~
1089 ~~in subsection (3)~~. If no method of accounting has been regularly
1090 used by a taxpayer, net income for purposes of this code must
1091 ~~shall~~ be computed by the ~~such~~ method that ~~as in the opinion of~~
1092 the department determines most fairly reflects income.

1093 (2) If a taxpayer's method of accounting is changed for
1094 federal income tax purposes, the taxpayer's method of accounting
1095 for purposes of this code must ~~shall~~ be similarly changed.

1096 ~~(3) Any taxpayer which has elected for federal income tax~~
1097 ~~purposes to report any portion of its income on the completed~~
1098 ~~contract method of accounting under Treasury Regulation 1.451-~~
1099 ~~3(b)(2) may elect to return the income so reported on the~~
1100 ~~percentage of completion method of accounting under Treasury~~
1101 ~~Regulation 1.451-3(b)(1), provided the taxpayer regularly~~
1102 ~~maintains its books of account and reports to its shareholders~~

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1103 ~~on the percentage of completion method. The election provided by~~
1104 ~~this subsection shall be allowed only if it is made, in such~~
1105 ~~manner as the department may prescribe, not later than the due~~
1106 ~~date, including any extensions thereof, for filing a return for~~
1107 ~~the taxpayer's first taxable year under this code in which a~~
1108 ~~portion of its income is returned on the completed contract~~
1109 ~~method of accounting for federal tax purposes. An election made~~
1110 ~~pursuant to this subsection shall apply to all subsequent~~
1111 ~~taxable years of the taxpayers unless the department consents in~~
1112 ~~writing to its revocation.~~

1113 Section 19. Subsection (4) is added to section 220.735,
1114 Florida Statutes, to read:

1115 220.735 Production of witnesses and records.—

1116 (4) The failure of a taxpayer to provide documents
1117 available to, or required to be kept by, the taxpayer and
1118 requested by a subpoena issued under this section creates a
1119 rebuttable presumption that the resulting proposed final agency
1120 action by the department, as to the requested documents, is
1121 correct and that the requested documents not produced by the
1122 taxpayer would be adverse to the taxpayer's position as to the
1123 proposed final agency action. If a taxpayer fails to provide
1124 documents requested by a subpoena issued under this section, the
1125 department may determine the amount of tax due according to its
1126 best judgement and may issue a notice of deficiency to the
1127 taxpayer, setting forth the amount of tax, interest, and any
1128 penalties proposed to be assessed. The department shall inform
1129 the taxpayer of the reason for the estimate and the information
1130 and methodology used to derive the estimate. Such assessment
1131 shall be prima facie correct, and the burden to show the

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1132 contrary rests upon the taxpayer.

1133 Section 20. Paragraph (e) of subsection (3) of section
1134 443.131, Florida Statutes, is amended to read:

1135 443.131 Contributions.—

1136 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
1137 EXPERIENCE.—

1138 (e) *Assignment of variations from the standard rate.*—

1139 1. As used in this paragraph, the terms “total benefit
1140 payments,” “benefits paid to an individual,” and “benefits
1141 charged to the employment record of an employer” mean the amount
1142 of benefits paid to individuals multiplied by:

1143 a. For benefits paid before ~~prior to~~ July 1, 2007, 1.

1144 b. For benefits paid during the period beginning on July 1,
1145 2007, and ending March 31, 2011, 0.90.

1146 c. For benefits paid after March 31, 2011, 1.

1147 d. For benefits paid during the period beginning April 1,
1148 2020, and ending December 31, 2020, 0.

1149 e. For benefits paid during the period beginning January 1,
1150 2021, and ending June 30, 2021, 1, except as otherwise adjusted
1151 in accordance with paragraph (f).

1152 2. For the calculation of contribution rates effective
1153 January 1, 2012, and thereafter:

1154 a. The tax collection service provider shall assign a
1155 variation from the standard rate of contributions for each
1156 calendar year to each eligible employer. In determining the
1157 contribution rate, varying from the standard rate to be assigned
1158 each employer, adjustment factors computed under sub-sub-
1159 subparagraphs (I)-(IV) are added to the benefit ratio. This
1160 addition shall be accomplished in two steps by adding a variable

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1161 adjustment factor and a final adjustment factor. The sum of
1162 these adjustment factors computed under sub-sub-subparagraphs
1163 (I)-(IV) shall first be algebraically summed. The sum of these
1164 adjustment factors shall next be divided by a gross benefit
1165 ratio determined as follows: Total benefit payments for the 3-
1166 year period described in subparagraph (b)3. are charged to
1167 employers eligible for a variation from the standard rate, minus
1168 excess payments for the same period, divided by taxable payroll
1169 entering into the computation of individual benefit ratios for
1170 the calendar year for which the contribution rate is being
1171 computed. The ratio of the sum of the adjustment factors
1172 computed under sub-sub-subparagraphs (I)-(IV) to the gross
1173 benefit ratio is multiplied by each individual benefit ratio
1174 that is less than the maximum contribution rate to obtain
1175 variable adjustment factors; except that if the sum of an
1176 employer's individual benefit ratio and variable adjustment
1177 factor exceeds the maximum contribution rate, the variable
1178 adjustment factor is reduced in order for the sum to equal the
1179 maximum contribution rate. The variable adjustment factor for
1180 each of these employers is multiplied by his or her taxable
1181 payroll entering into the computation of his or her benefit
1182 ratio. The sum of these products is divided by the taxable
1183 payroll of the employers who entered into the computation of
1184 their benefit ratios. The resulting ratio is subtracted from the
1185 sum of the adjustment factors computed under sub-sub-
1186 subparagraphs (I)-(IV) to obtain the final adjustment factor.
1187 The variable adjustment factors and the final adjustment factor
1188 must be computed to five decimal places and rounded to the
1189 fourth decimal place. This final adjustment factor is added to

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1190 the variable adjustment factor and benefit ratio of each
1191 employer to obtain each employer's contribution rate. An
1192 employer's contribution rate may not, however, be rounded to
1193 less than 0.1 percent. In determining the contribution rate,
1194 varying from the standard rate to be assigned, the computation
1195 shall exclude any benefit that is excluded by the multipliers
1196 under subparagraph (b)2. and subparagraph 1. for rates effective
1197 January 1, 2021, through December 31, 2025, notwithstanding the
1198 repeal of subparagraph 5. as provided in chapter 2021-2, Laws of
1199 Florida. The computation of the contribution rate, varying from
1200 the standard rate to be assigned, shall also exclude any benefit
1201 paid as a result of a governmental order related to COVID-19 to
1202 close or reduce capacity of a business. In addition, the
1203 contribution rate for the 2021 and 2022 calendar years shall be
1204 calculated without the application of the positive adjustment
1205 factor in sub-sub-subparagraph (III).

1206 (I) An adjustment factor for noncharge benefits is computed
1207 to the fifth decimal place and rounded to the fourth decimal
1208 place by dividing the amount of noncharge benefits during the 3-
1209 year period described in subparagraph (b)3. by the taxable
1210 payroll of employers eligible for a variation from the standard
1211 rate who have a benefit ratio for the current year which is less
1212 than the maximum contribution rate. For purposes of computing
1213 this adjustment factor, the taxable payroll of these employers
1214 is the taxable payrolls for the 3 years ending June 30 of the
1215 current calendar year as reported to the tax collection service
1216 provider by September 30 of the same calendar year. As used in
1217 this sub-sub-subparagraph, the term "noncharge benefits" means
1218 benefits paid to an individual, as adjusted pursuant to

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1219 subparagraph (b)2. and subparagraph 1., from the Unemployment
1220 Compensation Trust Fund which were not charged to the employment
1221 record of any employer, but excluding any benefit paid as a
1222 result of a governmental order related to COVID-19 to close or
1223 reduce capacity of a business.

1224 (II) An adjustment factor for excess payments is computed
1225 to the fifth decimal place, and rounded to the fourth decimal
1226 place by dividing the total excess payments during the 3-year
1227 period described in subparagraph (b)3. by the taxable payroll of
1228 employers eligible for a variation from the standard rate who
1229 have a benefit ratio for the current year which is less than the
1230 maximum contribution rate. For purposes of computing this
1231 adjustment factor, the taxable payroll of these employers is the
1232 same figure used to compute the adjustment factor for noncharge
1233 benefits under sub-sub-subparagraph (I). As used in this sub-
1234 subparagraph, the term "excess payments" means the amount of
1235 benefits charged to the employment record of an employer, as
1236 adjusted pursuant to subparagraph (b)2. and subparagraph 1.,
1237 during the 3-year period described in subparagraph (b)3., but
1238 excluding any benefit paid as a result of a governmental order
1239 related to COVID-19 to close or reduce capacity of a business,
1240 less the product of the maximum contribution rate and the
1241 employer's taxable payroll for the 3 years ending June 30 of the
1242 current calendar year as reported to the tax collection service
1243 provider by September 30 of the same calendar year. As used in
1244 this sub-sub-subparagraph, the term "total excess payments"
1245 means the sum of the individual employer excess payments for
1246 those employers that were eligible for assignment of a
1247 contribution rate different from the standard rate.

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1248 (III) With respect to computing a positive adjustment
1249 factor:

1250 (A) Beginning January 1, 2012, if the balance of the
1251 Unemployment Compensation Trust Fund on September 30 of the
1252 calendar year immediately preceding the calendar year for which
1253 the contribution rate is being computed is less than 4 percent
1254 of the taxable payrolls for the year ending June 30 as reported
1255 to the tax collection service provider by September 30 of that
1256 calendar year, a positive adjustment factor shall be computed.
1257 The positive adjustment factor is computed annually to the fifth
1258 decimal place and rounded to the fourth decimal place by
1259 dividing the sum of the total taxable payrolls for the year
1260 ending June 30 of the current calendar year as reported to the
1261 tax collection service provider by September 30 of that calendar
1262 year into a sum equal to one-fifth of the difference between the
1263 balance of the fund as of September 30 of that calendar year and
1264 the sum of 5 percent of the total taxable payrolls for that
1265 year. The positive adjustment factor remains in effect for
1266 subsequent years until the balance of the Unemployment
1267 Compensation Trust Fund as of September 30 of the year
1268 immediately preceding the effective date of the contribution
1269 rate equals or exceeds 4 percent of the taxable payrolls for the
1270 year ending June 30 of the current calendar year as reported to
1271 the tax collection service provider by September 30 of that
1272 calendar year.

1273 (B) Beginning January 1, 2018, and for each year
1274 thereafter, the positive adjustment shall be computed by
1275 dividing the sum of the total taxable payrolls for the year
1276 ending June 30 of the current calendar year as reported to the

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1277 tax collection service provider by September 30 of that calendar
1278 year into a sum equal to one-fourth of the difference between
1279 the balance of the fund as of September 30 of that calendar year
1280 and the sum of 5 percent of the total taxable payrolls for that
1281 year. The positive adjustment factor remains in effect for
1282 subsequent years until the balance of the Unemployment
1283 Compensation Trust Fund as of September 30 of the year
1284 immediately preceding the effective date of the contribution
1285 rate equals or exceeds 4 percent of the taxable payrolls for the
1286 year ending June 30 of the current calendar year as reported to
1287 the tax collection service provider by September 30 of that
1288 calendar year.

1289 (IV) If, beginning January 1, 2015, and each year
1290 thereafter, the balance of the Unemployment Compensation Trust
1291 Fund as of September 30 of the year immediately preceding the
1292 calendar year for which the contribution rate is being computed
1293 exceeds 5 percent of the taxable payrolls for the year ending
1294 June 30 of the current calendar year as reported to the tax
1295 collection service provider by September 30 of that calendar
1296 year, a negative adjustment factor must be computed. The
1297 negative adjustment factor shall be computed annually beginning
1298 on January 1, 2015, and each year thereafter, to the fifth
1299 decimal place and rounded to the fourth decimal place by
1300 dividing the sum of the total taxable payrolls for the year
1301 ending June 30 of the current calendar year as reported to the
1302 tax collection service provider by September 30 of the calendar
1303 year into a sum equal to one-fourth of the difference between
1304 the balance of the fund as of September 30 of the current
1305 calendar year and 5 percent of the total taxable payrolls of

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1306 that year. The negative adjustment factor remains in effect for
1307 subsequent years until the balance of the Unemployment
1308 Compensation Trust Fund as of September 30 of the year
1309 immediately preceding the effective date of the contribution
1310 rate is less than 5 percent, but more than 4 percent of the
1311 taxable payrolls for the year ending June 30 of the current
1312 calendar year as reported to the tax collection service provider
1313 by September 30 of that calendar year. The negative adjustment
1314 authorized by this section is suspended in any calendar year in
1315 which repayment of the principal amount of an advance received
1316 from the federal Unemployment Compensation Trust Fund under 42
1317 U.S.C. s. 1321 is due to the Federal Government.

1318 (V) The maximum contribution rate that may be assigned to
1319 an employer is 5.4 percent, except employers participating in an
1320 approved short-time compensation plan may be assigned a maximum
1321 contribution rate that is 1 percent greater than the maximum
1322 contribution rate for other employers in any calendar year in
1323 which short-time compensation benefits are charged to the
1324 employer's employment record.

1325 (VI) As used in this subsection, "taxable payroll" shall be
1326 determined by excluding any part of the remuneration paid to an
1327 individual by an employer for employment during a calendar year
1328 in excess of the first \$7,000. Beginning January 1, 2012,
1329 "taxable payroll" shall be determined by excluding any part of
1330 the remuneration paid to an individual by an employer for
1331 employment during a calendar year as described in s.
1332 443.1217(2). For the purposes of the employer rate calculation
1333 that will take effect in January 1, 2012, and in January 1,
1334 2013, the tax collection service provider shall use the data

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1335 available for taxable payroll from 2009 based on excluding any
1336 part of the remuneration paid to an individual by an employer
1337 for employment during a calendar year in excess of the first
1338 \$7,000, and from 2010 and 2011, the data available for taxable
1339 payroll based on excluding any part of the remuneration paid to
1340 an individual by an employer for employment during a calendar
1341 year in excess of the first \$8,500.

1342 b. If the transfer of an employer's employment record to an
1343 employing unit under paragraph (g) which, before the transfer,
1344 was an employer, the tax collection service provider shall
1345 recompute a benefit ratio for the successor employer based on
1346 the combined employment records and reassign an appropriate
1347 contribution rate to the successor employer effective on the
1348 first day of the calendar quarter immediately after the
1349 effective date of the transfer.

1350 3. The tax collection service provider shall reissue rates
1351 for the 2021 calendar year. However, an employer shall continue
1352 to timely file its employer's quarterly reports and pay the
1353 contributions due in a timely manner in accordance with the
1354 rules of the Department of Economic Opportunity. The Department
1355 of Revenue shall post the revised rates on its website to enable
1356 employers to securely review the revised rates. For
1357 contributions for the first quarter of the 2021 calendar year,
1358 if any employer remits to the tax collection service provider an
1359 amount in excess of the amount that would be due as calculated
1360 pursuant to this paragraph, the tax collection service provider
1361 shall refund the excess amount from the amount erroneously
1362 collected. Notwithstanding s. 443.141(6), refunds issued through
1363 August 31, 2021, for first quarter 2021 contributions must be

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1364 paid from the General Revenue Fund.

1365 4. The tax collection service provider shall calculate and
1366 assign contribution rates effective January 1, 2022, through
1367 December 31, 2022, excluding any benefit charge that is excluded
1368 by the multipliers under subparagraph (b)2. and subparagraph 1.;
1369 without the application of the positive adjustment factor in
1370 sub-sub-subparagraph 2.a.(III); and without the inclusion of any
1371 benefit charge directly related to COVID-19 as a result of a
1372 governmental order to close or reduce capacity of a business, as
1373 determined by the Department of Economic Opportunity, for each
1374 employer ~~who is~~ eligible for a variation from the standard rate
1375 pursuant to paragraph (d). The Department of Economic
1376 Opportunity shall provide the tax collection service provider
1377 with all necessary benefit charge information by August 1, 2021,
1378 including specific information for adjustments related to COVID-
1379 19 charges resulting from a governmental order to close or
1380 reduce capacity of a business, to enable the tax collection
1381 service provider to calculate and issue tax rates effective
1382 January 1, 2022. The tax collection service provider shall
1383 calculate and post rates for the 2022 calendar year by March 1,
1384 2022.

1385 5. Subject to subparagraph 6., the tax collection service
1386 provider shall calculate and assign contribution rates effective
1387 January 1, 2023, through December 31, 2025, excluding any
1388 benefit charge that is excluded by the multipliers under
1389 subparagraph (b)2. and subparagraph 1.; without the application
1390 of the positive adjustment factor in sub-sub-subparagraph
1391 2.a.(III); and without the inclusion of any benefit charge
1392 directly related to COVID-19 as a result of a governmental order

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1393 to close or reduce capacity of a business, as determined by the
1394 Department of Economic Opportunity, for each employer ~~who is~~
1395 eligible for a variation from the standard rate pursuant to
1396 paragraph (d). The Department of Economic Opportunity shall
1397 provide the tax collection service provider with all necessary
1398 benefit charge information by August 1 of each year, including
1399 specific information for adjustments related to COVID-19 charges
1400 resulting from a governmental order to close or reduce capacity
1401 of a business, to enable the tax collection service provider to
1402 calculate and issue tax rates effective the following January.

1403 6. If the balance of the Unemployment Compensation Trust
1404 Fund on June 30 of any year exceeds \$4,071,519,600, subparagraph
1405 5. is repealed for rates effective the following years. The
1406 Office of Economic and Demographic Research shall advise the tax
1407 collection service provider of the balance of the trust fund on
1408 June 30 by August 1 of that year. After the repeal of
1409 subparagraph 5. and notwithstanding the dates specified in that
1410 subparagraph, the tax collection service provider shall
1411 calculate and assign contribution rates for each subsequent
1412 calendar year as otherwise provided in this section.

1413 Section 21. Paragraph (a) of subsection (9) of section
1414 443.171, Florida Statutes, is amended to read:

1415 443.171 Department of Economic Opportunity and commission;
1416 powers and duties; records and reports; proceedings; state-
1417 federal cooperation.—

1418 (9) STATE-FEDERAL COOPERATION.—

1419 (a)1. In the administration of this chapter, the Department
1420 of Economic Opportunity and its tax collection service provider
1421 shall cooperate with the United States Department of Labor to

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1422 the fullest extent consistent with this chapter and shall take
1423 those actions, through the adoption of appropriate rules,
1424 administrative methods, and standards, necessary to secure for
1425 this state all advantages available under the provisions of
1426 federal law relating to reemployment assistance.

1427 2. In the administration of the provisions in s. 443.1115,
1428 which are enacted to conform with the Federal-State Extended
1429 Unemployment Compensation Act of 1970, the department shall take
1430 those actions necessary to ensure that those provisions are
1431 interpreted and applied to meet the requirements of the federal
1432 act as interpreted by the United States Department of Labor and
1433 to secure for this state the full reimbursement of the federal
1434 share of extended benefits paid under this chapter which is
1435 reimbursable under the federal act.

1436 3. The department and its tax collection service provider
1437 shall comply with the regulations of the United States
1438 Department of Labor relating to the receipt or expenditure by
1439 this state of funds granted under federal law; shall submit the
1440 reports in the form and containing the information the United
1441 States Department of Labor requires; and shall comply with
1442 directions of the United States Department of Labor necessary to
1443 assure the correctness and verification of these reports.

1444 4. The department and its tax collection service provider
1445 shall comply with the requirements of the federal Treasury
1446 Offset Program as it pertains to the recovery of unemployment
1447 compensation debts as required by the United States Department
1448 of Labor pursuant to 26 U.S.C. s. 6402. The department or the
1449 tax collection service provider may adopt rules to implement
1450 this subparagraph.

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Section 22. This act shall take effect July 1, 2022.