

By Senator Rodriguez

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

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

28
29 Section 1. Paragraph (a) of subsection (3) of section

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213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(3) (a) If requested by a taxpayer, the department must convene an informal conference to discuss a compromise of the taxpayer's liability for any tax, interest, or penalty. The department may request to review the taxpayer's expenses, assets, and profit records for the period under dispute to determine the legitimacy of the taxpayer's financial status. From the time the taxpayer requests an informal conference until the informal conference is concluded, the department must place a hold on the account and may take no action, including issuing a writ of garnishment, freezing of bank accounts, or assessing additional penalties. A taxpayer's liability for any tax or interest specified in s. 72.011(1) in excess of 25 percent of the disputed tax amount shall ~~may~~ be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for interest under any of the chapters specified in s. 72.011(1) shall be settled or compromised in whole or in part whenever or to the extent that the department determines that the delay in the determination of the amount due is attributable to the action or inaction of the department. A taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. If the taxpayer does not provide adequate records as requested by the department, a rebuttable presumption is created that a taxpayer's noncompliance is due to willful negligence, willful

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59 neglect, or fraud. A taxpayer's liability for penalties under
60 any of the chapters specified in s. 72.011(1), up to 25 percent
61 of the tax, may be settled or compromised if the department
62 determines that reasonable cause exists and that penalties in
63 excess of 25 percent of the disputed tax amount were compromised
64 because the noncompliance was not due to willful negligence,
65 willful neglect, or fraud. The facts and circumstances are
66 subject to de novo review to determine the existence of
67 reasonable cause in any administrative proceeding or judicial
68 action challenging an assessment of penalty under any of the
69 chapters specified in s. 72.011(1). A taxpayer who establishes
70 reasonable reliance on the written advice issued by the
71 department to the taxpayer will be deemed to have shown
72 reasonable cause for the noncompliance. In addition, a
73 taxpayer's liability for penalties under any of the chapters
74 specified in s. 72.011(1) in excess of 25 percent of the tax
75 shall be settled or compromised if the department determines
76 that the noncompliance is due to reasonable cause and not to
77 willful negligence, willful neglect, or fraud. The department
78 shall maintain records of all compromises, and the records shall
79 state the basis for the compromise. The records of compromise
80 under this paragraph shall not be subject to disclosure pursuant
81 to s. 119.07(1) and shall be considered confidential information
82 governed by the provisions of s. 213.053.

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

85 213.67 Garnishment.—

86 (1) (a) If a person is delinquent in the payment of any
87 taxes, penalties, and interest owed to the department, the

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88 executive director or his or her designee must ~~may~~ give notice
89 of the amount of such delinquency by registered mail, ~~by~~
90 ~~personal service~~, or by electronic means, including, but not
91 limited to, facsimile transmissions, electronic data
92 interchange, or use of the Internet, to the taxpayer to attempt
93 to informally resolve the delinquency using the procedures in s.
94 213.21. The notice must inform the taxpayer of his or her option
95 to resolve the delinquency using the procedures specified in s.
96 213.21. Upon request, the taxpayer must receive assistance from
97 the taxpayers' rights advocate.

98 (b) If the taxpayer fails to request an informal conference
99 within 30 days after receiving the notice identifying the amount
100 of the delinquency under paragraph (a) or if the taxpayer fails
101 to pay the amount agreed upon in a closing agreement, and before
102 the department may initiate a garnishment action, the department
103 must issue to the delinquent taxpayer and all persons having in
104 their possession or under their control any credits or personal
105 property, exclusive of wages, belonging to the delinquent
106 taxpayer, or owing any debts to such delinquent taxpayer at the
107 time of receipt by them, a written notice of intent to garnish.
108 The notice must:

- 109 1. Be printed in a font size no smaller than 14 points;
- 110 2. Be titled "Notice of Intent to Garnish";
- 111 3. Explain the process involved in a garnishment action;

112 and

- 113 4. Provide a timeframe, which may not be sooner than 45
114 days after the date printed on the notice of intent to garnish,
115 to grant the taxpayer time to respond to the ~~of such~~ notice.

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117 Notwithstanding this paragraph, the department may still
118 consider an attempt to informally resolve the delinquency by the
119 taxpayer using the procedures in s. 213.21.

120 (c) Thereafter, Any person who has received a notice of
121 intent to garnish ~~been notified~~ may not transfer or make any
122 other disposition of such credits, other personal property, or
123 debts until the executive director or his or her designee
124 consents to a transfer or disposition or until 60 days after the
125 receipt of the such notice of intent to garnish. However, the
126 credits, other personal property, or debts that exceed the
127 delinquent amount stipulated in the notice are not subject to
128 this section, wherever held, if the taxpayer does not have a
129 prior history of tax delinquencies. If during the effective
130 period of the notice of intent to garnish ~~to withhold~~, any
131 person so notified makes any transfer or disposition of the
132 property or debts required to be withheld under this section, he
133 or she is liable to the state for any indebtedness owed to the
134 department by the person with respect to whose obligation the
135 notice was given to the extent of the value of the property or
136 the amount of the debts thus transferred or paid if, solely by
137 reason of such transfer or disposition, the state is unable to
138 recover the indebtedness of the person with respect to whose
139 obligation the notice was given. If the delinquent taxpayer
140 contests the intended levy in circuit court or under chapter
141 120, the notice under this section remains effective until that
142 final resolution of the contest. Any financial institution
143 receiving such notice will maintain a right of setoff for any
144 transaction involving a debit card occurring on or before the
145 date of receipt of such notice.

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146 (2) All persons who have received a notice of intent to
147 garnish under paragraph (1)(b) ~~been notified~~ must, within 5 days
148 after receipt of the notice, advise the executive director or
149 his or her designee of the credits, other personal property, or
150 debts in their possession, under their control, or owing them,
151 and must advise the executive director or designee within 5 days
152 after coming into possession or control of any subsequent
153 credits, personal property, or debts owed during the time
154 prescribed by the notice. Any such person coming into possession
155 or control of such subsequent credits, personal property, or
156 debts may not transfer or dispose of them during the time
157 prescribed by the notice or before the department consents to a
158 transfer.

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

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