A bill to be entitled

An act relating to tax administration; amending s. 72.011, F.S.; revising the time for commencing actions to contest a tax matter; amending s. 125.0104, F.S.; revising the list of living quarters or accommodations that are subject to taxation; providing definitions; providing for taxation of regulated short-term products; providing that the occupancy of a timeshare resort and membership or transaction fee paid by a timeshare owner are not a privilege subject to taxation; providing that consideration paid for the purchase of a timeshare license in a timeshare plan is rent subject to taxation; authorizing the Department of Revenue to establish audit procedures and to access for delinquent taxes; requiring the person operating transient accommodations to separately state the tax charged on a receipt or other documentation; providing that persons facilitating the booking of reservations are not required to separately state tax amounts charged; requiring that such amounts be remitted as tax and classified as county funds; providing additional specified uses for certain tourist tax revenue by certain counties; specifying that certain provisions of the act are clarifying and remedial in nature and are not a basis for assessments of tax or for refunds of tax for periods before the effective date of the act; amending s.125.0108, F.S.; revising the list of living quarters or accommodations that are subject to taxation; providing definitions; providing for taxation of regulated short-term products; providing that the occupancy of a timeshare resort and membership or transaction fee paid by a timeshare owner are not a privilege subject to taxation; providing that consideration paid for the purchase of a timeshare license in a timeshare plan is rent subject to taxation; authorizing the Department of Revenue to establish audit procedures and to access for delinquent taxes; requiring the person operating transient accommodations to separately state the tax charged on a receipt or other documentation; providing that persons facilitating the booking of reservations are not required to separately state tax amounts charged; requiring that such amounts be remitted as tax and classified as county funds; providing additional specified uses for certain tourist tax revenue by certain counties; specifying that certain provisions of the act are clarifying and remedial in nature and are not a basis for assessments of tax or for refunds of tax for periods before the effective date of the act; amending s. 192.0105, F.S.; revising the list of tax-related forms that a taxpayer has a right to keep confidential; amending s. 193.155, F.S., providing for assessments of homesteads damaged or destroyed by misfortunes or calamity; amending s. 193.461, F.S., providing for minimum acreage for agricultural assessment; amending s. 194.011, F.S., requiring that the Department of Revenue develop a uniform policies and procedures manual for use in proceedings before value adjustment boards; specifying availability requirements for such manual; amending s. 194.015, F.S.; revising the membership of value adjustment boards; providing for citizen members; revising criteria related to appointment to such boards; revising quorum requirements; deleting provisions authorizing county attorneys to act as counsel for value adjustment boards; amending s. 194.034, F.S.; requiring the special magistrate to make certain findings and conclusions; amending s. 194.035, F.S.; providing that a requirement that value adjustment boards appoint special magistrates for certain purposes applies to all counties; requiring value adjustment boards to verify the qualifications of special magistrates prior to appointment; providing selection criteria; requiring that the department provide training for special magistrates; providing training requirements; amending s. 194.037, F.S.; revising information required to be provided on the disclosure of tax impact form to include certain additional information; specifying that a taxpayer is precluded from having certain burdens of proof; amending s. 195.002, F.S.; authorizing the Department of Revenue to incur certain reasonable expenditures; amending s. 196.192, F.S., providing that educational institutions owned by exempt entities are also exempt from ad valorem taxation; amending s. 201.02, F.S.; requiring a notation indicating a nonprofit's exemption from the documentary stamp tax; amending s. 202.29, F.S.; concerning certain bad debts; amending ss. 212.03 and 212.0305, F.S.; revising the list of living quarters or sleeping or housekeeping accommodations that are subject to taxation; providing definitions; providing for taxation of regulated short-term products; providing that the occupancy of an accommodation of a timeshare resort and membership or transaction fee paid by a timeshare owner is not a privilege subject to taxation; providing that consideration paid for the purchase of a timeshare license in a timeshare plan is rent subject to taxation; requiring the person operating transient accommodations to separately state the tax charged on a receipt or other documentation; providing that persons facilitating the booking of reservations are not required to separately state tax amounts charged; requiring that such amounts be remitted as tax and classified as county funds; specifying that certain provisions of the act are clarifying and remedial in nature and are not a basis for assessments of tax or for refunds of tax for periods before the effective date of the act; amending s. 212.031, F.S.; conforming a cross-reference; amending s. 212.055, F.S.; authorizing certain counties to levy a hospital surtax subject to referendum approval; providing for the allocation and uses of the surtax proceeds; amending s. 212.08, F.S.; revising provisions relating to the tax exemption for building materials used to rehabilitate real property in enterprise zones; providing an exemption from the sales and use tax for an aircraft that is temporarily used in this state; providing that proof of temporary usage may be shown by specific documentation; amending s. 213.015, F.S.;

conforming a cross-reference; amending s. 213.053, F.S.; revising provisions relating to confidentiality; authorizing the Department of Revenue to send certain general information to taxpayers by electronic means; deleting a provision that allows the disclosure of certain information to the Chief Financial Officer; amending s. 213.67, F.S.; revising the time for commencing actions to contest a tax levy; amending s. 220.21, F.S.; revising provisions relating to the electronic filing of corporate taxes; providing for retroactivity; amending s. 336.021, F.S.; revising the order for distributing the local option fuel tax revenues; amending s. 443.1215, F.S.; revising a cross-reference; amending s. 695.22, F.S.; requiring the actual purchase price to be included on deeds and conveyances filed for record; amending s. 695.26, F.S.; requiring the actual purchase price to be shown on an instrument by which the title to real property or any interest therein is conveyed; repealing s. 213.054, F.S., relating to a report naming persons who claim a deduction for the net earnings of an international banking facility; providing for retroactive application of specified provisions; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 72.011, Florida Statutes, is amended to read:

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

(2)(a) An action may not be brought to contest an assessment of any tax, interest, or penalty assessed under a section or chapter specified in subsection (1) if the petition is postmarked or delivered to a third party commercial carrier for delivery or the action is filed more than 60 days after the date the assessment becomes final. An action may not be brought to contest a denial of refund of any tax, interest, or penalty paid under a section or chapter specified in subsection (1) if the petition is postmarked or delivered to a third-party commercial carrier for delivery or the action is filed more than 60 days after the date the denial becomes final.

Section 2. Subsection (3) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.--

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.--

(a) It is declared to be the intent of the Legislature that every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, ~~or~~ condominium, or timeshare resort for a term of 6 months or less is exercising a privilege which is subject to taxation under this section, unless such person rents, leases, or lets for consideration any living quarters or accommodations which are exempt according to the provisions of chapter 212.

(b) As used in this section, the terms "consideration," "rental," and "rents" mean the amount received by a person operating transient accommodations for the use or securing the use of any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, timeshare resort, tourist or trailer camp, mobile home park, recreational vehicle park, or condominium. The term "person operating transient accommodations" means the person conducting the daily affairs of the physical facilities furnishing transient accommodations who is responsible for providing the services commonly associated with operating the facilities furnishing transient accommodations regardless of whether such commonly associated services are provided by third parties. The terms "consideration" and "rents" do not include payments received by unrelated persons for facilitating the booking of reservations for or on behalf of the lessees or licensees at hotels, apartment houses, roominghouses, timeshare resorts, tourist or trailer camps, mobile home parks, recreational vehicle parks, or condominiums in this state. "Unrelated person" means a person who is not in the same affiliated group of corporations pursuant to s. 1504 of the Internal Revenue Code of 1986, as amended.

(c) Tax shall be due on the consideration paid for occupancy in the county pursuant to a regulated short-term product, as defined in chapter 721, or occupancy in the county pursuant to a product that would be deemed a regulated short-term product if the agreement to purchase the short-term right were executed in this state. Such tax shall be collected on the last day of occupancy within the county unless the consideration is applied to the purchase of a timeshare estate.

Notwithstanding paragraphs (a) and (b), the occupancy of an accommodation of a timeshare resort pursuant to a timeshare plan, a multisite timeshare plan, or an exchange transaction in an exchange program, as defined in chapter 721, by the owner of a timeshare interest or such owner's guest, which guest is not paying monetary consideration to the owner or to a third party for the benefit of the owner, is not a privilege subject to taxation under this section. A membership or transaction fee paid by a timeshare owner which does not provide the timeshare owner with the right to occupy any specific timeshare unit but merely provides the timeshare owner with the opportunity to exchange a timeshare interest through an exchange program is a service charge and is not subject to taxation.

(d) Consideration paid for the purchase of a timeshare license in a timeshare plan, as defined in chapter 721, is rent subject to taxation under this section.

(e) ~~(b)~~ Subject to the provisions of this section, any county in this state may levy and impose a tourist development tax on the exercise within its boundaries of the taxable privilege described in paragraph (a), except that there shall be no additional levy under this section in any cities or towns presently imposing a municipal resort tax as authorized under chapter 67-930, Laws of Florida, and this section shall not in any way affect the powers and existence of any tourist development authority created pursuant to chapter 67-930, Laws of Florida. No county authorized to levy a convention development tax pursuant to s. 212.0305, or to s. 8 of chapter 84-324, Laws of Florida, shall be allowed to levy more than the 2-percent tax authorized by this section. A county may elect to levy and impose the tourist development tax in a subcounty special district of the county. However, if a county so elects to levy and impose the tax on a subcounty special district basis, the district shall embrace all or a significant contiguous portion of the county, and the county shall assist the Department of Revenue in identifying the rental units subject to tax in the district.

(f) ~~(c)~~ The tourist development tax shall be levied, imposed, and set by the governing board of the county at a rate of 1 percent or 2 percent of each dollar and major fraction of each dollar of the total consideration charged for such lease or rental. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(g) ~~(d)~~ In addition to any 1-percent or 2-percent tax imposed under paragraph (f) ~~(c)~~, the governing board of the county may levy, impose, and set an additional 1 percent of each dollar above the tax rate set under paragraph (f) ~~(c)~~ by the extraordinary vote of the governing board for the purposes set forth in subsection (5) or by referendum approval by the registered electors within the county or subcounty special district. No county shall levy, impose, and set the tax authorized under this paragraph unless the county has imposed the 1-percent or 2-percent tax authorized under paragraph (f)

~~(c)~~ for a minimum of 3 years prior to the effective date of the levy and imposition of the tax authorized by this paragraph. Revenues raised by the additional tax authorized under this paragraph shall not be used for debt service on or refinancing of existing facilities as specified in subparagraph (5)(a)1. unless approved by a resolution adopted by an extraordinary majority of the total membership of the governing board of the county. If the 1-percent or 2-percent tax authorized in paragraph (f) ~~(c)~~ is levied within a subcounty special taxing district, the additional tax authorized in this paragraph shall only be levied therein. The provisions of paragraphs (4)(a)-(d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(h) ~~(e)~~ The tourist development tax shall be in addition to any other tax imposed pursuant to chapter 212 and in addition to all other taxes and fees and the consideration for the rental or lease.

(i) ~~(f)~~ The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(j) ~~(g)~~ The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under s. 212.03. The same duties and privileges imposed by chapter 212 upon dealers in tangible property, respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the Department of Revenue in the administration of that chapter shall apply to and be binding upon all persons who are subject to the provisions of this section. However, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed $25.

(k) ~~(h)~~ The Department of Revenue shall keep records showing the amount of taxes collected, which records shall also include records disclosing the amount of taxes collected for and from each county in which the tax authorized by this section is applicable. These records shall be open for inspection during the regular office hours of the Department of Revenue, subject to the provisions of s. 213.053.

(l) ~~(i)~~ Collections received by the Department of Revenue from the tax, less costs of administration of this section, shall be paid and returned monthly to the county which imposed the tax, for use by the county in accordance with the provisions of this section. They shall be placed in the county tourist development trust fund of the respective county, which shall be established by each county as a condition precedent to receipt of such funds.

(m) ~~(j)~~ The Department of Revenue may ~~is authorized to~~ employ persons and incur other expenses for which funds are appropriated by the Legislature.

(n) ~~(k)~~ The Department of Revenue shall adopt ~~promulgate~~ ~~such~~ rules and ~~shall~~ prescribe and publish ~~such~~ forms as ~~may be~~ necessary to effectuate the purposes of this section. The department may establish audit procedures to assess for delinquent taxes. The person operating transient accommodations shall state the tax separately from the rental charged on the receipt, invoice, or other documentation issued with respect to charges for transient accommodations. Persons facilitating the booking of reservations who are unrelated to the person operating the transient accommodations in which the reservation is booked are not required to separately state amounts charged on the receipt, invoice, or other documentation issued by the person facilitating the booking of the reservation. Any amounts specifically collected as a tax are county funds and must be remitted as tax.

(o) ~~(l)~~ In addition to any other tax which is imposed pursuant to this section, a county may impose up to an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by majority vote of the governing board of the county in order to:

1. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional sports franchise facility, or the acquisition, construction, reconstruction, or renovation of a retained spring training franchise facility, either publicly owned and operated, or

publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds.

2. Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a convention center, and to pay the planning and design costs incurred prior to the issuance of such bonds.

3. Pay the operation and maintenance costs of a convention center for a period of up to 10 years. Only counties that have elected to levy the tax for the purposes authorized in subparagraph 2. may use the tax for the purposes enumerated in this subparagraph. Any county that elects to levy the tax for the purposes authorized in subparagraph 2. after July 1, 2000, may use the proceeds of the tax to pay the operation and maintenance costs of a convention center for the life of the bonds.

<u>c. For counties designated as high tourism impact counties pursuant to subparagraph (p)2., the acquisition, construction, extension, enlargement, remodeling, repair, improvement, maintenance, operation, or promotion of one or more publicly owned and operated sports stadiums, arenas, or other sports venues within the boundaries of the county.</u>

4. Promote and advertise tourism in the State of Florida and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall have as one of its main

purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.

The provision of paragraph (e) ~~(b)~~ which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section, and the provisions of paragraphs (4)(a)-(d), shall not apply to the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(p) ~~(m)~~1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subsection (5).

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded $600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied

pursuant to this section were a minimum of $200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. The provisions of paragraphs (4)(a)-(d) shall not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(q) ~~(n)~~ In addition to any other tax that is imposed under this section, a county that has imposed the tax under paragraph (o) ~~(l)~~ may impose an additional tax that is no greater than 1 percent on the exercise of the privilege described in paragraph (a) by a majority plus one vote of the membership of the board of county commissioners in order to:

1. Pay the debt service on bonds issued to finance:

a. The construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162.

b. The acquisition, construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a retained spring training franchise.

2. Promote and advertise tourism in the State of Florida and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.

A county that imposes the tax authorized in this paragraph may not expend any ad valorem tax revenues for the acquisition, construction, reconstruction, or renovation of a facility for which tax revenues are used pursuant to subparagraph 1. The provision of paragraph (e) ~~(b)~~ which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2-percent tax authorized by this section shall not apply to the additional tax authorized by this paragraph in counties which levy convention development taxes pursuant to s. 212.0305(4)(a). Subsection (4) does not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph is the first day of the second month following approval of the ordinance by the board of county commissioners or the first day of any subsequent month specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of the ordinance.

Section 3. The amendments made by this act to s. 125.0104, Florida Statutes, are intended as clarifying and remedial in nature and are not a basis for assessments of tax for periods before July 1, 2008, or for refunds of tax for periods before July 1, 2008.

Section 4. Subsections (1) and (2) of section 125.0108, Florida Statutes, are amended to read:

125.0108 Areas of critical state concern; tourist impact tax.—

(1)(a) Subject to the provisions of this section, any county creating a land authority pursuant to s. 380.0663(1) is authorized to levy by ordinance, in the area or areas within said county designated as an area of critical state concern pursuant to chapter 380, a tourist impact tax on the taxable privileges described in paragraph (b); however, if the area or areas of critical state concern are greater than 50 percent of the land area of the county, the tax may be levied throughout the entire county. Such tax shall not be effective unless and until land development regulations and a local comprehensive plan that meet the requirements of chapter 380 have become effective and such tax is approved by referendum as provided for in subsection (5).

(b) 1. It is declared to be the intent of the Legislature that every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, ~~or~~ condominium, or timeshare resort for a term of 6 months or less, unless such establishment is exempt from the tax imposed by s. 212.03, is exercising a taxable privilege on the proceeds therefrom under this section.

2. As used in this section, the terms "consideration," "rental," and "rents" mean the amount received by a person operating transient accommodations for the use or securing the use of any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, timeshare resort, tourist or trailer camp, mobile home park, recreational vehicle park, or condominium. The term "person operating transient accommodations" means the person conducting the daily affairs of the physical facilities furnishing transient accommodations who is responsible for providing the services commonly associated with operating the facilities furnishing transient accommodations regardless of whether such commonly associated services are provided by third parties. The terms "consideration," "rental" and "rents" do not include payments received by unrelated persons for facilitating the booking of reservations for or on behalf of the lessees or licensees at hotels, apartment houses, rooming houses, timeshare resorts, tourist or trailer camps, mobile home parks, recreational vehicle parks or condominiums in this state. "Unrelated

persons” means a person who is not in the same affiliated group of corporations pursuant to s.1504 of the Internal Revenue Code of 1986, as amended.

3. Tax shall be due on the consideration paid for occupancy in the county pursuant to a regulated short-term product, as defined in chapter 721, or occupancy in the county pursuant to a product that would be deemed a regulated short-term product if the agreement to purchase the short-term right were executed in this state. Such tax shall be collected on the last day of occupancy within the county unless the consideration is applied to the purchase of a timeshare estate.

Notwithstanding the provisions of paragraphs (a) and (b), the occupancy of an accommodation of a timeshare resort pursuant to a timeshare plan, a multisite timeshare plan, or an exchange transaction in an exchange program, as defined in chapter 721, by the owner of a timeshare interest or such owner’s guest, which guest is not paying monetary consideration to the owner or to a third party for the benefit of the owner, is not a privilege subject to taxation under this section. A membership or transaction fee paid by a timeshare owner that does not provide the timeshare owner with the right to occupy any specific timeshare unit but merely provides the timeshare owner with the opportunity to exchange a timeshare interest through an exchange program is a service charge and not subject to taxation.

4. Consideration paid for the purchase of a timeshare license in a timeshare plan, as defined in chapter 721, is rent subject to tax under this section.

(c) The governing board of the county may, by passage of a resolution by four-fifths vote, repeal such tax.

(d) The tourist impact tax shall be levied at the rate of 1 percent of each dollar and major fraction thereof of the total consideration charged for such taxable privilege. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration.

(e) The tourist impact tax shall be in addition to any other tax imposed pursuant to chapter 212 and in addition to all other taxes and fees and the consideration for the taxable privilege.

(f) The tourist impact tax shall be charged by the person receiving the consideration for the taxable privilege, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such taxable privilege.

(g) A county that has levied the tourist impact tax authorized by this section in an area or areas designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation may continue to levy the tourist impact tax in accordance with this section for 20 years following removal of the designation. After expiration of the 20-year period, a county may continue to levy the tourist impact tax authorized by this section if the county adopts an ordinance reauthorizing levy of the tax and the continued levy of the tax is approved by referendum as provided for in subsection (5).

(2)(a) The person receiving the consideration for such taxable privilege and the person doing business within such area or areas of critical state concern or within the entire county, as applicable, shall receive, account for, and remit the tourist impact tax to the Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under chapter 212. The same duties and privileges imposed by chapter 212 upon dealers in tangible property, respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the Department of Revenue in the administration of that chapter shall apply to and be binding upon all persons who are subject to the provisions of this section. However, the Department of Revenue may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed $25.

(b) The Department of Revenue shall keep records showing the amount of taxes collected, which records shall also include records disclosing the amount of taxes collected for and from each county in which the tax imposed and authorized by this section is applicable. These records shall be open for inspection during the regular office hours of the Department of Revenue, subject to the provisions of s. 213.053.

(c) Collections received by the Department of Revenue from the tax, less costs of administration of this section, shall be paid and returned monthly to the county and the land authority in accordance with the provisions of subsection (3).

(d) The Department of Revenue is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.

(e) The Department of Revenue is empowered to promulgate such rules and prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess for delinquent taxes. The person operating transient accommodations shall separately state the tax from the rental charged on the receipt, invoice, or other documentation issued with respect to charges for transient accommodations. Persons facilitating the booking of reservations, who are unrelated to the person operating the transient accommodations in which the reservation is booked, are not required to separately state amounts charged on the receipt, invoice, or other documentation issued by the person facilitating the booking of the reservation. Any amounts specifically collected as a tax are county funds and must be remitted as tax.

(f) The estimated tax provisions contained in s. 212.11 do not apply to the administration of any tax levied under this section.

Section 5. The amendments made by this act to s. 125.0108, Florida Statutes, are intended as clarifying and remedial in nature and are not a basis for assessments of tax for periods before July 1, 2008, or for refunds of tax for periods before July 1, 2008.

Section 6. Effective January 1, 2009, paragraph (a) of subsection (4) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.--There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(4) THE RIGHT TO CONFIDENTIALITY.--

(a) The right to have information kept confidential, including federal tax information, ad valorem tax returns, social security numbers, all financial records produced by the taxpayer, Form DR-219 <u>Return for Transfers of Interest in Real Property,</u> returns <u>required by s. 201.022</u> ~~for documentary stamp tax information~~, and sworn statements of gross income, copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents (see ss. 192.105, 193.074, 193.114(5), 195.027(3) and (6), and 196.101(4)(c)).

Section 7. Paragraph (c) of subsection (4) of Section

193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property received in the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption.

(4)

(c) Changes, additions, or improvements that replace all or a portion of real property that was damaged or destroyed by misfortune or calamity shall be assessed upon substantial completion as if such damage or destruction had not occurred and in accordance with paragraph (b) if the owner of such property:

1. Was permanently residing on such property <u>or improvements were under construction and subject to completion prior to January 1 of the year</u> when the damage or destruction occurred;

2. Was not entitled to receive homestead exemption on such property as of January 1 of that year; and

3. Applies for and receives homestead exemption on such property the <u>year</u> following <u>the completion of improvements made in compliance with paragraph (b)</u> ~~year~~.

Section 8. Paragraph (b) of subsection (3) of section 193.461, Florida Statutes, is amended to read:

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.--

(3)(a) No lands shall be classified as agricultural lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such lands, may

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require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such lands were actually used for a bona fide agricultural purpose. Failure to make timely application by March 1 shall constitute a waiver for 1 year of the privilege herein granted for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 may file an application for the classification and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the classification be granted. The petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding the provisions of s. 194.013, the applicant must pay a nonrefundable fee of $15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the classification, the property appraiser or the value adjustment board may grant the classification. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted by the property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(b) Subject to the restrictions set out in this section, only lands which are used primarily for bona fide agricultural purposes shall be classified agricultural. "Bona fide agricultural purposes" means good faith commercial agricultural use of the land. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

1. The length of time the land has been so utilized;

2. Whether the use has been continuous;

3. The purchase price paid;

4. Size, as it relates to specific agricultural use, <u>but in no event shall a minimum acreage greater than 10 acres be required for agricultural assessment</u>;

5. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices;

6. Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease; and

7. Such other factors as may from time to time become applicable.

Section 9. Subsection (5) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.--

(5)(a) The department shall by rule prescribe uniform procedures for hearings before the value adjustment board which include requiring:

1.~~(a)~~ Procedures for the exchange of information and evidence by the property appraiser and the petitioner consistent with s. 194.032, F.S.; and

2.~~(b)~~ That the value adjustment board hold an organizational meeting for the purpose of making these procedures available to petitioners.

(b) The department shall develop a uniform policies and procedures manual that shall be used by value adjustment boards, special magistrates, and taxpayers in proceedings before value adjustment boards. The manual shall be made available, at a minimum, on the department's website and on the existing websites of the clerks of circuit courts.

Section 10. Section 194.015, Florida Statutes, is amended to read:

194.015 Value adjustment board.--

(1) There is hereby created a value adjustment board for each county, which shall consist of five members.

(2)(a)1. Three members shall be appointed by ~~of~~ the governing body of the county, as follows:

a. One member must own a homestead property within the county.

b. One member must own a business that occupies commercial space located within the county.

c. An appointee may not be a member or an employee of any taxing authority and may not be a person who represents property owners in any administrative or judicial review of property taxes.

2. ~~as elected from the membership of the board of said governing body,~~ One of such appointees ~~whom~~ shall be elected chairperson.

(b) ~~, and~~ Two members shall be appointed by ~~of~~ the school board, as follows:

1. One member must own a business that occupies commercial space located within the school district.

2. One member must be eligible to receive one or more of the exemptions under s. 6(c), (f), or (g), Art. VII of the State Constitution, regardless of whether the taxpayer's local government grants the additional local homestead exemptions.

3. An appointee may not be a member or an employee of any taxing authority and may not be a person who represents property owners in any administrative or judicial review of property taxes ~~as elected from the membership of the school board~~. The members of the board shall attend all meetings of the value adjustment board to which appointed, unless excused by the chairperson or the governing body of the county. In the event that a member accumulates one unexcused absence, the member may tender their resignation prior to a second unexcused absence; in which case the member shall be replaced by the appointing body

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with an individual who satisfies the original criteria for appointment. In the event that a member accumulates two unexcused absences, the appointing body shall replace the member, and the replacement member may be a member of the appointing body ~~may be temporarily replaced by other members of the respective boards on appointment by their respective chairpersons~~.

(3) Any three members shall constitute a quorum of the board, ~~except that each quorum must include at least one member of said governing board and at least one member of the school board,~~ and no meeting of the board shall take place unless a quorum is present.

(4) Members of the board may receive such per diem compensation as is allowed by law for state employees if both bodies elect to allow such compensation.

(5) The clerk of the governing body of the county shall be the clerk of the value adjustment board.

(6)(a) ~~The office of the county attorney may be counsel to the board unless the county attorney represents the property appraiser, in which instance~~ The board shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private council may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative judicial review of property taxes.

(b) Meetings ~~No meeting~~ of the board shall not take place unless counsel to the board is present. ~~However, counsel for the property appraiser shall not be required when the county~~

~~attorney represents only the board at the board hearings, even though the county attorney may represent the property appraiser in other matters or at a different time.~~

(7) Two-fifths of the expenses of the board shall be borne by the district school board and three-fifths by the district county commission.

Section 11. Subsection (2) of section 194.034, Florida Statutes, is amended to read:

194.034 Hearing procedures; rules. –

(2) In each case, except when a complaint is withdrawn by the petitioner or is acknowledged as correct by the property appraiser, the value adjustment board shall render a written decision. All such decisions shall be issued within 20 calendar days of the last day the board is in session s. 194.032. The decision of the board shall contain findings of fact and conclusions of law and shall include reasons for upholding or overturning the determination of the special magistrate, which must include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser, shall be considered by the board. The clerk, upon issuance of the decisions, shall, on a form provided by the Department of Revenue, notify by first-class mail each taxpayer, the property appraiser, and the department of the decision of the board.

Section 12. Section.194.035, Florida Statutes, is amended to read:

194.035 Special magistrates; property evaluators.--

(1) Each value adjustment ~~In counties having a population~~

~~of more than 75,000, the~~ board shall appoint special magistrates who have successfully completed the requisite training administered by the Department in accordance with this section. The special magistrate shall take testimony and make recommendations to the board, which recommendations the board may act upon without further hearing. These special magistrates may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates. No special magistrate shall serve in any county in two consecutive years. The clerk of the board shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates exist. The Department of Revenue shall provide a list of qualified special magistrates to all counties. Subject to appropriation, the department shall reimburse counties with a population of 75,000 or less for payments made to special magistrates appointed for the purpose of taking testimony and making recommendations to the value adjustment board pursuant to this section. The department shall establish a reasonable range for payments per case to special magistrates based on such payments in other counties. Requests for reimbursement of payments outside this range shall be justified by the county. If the total of all requests for reimbursement in any year exceeds the amount available pursuant to this section, payments to all counties shall be prorated accordingly. A special magistrate appointed to hear issues of exemptions and classifications shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years' experience in tangible personal property valuation. A special magistrate need not be a resident of the county in which he or she serves. A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate. Before appointing a special magistrate, a value adjustment board shall verify the special magistrate's qualifications. The value adjustment board shall ensure that the selection of special magistrates is based solely upon the experience and qualifications of the special magistrate and is not influenced by the property appraiser. It is the duty of the special magistrate to accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, the special magistrate shall include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. ~~The board shall appoint special magistrates from the list so compiled prior to convening of the board.~~ The expense of hearings before magistrates and any compensation of special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board.

(2) The value adjustment board of each county may employ qualified property appraisers or evaluators to appear before the value adjustment board at that meeting of the board which is held for the purpose of hearing complaints. Such property appraisers or evaluators shall present testimony as to the just value of any property the value of which is contested before the board and shall submit to examination by the board, the taxpayer, and the property appraiser.

(3) Beginning January 1, 2009, the department shall provide and conduct training for special magistrates at least once each year in at least five locations throughout the state.

(a) For certification as an attorney special magistrate, the training shall include emphasis on the applicable hearing procedures and statutory provisions governing property tax exemptions, classifications, and deferrals. It shall be at least 40 hours, including at least 8 hours in real estate appraisal and the Department's Real Property Guidelines for Property Appraisers; at least 8 hours in tangible personal property appraisal; at least 20 hours in Florida Ad Valorem tax law, specifically chapters 192-200, and Article VII of the Florida Constitution; and at least 4 hours of instruction in the policies and procedural manual for Value Adjustment Board petition hearings adopted by the Department.

(b) For certification as a real property appraiser special magistrate, the training shall include emphasis on the on the Department's Real Property Guidelines for Property Appraisers and on applicable hearing procedures. It shall be at least 60 hours, including at least 3 hours in tangible personal property appraisal; at least 28 hours in Florida Ad Valorem tax law, chapters 192-200, and Article VII of the Florida Constitution; at least 25 hours of real estate appraisal and the Department's Real Property Guidelines for Property Appraisers; and, at least 4 hours of instruction in the policies and procedural manual for Value Adjustment Board petition hearings adopted by the Department.

(c) For certification as a tangible personal property appraiser special magistrate, the training shall include emphasis on the Department's Tangible Personal Property Guidelines for Property Appraisers and applicable hearing procedures.. It shall be at least 80 hours, including at least 3 hours in real property appraisal; at least 30 hours in Florida Ad Valorem tax law, chapters 192-200, and Article VII of the Florida Constitution; at least 30 hours in tangible personal property appraisal including the Department's Tangible Personal Property Guidelines for Property Appraisers; and, at least 17 hours of instruction in the Uniform Rules of Procedure, chapter 28-106, Florida Administrative Code and in any procedural rules for Value Adjustment Board petition hearings adopted by the Division.

(d) The Department shall charge tuition fees to any person who attends this training in an amount sufficient to fund the Department's costs to conduct all aspects of the training. The Department shall deposit the fees collected into the Certification Program Trust Fund pursuant to s. 195.002(2)

~~These special magistrates may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates. The clerk of the board shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates exist. The Department of Revenue shall provide a list of qualified special magistrates to any county with a population of 75,000 or less. Subject to appropriation, the department shall reimburse counties with a population of 75,000 or less for payments made to special magistrates appointed for the purpose of taking testimony and making recommendations to the value adjustment board pursuant to this section. The department shall establish a reasonable range for payments per case to special magistrates based on such payments in other counties. Requests for reimbursement of payments outside this range shall be justified by the county. If the total of all requests for reimbursement in any year exceeds the amount available pursuant to this section, payments to all counties shall be prorated accordingly.~~

<u>(4) General provisions regarding special magistrates.</u>

<u>(a)</u> A special magistrate need not be a resident of the county in which he or she serves.

<u>(b)</u> A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate.

(c) No special magistrate will be assigned to conduct hearings in the same county in two consecutive years. ~~The board shall appoint special magistrates from the list so compiled prior to convening of the board.~~

(d) The expense of hearings before special magistrates and any compensation of special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board.

~~(2) The value adjustment board of each county may employ qualified property appraisers or evaluators to appear before the value adjustment board at that meeting of the board which is held for the purpose of hearing complaints. Such property appraisers or evaluators shall present testimony as to the just value of any property the value of which is contested before the board and shall submit to examination by the board, the taxpayer, and the property appraiser.~~

Section 13. Subsection (1) of section 194.037, Florida Statutes, is amended to read:

Section 194.037, Florida Statutes, Disclosure of tax impact.--

(1) After hearing all petitions, complaints, appeals, and disputes, the clerk shall make public notice of the findings and results of the board in at least a quarter-page size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of

general paid circulation in the county. The newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter, pursuant to chapter 50. The headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(a) In the first column, the number of parcels for which the board granted exemptions that had been denied or that had not been acted upon by the property appraiser.

(b) In the second column, the number of parcels for which petitions were filed concerning a property tax exemption.

(c) In the third column, the number of parcels for which the board considered the petition and reduced the assessment from that made by the property appraiser on the initial assessment roll.

(d) In the fourth column, the number of parcels for which petitions were filed but which were not considered by the board because such petitions were withdrawn or settled prior to the board's consideration.

(e) ~~(d)~~ In the fifth ~~fourth~~ column, the number of parcels for which petitions were filed requesting a change in assessed value, including requested changes in assessment classification.

(f) ~~(e)~~ In the sixth ~~fifth~~ column, the net change in taxable value from the assessor's initial roll which results from board decisions.

(g) ~~(f)~~ In the seventh ~~sixth~~ column, the net shift in taxes to parcels not granted relief by the board. The shift shall be computed as the amount shown in column 5 multiplied by the applicable millage rates adopted by the taxing authorities in hearings held pursuant to s. 200.065(2)(d) or adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution, but without adjustment as authorized pursuant to s. 200.065(6). If for any taxing authority the hearing has not been completed at the time the notice required herein is prepared, the millage rate used shall be that adopted in the hearing held pursuant to s. 200.065(2)(c).

Section 14. It is the express intent of the Legislature that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment and all cases setting out such a standard were expressly rejected legislatively upon the adoption of chapter 97-85, Laws of Florida. It is the further intent of the Legislature that any cases of law published since 1997 citing the every-reasonable-hypothesis standard are expressly rejected to the extent that they are interpretative of legislative intent.

Section 15. Subsection (2) of section 195.002, Florida Statutes, is amended to read:

195.002 Supervision by Department of Revenue.--

(2) In furtherance of its duty to conduct schools to upgrade assessment skills and collection skills, the department may establish by rule committees on admissions and certification. Additionally, the department may incur reasonable

expenses for hiring instructors, travel, office operations, certificates of completion, badges or awards, and food service incidental to conducting such schools, the salaries and benefits of department employees whose duties are directly associated with the overall administration of the curriculum, training, examination, and certification of special magistrates, and for administering any certification program under s. 145.10 or s. 145.11 or s. 194.035. The department shall ~~may~~ charge a tuition fee and an examination fee to any person who attends such a school and may charge a fee to certify or recertify any person under such a program. The department shall deposit such fees into the Certification Program Trust Fund which is created in the State Treasury. There shall be separate school account and program accounts in the trust fund for property appraisers, ~~and~~ for tax collectors, and for special magistrates. The department shall use money in the fund to pay such expenses.

Section 16. Section 196.192, Florida Statutes, is amended to read:

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

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

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

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

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

Section 17. Effective January 1, 2009, subsection (6) of section 201.02, Florida Statutes, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.--

(6) Taxes imposed by this section shall not apply to any assignment, transfer, or other disposition, or any document, which arises out of a transfer of real property from a nonprofit organization to the Board of Trustees of the Internal Improvement Trust Fund, to any state agency, to any water management district, or to any local government. For purposes of this subsection, "nonprofit organization" means an organization whose purpose is the preservation of natural resources and which

is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The following notation must be placed on the document assigning, transferring, or otherwise disposing of the property, adjacent to the official record stamp of the county, at the time of its recording in the public records: "This document is exempt from documentary stamp tax pursuant to s. 201.02(6), F.S." ~~The Department of Revenue shall provide a form, or a place on an existing form, for the nonprofit organization to indicate its exempt status.~~

Section 18. Section 202.29, Florida Statutes, is amended to read:

202.29 Bad debts.--

(1) A dealer who has paid the tax imposed by this chapter may take a credit or obtain a refund for tax paid by the dealer on unpaid balances due on worthless accounts within 12 months following the last day of the calendar year for which the bad debt was charged off on the taxpayer's federal income tax return.

(2) If any accounts for which a credit or refund has been received are then in whole or in part paid to the dealer, the amount paid must be included in the first return filed after such receipt and the tax paid accordingly.

(3) Bad debts associated with accounts receivable which have been assigned or sold with recourse are eligible upon reassignment for inclusion by the dealer in the credit or refund authorized by this section.

(4) A taxpayer may report the credit for bad debt allowed under this section by netting such credit against the tax due to

the state pursuant to s. 202.12 or to a local jurisdiction pursuant to s. 202.19, but such netting shall not reduce the amount due to the state or to any local jurisdiction below zero.

(5) For purposes of determining the amount of bad debt that is attributable to the state or to a local jurisdiction, a taxpayer may employ a proportionate allocation method based on current gross taxes due or another reasonable allocation method approved by the department.

Section 19. Section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.--

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license to use any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, ~~or~~ tourist or trailer camp, mobile home park, recreational vehicle park, condominium, or timeshare resort. However, any person who rents, leases, lets, or grants a license to others to use, occupy, or enter upon any living quarters or sleeping or housekeeping accommodations in apartment houses, roominghouses, tourist camps, ~~or~~ trailer camps, mobile home park, recreational vehicle park, condominium, or timeshare resort, and who exclusively enters into a bona fide written agreement for continuous residence for longer than 6 months in duration at such property is not exercising a taxable privilege. For the exercise of such

taxable privilege, a tax is hereby levied in an amount equal to 6 percent of and on the total rental charged for such living quarters or sleeping or housekeeping accommodations by the person charging or collecting the rental. Such tax shall apply to hotels, apartment houses, roominghouses, ~~or~~ tourist or trailer camps, mobile home parks, recreational vehicle parks, condominiums, or timeshare resorts whether or not these facilities have ~~there is in connection with any of the same any~~ dining rooms, cafes, or other places where meals or lunches are sold or served to guests.

(2) As used in this section, the terms "rent," "rental," "rentals," and "rental payments" mean the amount received by a person operating transient accommodations for the use or securing of any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, mobile home park, recreational vehicle park, condominium, timeshare resort, or tourist or trailer camp. The phrase "person operating transient accommodations" means the person conducting the daily affairs of the physical facilities furnishing transient accommodations who is responsible for providing the services commonly associated with operating the facilities furnishing transient accommodations regardless of whether such commonly associated services are provided by third parties. The terms "consideration" and "rents" do not include payments received by unrelated persons for facilitating the booking of reservations for or on behalf of the lessees or licensees at hotels, apartment houses, roominghouses, mobile home parks, recreational

vehicle parks, condominiums, timeshare resorts, or tourist or trailer camps in this state. "Unrelated person" means a person who is not in the same affiliated group of corporations pursuant to s. 1504 of the Internal Revenue Code of 1986, as amended.

(3) Tax shall be due on the consideration paid for occupancy in this state pursuant to a regulated short-term product, as defined in chapter 721, or occupancy in this state pursuant to a product that would be deemed a regulated short-term product if the agreement to purchase the short-term right was executed in this state. Such tax shall be collected on the last day of occupancy within the state unless such consideration is applied to the purchase of a timeshare estate.

Notwithstanding subsections (1) and (2), the occupancy of an accommodation of a timeshare resort pursuant to a timeshare plan, a multisite timeshare plan, or an exchange transaction in an exchange program, as defined in chapter 721, by the owner of a timeshare interest or such owner's guest, which guest is not paying monetary consideration to the owner or to a third party for the benefit of the owner, is not a privilege subject to taxation under this section. A membership or transaction fee paid by a timeshare owner which does not provide the timeshare owner with the right to occupy any specific timeshare unit but merely provides the timeshare owner with the opportunity to exchange a timeshare interest through an exchange program is a service charge and not subject to tax.

(4) Consideration paid for the purchase of a timeshare license in a timeshare plan, as defined in chapter 721, is rent subject to tax under this section.

(5)~~(2)~~ The tax provided for herein shall be in addition to the total amount of the rental, shall be charged by the ~~lessor or~~ person operating transient accommodations subject to the tax under this chapter ~~receiving the rent~~ in and by said rental arrangement to the ~~lessee or~~ person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the ~~lessor or~~ person operating transient accommodations~~, as defined in this chapter, who receives said rental or payment~~. The ~~owner, lessor, or~~ person operating transient accommodations ~~receiving the rent~~ shall remit the tax to the department on the amount of rent received at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter. The person operating transient accommodations shall separately state the tax from the rental charged on the receipt, invoice, or other documentation issued with respect to charges for transient accommodations. Persons facilitating the booking of reservations who are unrelated to the person operating the transient accommodations in which the reservation is booked are not required to separately state amounts charged on the receipt, invoice, or other documentation issued by the person facilitating the booking of the reservation. Any amounts specifically collected as a tax are state funds and must be remitted as tax.

(6)~~(3)~~ When rentals are received by way of property, goods, wares, merchandise, services, or other things of value, the tax shall be at the rate of 6 percent of the value of the property, goods, wares, merchandise, services, or other things of value.

(7)~~(4)~~ The tax levied by this section shall not apply to, be imposed upon, or collected from any person who shall have entered into a bona fide written lease for longer than 6 months in duration for continuous residence at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium, or to any person who shall reside continuously longer than 6 months at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium and shall have paid the tax levied by this section for 6 months of residence in any one hotel, roominghouse, apartment house, tourist or trailer camp, or condominium. Notwithstanding other provisions of this chapter, no tax shall be imposed upon rooms provided guests when there is no consideration involved between the guest and the public lodging establishment. Further, any person who, on the effective date of this act, has resided continuously for 6 months at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium, or, if less than 6 months, has paid the tax imposed herein until he or she shall have resided continuously for 6 months, shall thereafter be exempt, so long as such person shall continuously reside at such location. The Department of Revenue shall have the power to reform the rental contract for the purposes of this chapter if the rental payments are collected in other than equal daily, weekly, or monthly amounts so as to reflect the actual consideration to be paid in the future for the right of occupancy during the first 6 months.

(8)~~(5)~~ The tax imposed by this section shall constitute a lien on the property of the lessee or rentee of any sleeping accommodations in the same manner as and shall be collectible as are liens authorized and imposed by ss. 713.68 and 713.69.

(9)~~(6)~~ It is the legislative intent that every person is engaging in a taxable privilege who leases or rents parking or storage spaces for motor vehicles in parking lots or garages, who leases or rents docking or storage spaces for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports. For the exercise of this privilege, a tax is hereby levied at the rate of 6 percent on the total rental charged.

(10)~~(7)~~(a) Full-time students enrolled in an institution offering postsecondary education and military personnel currently on active duty who reside in the facilities described in subsection (1) shall be exempt from the tax imposed by this section. The department shall be empowered to determine what shall be deemed acceptable proof of full-time enrollment. The exemption contained in this subsection shall apply irrespective of any other provisions of this section. The tax levied by this section shall not apply to or be imposed upon or collected on the basis of rentals to any person who resides in any building or group of buildings intended primarily for lease or rent to persons as their permanent or principal place of residence.

(b) It is the intent of the Legislature that this subsection provide tax relief for persons who rent living accommodations rather than own their homes, while still providing a tax on the rental of lodging facilities that primarily serve transient guests.

(c) The rental of facilities, as defined in s. 212.02(10)(f), which are intended primarily for rental as a principal or permanent place of residence is exempt from the tax imposed by this chapter. The rental of such facilities that primarily serve transient guests is not exempt by this subsection. In the application of this law, or in making any determination against the exemption, the department shall consider the facility as primarily serving transient guests unless the facility owner makes a verified declaration on a form prescribed by the department that more than half of the total rental units available are occupied by tenants who have a continuous residence in excess of 3 months. The owner of a facility declared to be exempt by this paragraph must make a determination of the taxable status of the facility at the end of the owner's accounting year using any consecutive 3-month period at least one month of which is in the accounting year. The owner must use a selected consecutive 3-month period during each annual redetermination. In the event that an exempt facility no longer qualifies for exemption by this paragraph, the owner must notify the department on a form prescribed by the department by the 20th day of the first month of the owner's next succeeding accounting year that the facility no longer qualifies for such exemption. The tax levied by this section shall apply to the rental of facilities that no longer qualify for exemption under this paragraph beginning the first day of the owner's next succeeding accounting year. The provisions of this paragraph do not apply to mobile home lots regulated under chapter 723.

(d) The rental of living accommodations in migrant labor camps is not taxable under this section. "Migrant labor camps" are defined as one or more buildings or structures, tents, trailers, or vehicles, or any portion thereof, together with the land appertaining thereto, established, operated, or used as living quarters for seasonal, temporary, or migrant workers.

Section 20. Subsection (3) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.--

(3) APPLICATION; ADMINISTRATION; PENALTIES.--

(a) The convention development tax on transient rentals imposed by the governing body of any county authorized to so levy shall apply to the amount of any payment made by any person to rent, lease, or use for a period of 6 months or less any living quarters or accommodations in a hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, <u>timeshare resort,</u> tourist or trailer camp, mobile home park, recreational vehicle park, or condominium. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary consideration. Any payment made by a person to rent, lease, or use any living quarters or accommodations which are exempt from the tax imposed under s. 212.03 shall likewise be exempt from any tax imposed under this section.

(b) As used in this section, the terms "payment" and "consideration" mean the amount received by a person operating transient accommodations for the use or securing the use of any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, timeshare resort, or tourist or trailer camp. The phrase "person operating transient accommodations" means the person conducting the daily affairs of the physical facilities furnishing transient accommodations who is responsible for providing the services commonly associated with operating the facilities furnishing transient accommodations regardless of whether such commonly associated services are provided by third parties. The terms "consideration" and "rents" do not include payments received by unrelated persons for facilitating the booking of reservations for or on behalf of the lessees or licensees at hotels, apartment houses, roominghouses, mobile home parks, recreational vehicle parks, condominiums, timeshare resorts, or tourist or trailer camps in this state. "Unrelated person" means a person who is not in the same affiliated group of corporations pursuant to s. 1504 of the Internal Revenue Code of 1986, as amended.

(c) Tax shall be due on the consideration paid for occupancy in the county pursuant to a regulated short-term product, as defined in chapter 721, or occupancy in the county pursuant to a product that would be deemed a regulated short-term product if the agreement to purchase the short-term right was executed in this state. Such tax shall be collected on the last day of occupancy within the county unless such consideration is applied to the purchase of a timeshare estate. Notwithstanding the provisions of paragraph (b), the occupancy of an accommodation of a timeshare resort pursuant to a timeshare plan, a multisite timeshare plan, or an exchange transaction in an exchange program, as defined in chapter 721, by the owner of a timeshare interest or such owner's guest, which guest is not paying monetary consideration to the owner or to a third party for the benefit of the owner, is not a privilege subject to taxation under this section. A membership or transaction fee paid by a timeshare owner which does not provide the timeshare owner with the right to occupy any specific timeshare unit but merely provides the timeshare owner with the opportunity to exchange a timeshare interest through an exchange program is a service charge and not subject to tax.

(d) Consideration paid for the purchase of a timeshare license in a timeshare plan, as defined in chapter 721, is rent subject to tax under this section.

(e) ~~(b)~~ The tax shall be charged by the person receiving the consideration for the lease or rental, and the tax shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental. The person operating transient accommodations shall separately state the tax from the rental charged on the receipt, invoice, or other documentation issued with respect to charges for transient accommodations. Persons facilitating the booking of reservations who are unrelated to the person operating the transient accommodations in which the reservation is booked are not required to separately state amounts charged on the receipt, invoice, or other documentation issued by the person facilitating the booking of the reservation. Any amounts specifically collected as a tax are county funds and must be remitted as tax.

(f) ~~(c)~~ The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the department at the time and in the manner provided for persons who collect and remit taxes under s. 212.03. The same duties and privileges imposed by this chapter upon dealers in tangible property respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and compliance with the rules of the department in the administration of this chapter apply to and are binding upon all persons who are subject to the provisions of this section. However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed $25.

(g) ~~(d)~~ The department shall keep records showing the amount of taxes collected, which records shall disclose the taxes collected from each county in which a local government resort tax is levied. These records shall be subject to the provisions of s. 213.053 and are confidential and exempt from the provisions of s. 119.07(1).

(h)~~(e)~~ The collections received by the department from the tax, less costs of administration, shall be paid and returned monthly to the county which imposed the tax, for use by the county as provided in this section. Such receipts shall be placed in a specific trust fund or funds created by the county.

(i)~~(f)~~ The department shall adopt ~~promulgate such~~ rules and ~~shall~~ prescribe and publish ~~such~~ forms as ~~may be~~ necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess for delinquent taxes.

(j)~~(g)~~ The estimated tax provisions contained in s. 212.11 do not apply to the administration of any tax levied under this section.

(k)~~(h)~~ Any person taxable under this section who, ~~either~~ by himself or herself or through the person's agents or employees, fails or refuses to charge and collect the taxes herein provided from the person paying any rental or lease is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(l)~~(i)~~ A ~~No~~ person may not ~~shall~~ advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or any part of the tax; that he or she will relieve the person paying the rental of the payment of all or any part of the tax; or that the tax will not be added to the rental or lease consideration or, if added, that the tax or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this paragraph is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(m) ~~(j)~~ The tax shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed by ss. 713.67, 713.68, and 713.69.

(n) ~~(k)~~ Any tax levied pursuant to this section shall be in addition to any other tax imposed pursuant to this chapter and in addition to all other taxes and fees and the consideration for the rental or lease.

(o) ~~(l)~~ The department shall administer the taxes levied herein as increases in the rate of the tax authorized in s. 125.0104. The department shall collect and enforce the provisions of this section and s. 125.0104 in conjunction with each other in those counties authorized to levy the taxes authorized herein. The department shall distribute the proceeds received from the taxes levied pursuant to this section and s. 125.0104 in proportion to the rates of the taxes authorized to the appropriate trust funds as provided by law. In the event of underpayment of the total amount due by a taxpayer pursuant to this section and s. 125.0104, the department shall distribute the amount received in proportion to the rates of the taxes authorized to the appropriate trust funds as provided by law and the penalties and interest due on both of said taxes shall be applicable.

Section 21. The amendments made by this act to ss. 212.03 and 212.0305, Florida Statutes, are intended as clarifying and remedial in nature and are not a basis for assessments of tax for periods before July 1, 2008, or for refunds of tax for periods before July 1, 2008.

Section 22. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Tax on rental or license fee for use of real property.--

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(9) ~~s. 212.03(6)~~.

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such

streets or rights-of-way, occupied or used by a utility or provider of communications services, as defined by s. 202.11, for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals

and extensions thereof occurring after March 15, 1993.

12. Rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. This subparagraph applies only to that portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price. This subparagraph is repealed July 1, 2009.

13. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the

tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

Section 23. Present paragraph (f) of subsection (7) of section 212.055, Florida Statutes, is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection, to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.--It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(7) VOTER-APPROVED INDIGENT CARE SURTAX.--

(f) Notwithstanding any provision of this subsection except paragraphs (b) and (g), a hospital surtax may be levied upon approval of a referendum by the electors in a county that has more than one independent special hospital district and a population of fewer than 50,000 residents, not including inmates and patients residing in institutions operated by the Federal Government, the Department of Corrections, the Department of

Health, or the Department of Children and Family Services. Subject to the cap in paragraph (g), the surtax may be levied at a rate not to exceed 1 percent.

1. At least 90 days before submitting the referendum to the voters, the governing body of the county shall certify to the Department of Revenue the populations of each special hospital district. If the surtax referendum is approved, the surtax proceeds shall be allocated to each district in proportion to the relative populations certified by the county governing body.

2. In addition to the uses authorized by this subsection, an independent special hospital district may pledge surtax proceeds to service new or existing bond indebtedness and may use surtax proceeds to pay the direct costs incurred to finance, plan, construct, or reconstruct a public or not-for-profit hospital in the county; the land acquisition, land improvement, design, engineering costs, equipment, and furnishing costs related to the hospital; or the direct costs associated therewith. An independent hospital district may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue bonds under this paragraph.

3. Any county having a population of fewer than 50,000 residents at the time bonds authorized in this paragraph are issued shall retain the authority granted under this paragraph throughout the term of such bonds, including the term of any refinancing bonds, regardless of any subsequent increase in population which results in the county having 50,000 or more

residents.

4. If the indebtedness issued by one hospital district expires before the indebtedness issued by the other hospital district, the full amount of the surtax proceeds shall be applied to service the remaining indebtedness until it is extinguished.

Section 24. Paragraph (g) of subsection (5) of section 212.08, Florida Statutes, is amended, and paragraph (ggg) is added to subsection (7) of that section, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.--

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

1. Building materials used in the rehabilitation of real property located in an enterprise zone are ~~shall be~~ exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor at the time ~~of~~ the ~~rehabilitated~~ real property located in an enterprise zone is rehabilitated, but only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the

owner, lessee, or lessor of the rehabilitated real property ~~located in an enterprise zone~~ must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable. A single application for refund may be submitted for multiple, contiguous parcels that were parts of a single parcel that was divided as part of the rehabilitation of the property. All other requirements of this paragraph apply to each parcel on an individual basis. The application must include~~, which includes~~:

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

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

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

d. A copy of a valid ~~the building~~ permit issued by the county or municipal building department for the rehabilitation of the real property.

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

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

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

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

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

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

2. This exemption inures to a municipality ~~city~~, county, other governmental unit or agency, or nonprofit community-based organization ~~through a refund of previously paid taxes~~ if the

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

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required under ~~pursuant to~~ subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the required information ~~required pursuant to subparagraph 1. or subparagraph 2.~~ and meet the criteria ~~set out in this paragraph~~ as eligible to receive a refund. If applicable, the governing body or agency shall also certify that ~~if~~ 20 percent of the employees of the business are

residents of an enterprise zone, excluding temporary and part-time employees. The certification must ~~shall~~ be in writing, and a copy ~~of the certification shall be~~ transmitted to the executive director of the department ~~of Revenue~~. The applicant is ~~shall be~~ responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

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

5. Only ~~Not more than~~ one exemption through a refund of previously paid taxes for the rehabilitation of real property is allowed ~~shall be permitted~~ for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. A ~~No~~ refund may not ~~shall~~ be granted pursuant to this paragraph unless the amount to be refunded exceeds $500. The ~~No~~ refund may not ~~granted pursuant to this paragraph shall~~ exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if at least ~~no less than~~ 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund may ~~granted pursuant to this paragraph shall~~ not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or $10,000. A refund approved pursuant to this

paragraph must ~~shall~~ be made within 30 days after ~~of~~ formal approval by the department of the application for the refund. This subparagraph shall apply retroactively to July 1, 2005.

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

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

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

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

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

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

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

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

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

<u>(ggg) Aircraft temporarily in state. Notwithstanding paragraph (8)(a), an aircraft owned by a nonresident is exempt from the use tax under this chapter if it enters and remains in this state for less than a total of 21 days during the 6-month period after the date of purchase. The temporary use of the aircraft and subsequent removal from the state may be proven by invoices for fuel, tie-down, or hangar charges issued by out-of-state vendors or suppliers or similar documentation.</u>

Section 25. Subsection (6) of section 213.015, Florida Statutes, is amended to read:

213.015 Taxpayer rights.--There is created a Florida Taxpayer's Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical terms, the rights and obligations of the Department of Revenue and taxpayers. Section 192.0105 provides additional rights afforded to payors of property taxes and assessments. The rights afforded taxpayers to ensure that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed Florida taxpayers in the Florida Statutes and the departmental rules are:

(6) The right to be informed of impending collection actions which require sale or seizure of property or freezing of assets, except jeopardy assessments, and the right to at least 30 days' notice in which to pay the liability or seek further review (see ss. 198.20, 199.262, 201.16, 206.075, 206.24, 211.125(5), 212.03(5), 212.0305(3)(m) ~~212.0305(3)(j)~~, 212.04(7), 212.14(1), 213.73(3), 213.731, and 220.739).

Section 26. Paragraph (a) of subsection (2), subsection (5), and paragraph (d) of subsection (8) of section 213.053, Florida Statutes, are amended, paragraph (z) is added to subsection (8) of that section, and subsection (19) is added to that section, to read:

213.053 Confidentiality and information sharing.--

(2)(a) All information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information, ~~and including~~ letters of technical advice, telephone numbers, and electronic mail addresses collected and maintained by the department for the purpose of communicating with taxpayers, is confidential except for official purposes and is exempt from s. 119.07(1).

(5) Nothing contained in this section shall prevent the department from:

(a) Publishing statistics so ~~classified~~ as to prevent the identification of particular accounts, reports, declarations, or returns.~~; or~~

(b) Using telephone, electronic mail, facsimile, or other electronic means to:

1. Distribute tax information regarding changes in law, tax rates, or interest rates, or other information that is not specific to a particular taxpayer;

2. Provide reminders of due dates;

3. Respond to a taxpayer that has provided and authorized the department to use an electronic mail address that does not support encryption; or

4. Request taxpayers to contact the department ~~Disclosing to the Chief Financial Officer the names and addresses of those taxpayers who have claimed an exemption pursuant to former s. 199.185(1)(i) or a deduction pursuant to s. 220.63(5)~~.

Section 27. Subsection (8) of section 213.67, Florida Statutes, is amended to read:

213.67 Garnishment.--

(8) An action may not be brought to contest a notice of intent to levy under chapter 120 or in circuit court if the petition is postmarked or delivered to a third party commercial carrier for delivery or the action is filed more~~, later~~ than 21 days after the date of receipt of the notice of intent to levy.

Section 28. Subsection (2) of section 220.21, Florida Statutes, is amended to read:

220.21 Returns and records; regulations.--

(2) A taxpayer who is required to file its federal income tax return by electronic means on a separate or consolidated basis shall also file returns required by this chapter by electronic means. Pursuant to ~~For the reasons described in~~ s. 213.755(9), the department may waive the requirement to file a return by electronic means for taxpayers that are unable to comply despite good faith efforts or due to circumstances beyond the taxpayer's reasonable control. The provisions of this subsection are in addition to the requirements of s. 213.755 to electronically file returns and remit payments ~~required~~ under this chapter. The department may prescribe by rule the format and instructions ~~necessary~~ for electronic filing to ensure a full collection of taxes due. In addition to the authority granted under s. 213.755, the acceptable method of transfer, the method, form, and content of the electronic data interchange, and the means, if any, by which the taxpayer is ~~will be~~ provided with an acknowledgment may be prescribed by the department. If the taxpayer fails ~~In the case of any failure~~ to comply with the electronic filing requirements of this subsection, a penalty

shall be added to the amount of tax due with the ~~such~~ return equal to 5 percent of the amount of such tax ~~for the first 30 days the return is not filed electronically, with an additional 5 percent of such tax for each additional month or fraction thereof~~, not to exceed $250 in the aggregate. The department may settle or compromise the penalty pursuant to s. 213.21. This penalty is in addition to any other penalty that may be applicable and shall be assessed, collected, and paid in the same manner as taxes.

Section 29. Subsection (2) of section 220.21, Florida Statutes, as amended by this act, shall take effect and apply to returns due on or after January 1, 2008.

Section 30. Paragraph (c) of subsection (1) of section 336.021, Florida Statutes, is amended to read:

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.--

(1)

(c) Local option taxes collected on sales or use of diesel fuel in this state shall be distributed in the following manner:

1. The fiscal year of July 1, 1995, through June 30, 1996, shall be the base year for all distributions.

2. Each year the tax collected, less the service and administrative charges enumerated in s. 215.20 and the allowances allowed under s. 206.91, on the number of gallons reported, up to the total number of gallons reported in the base year, shall be distributed to each county using the distribution percentage calculated for the base year.

3. After the distribution of taxes pursuant to subparagraph 4. ~~2.~~, additional taxes available for distribution shall first be distributed pursuant to this subparagraph. A distribution shall be made to each county in which a qualified new retail station is located. A qualified new retail station is a retail station that began operation after June 30, 1996, and that has sales of diesel fuel exceeding 50 percent of the sales of diesel fuel reported in the county in which it is located during the 1995-1996 state fiscal year. The determination of whether a new retail station is qualified shall be based on the total gallons of diesel fuel sold at the station during each full month of operation during the 12-month period ending January 31, divided by the number of full months of operation during those 12 months, and the result multiplied by 12. The amount distributed pursuant to this subparagraph to each county in which a qualified new retail station is located shall equal the local option taxes due on the gallons of diesel fuel sold by the new retail station during the year ending January 31, less the service charges enumerated in s. 215.20 and the dealer allowance provided for by s. 206.91. Gallons of diesel fuel sold at the qualified new retail station shall be certified to the department by the county requesting the additional distribution by June 15, 1997, and by March 1 in each subsequent year. The certification shall include the beginning inventory, fuel purchases and sales, and the ending inventory for the new retail station for each month of operation during the year, the original purchase invoices for the period, and any other information the department deems reasonable and necessary to

establish the certified gallons. The department may review and audit the retail dealer's records provided to a county to establish the gallons sold by the new retail station. Notwithstanding the provisions of this subparagraph, when more than one county qualifies for a distribution pursuant to this subparagraph and the requested distributions exceed the total taxes available for distribution, each county shall receive a prorated share of the moneys available for distribution.

4. After the distribution of taxes pursuant to subparagraph 2. ~~3.~~, all additional taxes available for distribution, with the exception of subparagraph 3., shall be distributed based on vehicular diesel fuel storage capacities in each county pursuant to this subparagraph. The total vehicular diesel fuel storage capacity shall be established for each fiscal year based on the registration of facilities with the Department of Environmental Protection as required by s. 376.303 for the following facility types: retail stations, fuel user/nonretail, state government, local government, and county government. Each county shall receive a share of the total taxes available for distribution pursuant to this subparagraph equal to a fraction, the numerator of which is the storage capacity located within the county for vehicular diesel fuel in the facility types listed in this subparagraph and the denominator of which is the total statewide storage capacity for vehicular diesel fuel in those facility types. The vehicular diesel fuel storage capacity for each county and facility type shall be that established by the Department of Environmental Protection by June 1, 1997, for the 1996-1997 fiscal year, and by January 31

for each succeeding fiscal year. The storage capacities so established shall be final. The storage capacity for any new retail station for which a county receives a distribution pursuant to subparagraph 3. shall not be included in the calculations pursuant to this subparagraph.

Section 31. Paragraph (b) of subsection (2) of section 443.1215, Florida Statutes, is amended to read:

443.1215 Employers.--

(2)

(b) In determining whether an employing unit for which service, other than agricultural labor, is also performed is an employer under paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), or subparagraph (1)(d)2., the wages earned or the employment of an employee performing service in agricultural labor may not be taken into account. If an employing unit is determined to be an employer of agricultural labor, the employing unit is considered an employer for purposes of paragraph (1)(a) ~~subsection (1)~~.

Section 32. Section 695.22, Florida Statutes, is amended to read:

695.22 Daily schedule of deeds and conveyances filed for record to be furnished property appraiser.--After October 1, 1945, the several clerks of the circuit courts shall keep and furnish to the respective county property appraisers in the counties where such instruments are recorded a daily schedule of the aforesaid deeds and conveyances so filed for recordation, in which schedule shall be set forth the name of the grantor or grantors, the names and addresses of each grantee, the actual purchase price or other valuable consideration paid for the property conveyed, and a description of the land as specified in each instrument so filed.

Section 33. Paragraph (g) is added to subsection (1) of section 695.26, Florida Statutes, to read:

695.26 Requirements for recording instruments affecting real property.--

(1) No instrument by which the title to real property or any interest therein is conveyed, assigned, encumbered, or otherwise disposed of shall be recorded by the clerk of the circuit court unless:

(g) The actual purchase price or other valuable consideration paid for the real property or interest conveyed, assigned, encumbered, or otherwise disposed is legibly printed, typewritten, or stamped upon the instrument.

Section 34. Section 213.054, Florida Statutes, is repealed.

Section 35. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2008.