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1
2 An act relating to taxation; amending s.
3 199.185, F.S.; exempting certain investments
4 secured by liens on real property from taxation
5 under ch. 199, F.S.; amending s. 201.02, F.S.;
6 providing that the tax on instruments relating
7 to real property does not apply to certain
8 conveyances between spouses or former spouses
9 pursuant to an action for dissolution of
10 marriage; providing a documentary stamp tax
11 exemption for certain merged entities;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraph (k) is added to subsection (1) of
17 section 199.185, Florida Statutes, 1996 Supplement, to read:
18 199.185 Property exempted from annual and nonrecurring
19 taxes.--

20 (1) The following intangible personal property shall
21 be exempt from the annual and nonrecurring taxes imposed by
22 this chapter:

23 (k) Real estate mortgage investment conduits (REMIC)
24 that are directly or indirectly secured by or payable from
25 notes and obligations that are in turn secured by a mortgage,
26 deed of trust, or other lien upon real property situated in or
27 outside of the state, including but not limited to mortgage
28 pools, participations, and derivatives and are held as
29 investments by banks or savings associations in compliance
30 with regulatory agency guidelines.
31

1 Section 2. Subsection (7) is added to section 201.02,
2 Florida Statutes, to read:
3 201.02 Tax on deeds and other instruments relating to
4 real property or interests in real property.--
5 (1) On deeds, instruments, or writings whereby any
6 lands, tenements, or other real property, or any interest
7 therein, shall be granted, assigned, transferred, or otherwise
8 conveyed to, or vested in, the purchaser or any other person
9 by his or her direction, on each \$100 of the consideration
10 therefor the tax shall be 70 cents. When the full amount of
11 the consideration for the execution, assignment, transfer, or
12 conveyance is not shown in the face of such deed, instrument,
13 document, or writing, the tax shall be at the rate of 70 cents
14 for each \$100 or fractional part thereof of the consideration
15 therefor. For purposes of this section, consideration
16 includes, but is not limited to, the money paid or agreed to
17 be paid; the discharge of an obligation; and the amount of any
18 mortgage, purchase money mortgage lien, or other encumbrance,
19 whether or not the underlying indebtedness is assumed. If the
20 consideration paid or given in exchange for real property or
21 any interest therein includes property other than money, it is
22 presumed that the consideration is equal to the fair market
23 value of the real property or interest therein.
24 (2) The tax imposed by subsection (1) shall also be
25 payable upon documents by which the right is granted to a
26 tenant-stockholder to occupy an apartment in a building owned
27 by a cooperative apartment corporation or in a dwelling on
28 real property owned by any other form of cooperative
29 association as defined in s. 719.103.
30
31

1 (3) The tax imposed by subsection (2) shall be paid by
2 the purchaser, and the document recorded in the office of the
3 clerk of the circuit court as evidence of ownership.

4 (4) The tax imposed by subsection (1) shall also be
5 payable upon documents which convey or transfer, pursuant to
6 s. 689.071, any beneficial interest in lands, tenements, or
7 other real property, or any interest therein, even though such
8 interest may be designated as personal property,
9 notwithstanding the provisions of s. 689.071(4). The tax
10 shall be paid upon execution of any such document.

11 (5) All conveyances of real property to a partner from
12 a partnership which property was conveyed to the partnership
13 after July 1, 1986, are taxable if:

14 (a) The partner receiving the real property from the
15 partnership is a partner other than the partner who conveyed
16 the real property to the partnership; or

17 (b) The partner receiving the real property from the
18 partnership is the partner who conveyed the real property to
19 the partnership and there is a mortgage debt or other debt
20 secured by such real property for which the partner was not
21 personally liable prior to conveying the real property to the
22 partnership.

23
24 For purposes of this subsection, the value of the
25 consideration paid for the conveyance of the real property to
26 the partner from the partnership includes, but is not limited
27 to, the amount of any outstanding mortgage debt or other debt
28 which the partner pays or agrees to pay in exchange for the
29 real property, regardless of whether the partner was
30 personally liable for the debts of the partnership prior to
31 the conveyance to the partner from the partnership.

1 (6) Taxes imposed by this section shall not apply to
2 any assignment, transfer, or other disposition, or any
3 document, which arises out of a transfer of real property from
4 a nonprofit organization to the Board of Trustees of the
5 Internal Improvement Trust Fund, to any state agency, to any
6 water management district, or to any local government. For
7 purposes of this subsection, "nonprofit organization" means an
8 organization whose purpose is the preservation of natural
9 resources and which is exempt from federal income tax under s.
10 501(c)(3) of the Internal Revenue Code. The Department of
11 Revenue shall provide a form, or a place on an existing form,
12 for the nonprofit organization to indicate its exempt status.

13 (7) Taxes imposed by this section do not apply to a
14 deed, transfer, or conveyance between spouses or former
15 spouses pursuant to an action for dissolution of their
16 marriage wherein the real property is or was their marital
17 home or an interest therein. Taxes paid pursuant to this
18 section shall be refunded in those cases in which a deed,
19 transfer, or conveyance occurred 1 year before a dissolution
20 of marriage. This subsection applies in spite of any
21 consideration as defined in subsection (1). This subsection
22 does not apply to a deed, transfer, or conveyance executed
23 before July 1, 1997.

24 Section 3. In the event of a merger, consolidation,
25 conversion, or acquisition by a financial institution as
26 defined by section 655.05(1)(h), Florida Statutes, the tax
27 imposed by section 201.02, Florida Statutes, shall not apply
28 to any deed, instrument, writing, or other document
29 transferring property between the financial institution and
30 any subsidiary, provided that:

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- (1) The merger, consolidation, conversion, or acquisition occurred within the 3 years preceding the effective date of this act;
- (2) The operations performed on the transferred property employ in excess of 1,000 persons;
- (3) The transfer occurs within 1 year after the effective date of this act; and
- (4) The subsidiary of the financial institution is 100-percent owned by the financial institution.

Section 4. This act shall take effect July 1, 1997.

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By Representative Thrasher

1 A bill to be entitled

2 An act relating to excise tax on documents;
3 amending s 201.02, F S., providing that the
4 tax on instruments relating to real property
5 does not apply to certain conveyances between
6 spouses or former spouses pursuant to an action
7 for dissolution of marriage; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida.

11
12 Section 1. Subsection (7) is added to section 201.02,
13 Florida Statutes, to read:

14 201.02 Tax on deeds and other instruments relating to
15 real property or interests in real property.--

16 (1) On deeds, instruments, or writings whereby any
17 lands, tenements, or other real property, or any interest
18 therein, shall be granted, assigned, transferred, or otherwise
19 conveyed to, or vested in, the purchaser or any other person
20 by his or her direction, on each \$100 of the consideration
21 therefor the tax shall be 70 cents. When the full amount of
22 the consideration for the execution, assignment, transfer, or
23 conveyance is not shown in the face of such deed, instrument,
24 document, or writing, the tax shall be at the rate of 70 cents
25 for each \$100 or fractional part thereof of the consideration
26 therefor. For purposes of this section, consideration
27 includes, but is not limited to, the money paid or agreed to
28 be paid, the discharge of an obligation; and the amount of any
29 mortgage, purchase money mortgage lien, or other encumbrance,
30 whether or not the underlying indebtedness is assumed. If the
31 consideration paid or given in exchange for real property or

505-118D-97

1 any interest therein includes property other than money, it is
2 presumed that the consideration is equal to the fair market
3 value of the real property or interest therein

4 (2) The tax imposed by subsection (1) shall also be
5 payable upon documents by which the right is granted to a
6 tenant-stockholder to occupy an apartment in a building owned
7 by a cooperative apartment corporation or in a dwelling on
8 real property owned by any other form of cooperative
9 association as defined in s 719.103.

10 (3) The tax imposed by subsection (2) shall be paid by
11 the purchaser, and the document recorded in the office of the
12 clerk of the circuit court as evidence of ownership.

13 (4) The tax imposed by subsection (1) shall also be
14 payable upon documents which convey or transfer, pursuant to
15 s 689.071, any beneficial interest in lands, tenements, or
16 other real property, or any interest therein, even though such
17 interest may be designated as personal property,
18 notwithstanding the provisions of s 689.071(4). The tax
19 shall be paid upon execution of any such document.

20 (5) All conveyances of real property to a partner from
21 a partnership which property was conveyed to the partnership
22 after July 1, 1986, are taxable if:

23 (a) The partner receiving the real property from the
24 partnership is a partner other than the partner who conveyed
25 the real property to the partnership; or

26 (b) The partner receiving the real property from the
27 partnership is the partner who conveyed the real property to
28 the partnership and there is a mortgage debt or other debt
29 secured by such real property for which the partner was not
30 personally liable prior to conveying the real property to the
31 partnership.

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1
2 For purposes of this subsection, the value of the
3 consideration paid for the conveyance of the real property to
4 the partner from the partnership includes, but is not limited
5 to, the amount of any outstanding mortgage debt or other debt
6 which the partner pays or agrees to pay in exchange for the
7 real property, regardless of whether the partner was
8 personally liable for the debts of the partnership prior to
9 the conveyance to the partner from the partnership.

10 (6) Taxes imposed by this section shall not apply to
11 any assignment, transfer, or other disposition, or any
12 document, which arises out of a transfer of real property from
13 a nonprofit organization to the Board of Trustees of the
14 Internal Improvement Trust Fund, to any state agency, to any
15 water management district, or to any local government. For
16 purposes of this subsection, "nonprofit organization" means an
17 organization whose purpose is the preservation of natural
18 resources and which is exempt from federal income tax under s.
19 501(c)(3) of the Internal Revenue Code. The Department of
20 Revenue shall provide a form, or a place on an existing form,
21 for the nonprofit organization to indicate its exempt status.

22 (7) Taxes imposed by this section shall not apply to a
23 deed, transfer, or conveyance between spouses or former
24 spouses pursuant to an action for dissolution of their
25 marriage, wherein the real property is or was their marital
26 home or an interest therein. This includes any such deed,
27 transfer, or conveyance in anticipation of the dissolution of
28 marriage by not more than 1 year. Taxes paid pursuant to this
29 section shall be refunded in those cases in which the deed,
30 transfer, or conveyance occurred 1 year or less prior to the
31 dissolution of marriage. This subsection applies in spite of

1 any consideration as defined in subsection (1) This
2 subsection does not apply to a deed, transfer, or conveyance
3 executed prior to the effective date of this act.

4 Section 2. This act shall take effect July 1, 1997

5 *****

6 HOUSE SUMMARY

7
8 Provides that the documentary stamp tax on instruments
9 relating to real property does not apply to certain
10 conveyances between spouses or former spouses pursuant to
11 an action for dissolution of marriage.
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13

14 This publication was produced at an average cost of 12 cents
15 per single page in compliance with the Rules and for the
16 information of members of the Legislature and the public.

STORAGE NAME: h0153z.rpp
DATE: June 9, 1997

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 97-191, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
REAL PROPERTY & PROBATE
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #. HB 153

RELATING TO: Excise tax on documents

SPONSOR(S): Representative Thrasher

STATUTE(S) AFFECTED: Sections 199.185, and 201.02, Florida Statutes

COMPANION BILL(S): SB 62

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REAL PROPERTY & PROBATE YEAS 7 NAYS 0
 - (2) FINANCE & TAXATION YEAS 14 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill provides an intangibles tax exemption for real estate mortgage investment conduits (REMIC) held by banks or savings associations in compliance with regulatory guidelines. It exempts from the Documentary Stamp Tax transfers of property between spouses or former spouses pursuant to the dissolution of their marriage, regardless of whether consideration is paid for the transfer. The exemption also applies to any transfer in anticipation of the dissolution by not more than one year. The bill also provides a tax exemption for transfers between certain merged entities

The bill will have a fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 199, Florida Statutes, imposes a tax on intangible personal property held by individuals and businesses, including banks.

Chapter 201, Florida Statutes, establishes the Documentary Stamp Tax which is administered by the Department of Revenue. There are two main bases for collecting documentary stamp taxes: (1) deeds and other documents relating to realty collect 70 cents per \$100 or fractional part of \$100 of the consideration (in Dade County the rate is 60 cents); and (2) corporate shares, bonds, certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements collect 35 cents per \$100 or fractional part of \$100 of the consideration. Since 1979, increases in the documentary stamp tax have been used to fund several programs, including the acquisition of environmentally sensitive land, state infrastructure, and affordable housing. The total revenue estimated to be generated by the Documentary Stamp Tax for all programs in FY 1996-97 is \$839,700,000, and is distributed as follows:

Fund	Total Distribution by Fund (in millions)
General Revenue	339.2
Service Charge	58.8
Land Acquisition TF	72.6
Water Management Lands TF	44.6
Conservation and Recreation Lands TF	44.6
Local Housing TF	86.7
State Housing TF	37.0
P2000 Debt Service	149.9
DOR Admin Costs	6.2
TOTAL	839.7

Section 201.02, Florida Statutes, describes instruments relating to real property or interests in real property to include deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, is granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or any other person by his or her direction

Department of Revenue rules 12B-4.013 (32) and 12B-4.014(2)(d), F.A.C., provide that unencumbered property transferred between spouses is not taxable; however, encumbered property transferred between spouses is taxable based on the balance of the mortgage in proportion to the interest transferred by the grantor. For example, if a husband and wife jointly own a \$150,000 home encumbered by a \$120,000 mortgage (for which both are liable), and the couple divorce and the home is awarded to one spouse, the documentary stamp tax due on the conveyance of the home to the awarded spouse = \$420 ($\$120,000 \times .05 = \$60,000$ ($\frac{1}{2}$ of the balance of the mortgage) \times 70 cents per \$100 (70% of 600 = 420)).

Several class action and individual law suits have been filed in Florida circuit courts against the Department of Revenue challenging the collection of documentary stamp taxes on deeds conveying mortgaged property incident to the dissolution of marriage. However, most of the circuit court opinions have addressed only procedural issues such as class certification and exhaustion of remedies. One circuit court case, Bauta v. Dept. of Revenue, No. 95-443 CA 30 (11th Fla. Cir Ct , Jan. 9, 1996), did reach the merits of the issue and declared the assessment of the tax "illegal and improper." That decision has been appealed by the Department of Revenue to the Third District Court of Appeal, and oral arguments were heard on June 24, 1996. A decision is pending

B. EFFECT OF PROPOSED CHANGES.

Section 1 provides an intangibles tax exemption for real estate mortgage investment conduits held as investments by banks and savings associations in compliance with regulatory guidelines.

Section 2 adds subsection (7) to s. 201.02, F.S., to exempt from the documentary stamp tax any deed, transfer, or conveyance of the marital home, or any interest therein, between spouses or former spouses upon dissolution of their marriage. The exemption also applies to conveyances in anticipation of dissolution by not more than one year. The exemption applies regardless of any consideration, including the assumption of underlying indebtedness.

Section 3 provides an exemption from documentary stamp tax for transfers between certain merged entities. This section applies only to a financial institution and subsidiary which merged within the three years preceding the effective date of the bill and it applies only to transfers occurring within one year of the effective date. The transferred property must be the site of employment for at least 1,000 persons, and the merged subsidiary must be 100 percent owned by the financial institution with which it merged.

Section 4 provides an effective date of July 1, 1997.

C. SECTION-BY-SECTION RESEARCH.

See above.

D. APPLICATION OF PRINCIPLES:

1. LESS GOVERNMENT:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes? N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals? N/A

(3) any entitlement to a government service or benefit? N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity? N/A

(2) what is the cost of such responsibility at the new level/agency? N/A

(3) how is the new agency accountable to the people governed? N/A

2. LOWER TAXES:

a. Does the bill increase anyone's taxes? No.

b. Does the bill require or authorize an increase in any fees? No.

c. Does the bill reduce total taxes, both rates and revenues? Yes See Fiscal Impact On State Agencies/State Funds.

d. Does the bill reduce total fees, both rates and revenues? N/A

e. Does the bill authorize any fee or tax increase by any local government? No.

3. PERSONAL RESPONSIBILITY:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy? No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation? No.

4. INDIVIDUAL FREEDOM:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs? N/A
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity? N/A

5. FAMILY EMPOWERMENT

For the limited purpose of this part of the bill analysis, a family is defined as a group of people living in the same household and related to one another by marriage, blood and/or adoption.

- a. If the bill purports to provide services to families or children:
 - (1) Who evaluates the family's needs? N/A
 - (2) Who makes the decisions? N/A
 - (3) Are private alternatives permitted? N/A
 - (4) Are families required to participate in a program? N/A
 - (5) Are families penalized for not participating in a program? N/A
- b. Does the bill directly affect the legal rights and obligations between family members? N/A
- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:
 - (1) parents and guardians? N/A
 - (2) service providers? N/A
 - (3) government employees/agencies? N/A

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2 Recurring Effects:

This bill will reduce state and local revenue as shown below:

	General Revenue		State Trust		Local		Total	
	1997-98	Recurring	1997-98	Recurring	1997-98	Recurring	1997-98	Recurring
Section 1 REMIC	\$(0.5)	\$(0.1)	\$0	\$0	\$(0.2)	\$(0.2)	\$(0.7)	\$(0.3)
Section 2 Divorces	(2.4)	(4.8)	(1.3)	(2.5)	0	0	(3.7)	(7.3)
Section 3 Mergers	(0.2)	0	(insig.)	0	0	0	(0.2)	0
Totals	(3.1)	(4.9)	(1.3)	(2.5)	(.2)	(.2)	(4.6)	(7.6)

Estimates for section 1 are preliminary

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See chart in section III, A. 2. above.

B FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects.

See chart in section III, A. 2. above.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits.

Certain bank and savings association investments will be exempt from intangibles tax.

Those individuals who transfer their marital home to their spouse in accordance with a judgment of dissolution of marriage or in anticipation of a dissolution will no longer be required to pay a documentary stamp tax on that conveyance.

Transactions between certain merged entities will not be subject to documentary stamp tax.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS.

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will reduce the revenue available to be shared with counties or municipalities; however, it does not reduce the percentage of revenue shared with counties or municipalities. Therefore, the bill does not come within the provisions of Article III, section 18 of the Florida Constitution.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Senate amended HB 153 to incorporate the intangibles tax exemption, and the exemption for transfers between certain merged entities.

VII. SIGNATURES:

COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Legislative Research Director:

Kurt Bauerle

P.K. Jameson

STORAGE NAME: h0153z.rpp

DATE: June 9, 1997

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AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Legislative Research Director

Sharon A. Zahner

Keith G. Baker, Ph.D.

FINAL RESEARCH PREPARED BY COMMITTEE ON h1:

Prepared by:

Legislative Research Director.

Kurt Bauerle
Kurt Bauerle

P.K. Jameson
P.K. Jameson

Amendment 6 (with title amendment)—On page 47, between lines 15 and 16, insert

Section 23 Section 232 433, Florida Statutes, is created to read

232 433 Safety standards for cheerleaders —The State Board of Education shall adopt statewide uniform safety standards for student cheerleaders and spirit groups that participate in any school activity or extra-curricular student activity The State Board of Education shall adopt the "Official High School Spirit Rules," published by the National Federation of State High School Associations, as the statewide uniform safety standards

(Renumber subsequent section)

And the title is amended as follows

On page 4, line 22, after the semicolon (;) insert creating s 232 433, F S, requiring that the State Board of Education adopt statewide uniform safety standards for student cheerleaders.

Amendment 7 (with title amendment)—On page 47, between lines 15 and 16, insert

Section 24 Section 322 0601, Florida Statutes, is repealed

(Renumber subsequent sections)

And the title is amended as follows

On page 4, line 22, after the semicolon (;) insert repealing s 322 0601, F S, relating to driver's licenses for minors.

Senator Rossin moved the following amendment which was adopted

Amendment 8 (with title amendment)—On page 5, line 10, insert

Section 1 Section 790 174, Florida Statutes, is amended to read

790 174 Safe storage of firearms required —

(1) A person who stores or leaves, on a premise under his control, a loaded firearm, as defined in s 790 001, and who knows or reasonably should know that a minor is likely to gain access to the firearm without the lawful permission of the minor's parent or the person having charge of the minor, or without the supervision required by law, shall keep the firearm in a securely locked box or container or in a location that which a reasonable person would believe to be secure or shall secure it with a trigger lock or a firearm-mounted push-button combination lock, except when he is carrying the firearm on his body or within such close proximity thereto that he can retrieve and use it as easily and quickly as if he carried it on his body

(2) It is a misdemeanor of the second degree, punishable as provided in s 775 082 or s 775 083, if a person violates subsection (1) by failing to store or leave a firearm in the required manner and as a result thereof a minor gains access to the firearm, without the lawful permission of the minor's parent or the person having charge of the minor, and possesses or exhibits it, without the supervision required by law

(a) In a public place, or

(b) In a rude, careless, angry, or threatening manner in violation of s 790 10

This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person

(3) As used in this act, the term "minor" means any person under the age of 16

(Renumber subsequent sections)

And the title is amended as follows

On page 1, lines 2 and 3, delete those lines and insert An act relating to educational firearm safety, amending s 790 174, F S, revising requirements for the safe storage of firearms, amending s 232 09, F S ,

Senator Brown-Waite moved the following amendment which was adopted

Amendment 9 (with title amendment)—On page 5, line 10, insert

Section 1 Section 230 235, Florida Statutes, is created to read

230 235 Policy of zero tolerance for crime and substance abuse —

(1) Each school district shall adopt a policy of zero tolerance for crime and substance abuse pursuant to this section Such policy must require delinquent acts and crimes to be reported to a law enforcement officer if any such delinquent acts or crimes occur when students are under the jurisdiction of the school district

(2) Each school district shall enter into an agreement with the sheriff of the county which specifies guidelines for ensuring that any felony or violent misdemeanor committed by a student or an adult and any delinquent act that would be a felony or violent misdemeanor if committed by an adult is reported to a law enforcement officer Such agreement must include the role of the school resource officer, if applicable, in handling reported incidents, special circumstances under which school officials may handle an incident without filing a report with a law enforcement officer, and procedures for ensuring that school personnel properly report delinquent acts and crimes The school principal shall ensure that all school personnel are properly informed as to their responsibilities regarding the reporting of delinquent acts and crimes, that appropriate delinquent acts and crimes are properly reported, and that the action taken in cases with special circumstances is proper and fully documented

(Renumber subsequent sections)

And the title is amended as follows

On page 1 line 3, after the first semicolon (;) insert creating s 230 235, F S, requiring each school district to adopt a policy of zero tolerance for crime and substance abuse, requiring each school district to enter into an agreement with the sheriff which specifies guidelines for reporting delinquent acts and crimes, requiring that the school principal ensure that delinquent acts and crimes are properly reported and other appropriate action taken,

Senator Gutman moved the following amendment which failed

Amendment 10 (with title amendment)—On page 45, lines 14-17, delete those lines and insert

3 In a vehicle pursuant to s 790 25(5)

And the title is amended as follows

On page 4, lines 18 and 19, delete those lines and insert property, amending s

Pursuant to Rule 4 19, CS for SB 544 and CS for SB 1904 as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading

THE PRESIDENT PRESIDING

On motion by Senator Rossin—

SB 1648—A bill to be entitled An act relating to public television and radio, prohibiting a public television or radio station funded by the state from merging with or allowing the use of its facilities by a private non-profit institution of higher learning, providing an effective date

—was read the second time by title

Pursuant to Rule 4 19, **SB 1648** was placed on the calendar of Bills on Third Reading

On motion by Senator Horne, by two-thirds vote **HB 153** was withdrawn from the Committees on Community Affairs, and Ways and Means

On motion by Senator Horne, the rules were waived and—

HB 153—A bill to be entitled An act relating to excise tax on documents, amending s 201 02, F S, providing that the tax on instruments

relating to real property does not apply to certain conveyances between spouses or former spouses pursuant to an action for dissolution of marriage, providing an effective date

—a companion measure, was substituted for CS for SB 62 and read the second time by title

Senator Horne moved the following amendments which were adopted

Amendment 1 (with title amendment)—On page 1, between lines 11 and 12, insert

Section 1 Paragraph (k) is added to subsection (1) of section 199 185, Florida Statutes, 1996 Supplement, to read

199 185 Property exempted from annual and nonrecurring taxes —

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter

(k) *Real estate mortgage investment conduits (REMIC) that are directly or indirectly secured by or payable from notes and obligations that are in turn secured by a mortgage, deed of trust, or other lien upon real property situated in or outside of the state, including but not limited to mortgage pools, participations, and derivatives and are held as investments by banks or savings associations in compliance with regulatory agency guidelines*

(Renumber subsequent sections)

And the title is amended as follows

On page 1, delete line 2 and insert An act relating to taxation, amending s 199 185, F S , exempting certain investments secured by liens on real property from taxation under ch 199, F S ,

Amendment 2—On page 3, line 22 through page 4, line 3, delete those lines and insert

(7) *Taxes imposed by this section do not apply to a deed, transfer, or conveyance between spouses or former spouses pursuant to an action for dissolution of their marriage wherein the real property is or was their marital home or an interest therein. Taxes paid pursuant to this section shall be refunded in those cases in which a deed, transfer, or conveyance occurred 1 year before a dissolution of marriage. This subsection applies in spite of any consideration as defined in subsection (1). This subsection does not apply to a deed, transfer, or conveyance executed before July 1, 1997*

Amendment 3 (with title amendment)—On page 4, between lines 3 and 4, insert

Section 2 *In the event of a merger, consolidation, conversion, or acquisition by a financial institution as defined by section 655 05(1)(h), Florida Statutes, the tax imposed by section 201 02, Florida Statutes, shall not apply to any deed, instrument, writing, or other document transferring property between the financial institution and any subsidiary, provided that*

(1) *The merger, consolidation, conversion, or acquisition occurred within the 3 years preceding the effective date of this act,*

(2) *The operations performed on the transferred property employ in excess of 1,000 persons,*

(3) *The transfer occurs within 1 year after the effective date of this act, and*

(4) *The subsidiary of the financial institution is 100-percent owned by the financial institution*

(Renumber subsequent section)

And the title is amended as follows

On page 1, line 7, after the semicolon (;) insert providing a documentary stamp tax exemption for certain merged entities,

Pursuant to Rule 4 19, HB 153 as amended was placed on the calendar of Bills on Third Reading

Consideration of CS for CS for SB's 552, 1960 and 822 was deferred

On motion by Senator Dudley, by two-thirds vote HB 1753 was withdrawn from the Committees on Judiciary, and Ways and Means

On motions by Senator Dudley, by two-thirds vote—

HB 1753—A bill to be entitled An act relating to the judiciary, amending s 26 031, F S , increasing the number of judges in specified judicial circuits, amending s 34 022, F S , increasing the number of judges in specified county courts, providing an effective date

—a companion measure, was substituted for CS for CS for SB 892 and by two-thirds vote read the second time by title On motion by Senator Dudley, by two-thirds vote HB 1753 was read the third time by title, passed and certified to the House The vote on passage was

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

RECESS

On motion by Senator Bankhead, the Senate recessed at 11:59 a m to reconvene at 2 00 p m

AFTERNOON SESSION

The Senate was called to order by the President at 2 12 p m A quorum present—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

SPECIAL ORDER CALENDAR, continued

On motion by Senator Brown-Waite, by two-thirds vote HB 1357 was withdrawn from the Committees on Health Care, Governmental Reform and Oversight, and Ways and Means

On motion by Senator Brown-Waite—

HB 1357—A bill to be entitled An act relating to the Department of Health, amending s 20 43, F S , renaming certain divisions within the department, creating a Division of Local Health Planning, Education, and Workforce Development, authorizing certain use of state or federal funds to protect and improve public health, transferring powers and duties relating to rural health networks, local health councils, and the Statewide Health Council from the Agency for Health Care Administration to the department, authorizing certain budget flexibility, amending s 154 04, F S , authorizing county health departments to establish peer review committees for certain purposes, amending s 154 06, F S , removing requirement that county health department fees cover costs, amending ss 110 131, 216 341, 232 465, 240 4075, 381 0065, 381 0302, 381 0405, 381 0055 395 401, 401 107, 401 111, 401 117, 401 23, 401 245, 401 265, 403 703, 404 031, 404 051, 404 0614, 404 131, 404 20, 414 23, 414 38 458 316, 468 301, 468 314 and 514 011, F S , revising

By Senator Horne

6-112-97

1 A bill to be entitled

2 An act relating to the excise tax on documents;
3 amending s. 201.02, F.S.; providing that the
4 tax on instruments relating to real property
5 does not apply to certain conveyances between
6 spouses or former spouses pursuant to an action
7 for dissolution of marriage; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 201.02, Florida Statutes, is
13 amended to read:

14 201.02 Tax on deeds and other instruments relating to
15 real property or interests in real property.--

16 (1) On deeds, instruments, or writings whereby any
17 lands, tenements, or other real property, or any interest
18 therein, ~~is shall~~ be granted, assigned, transferred, or
19 otherwise conveyed to, or vested in, the purchaser or any
20 other person by his or her direction, on each \$100 of the
21 consideration therefor the tax shall be 70 cents. When the
22 full amount of the consideration for the execution,
23 assignment, transfer, or conveyance is not shown in the face
24 of such deed, instrument, document, or writing, the tax shall
25 be at the rate of 70 cents for each \$100 or fractional part
26 thereof of the consideration therefor For purposes of this
27 section, consideration includes, but is not limited to, the
28 money paid or agreed to be paid; the discharge of an
29 obligation; and the amount of any mortgage, purchase money
30 mortgage lien, or other encumbrance, whether or not the
31 underlying indebtedness is assumed. If the consideration paid

6-112-97

1 or given in exchange for real property or any interest therein
2 includes property other than money, it is presumed that the
3 consideration is equal to the fair market value of the real
4 property or interest therein.

5 (2) The tax imposed by subsection (1) is ~~shall~~ also be
6 payable upon documents by which the right is granted to a
7 tenant-stockholder to occupy an apartment in a building owned
8 by a cooperative apartment corporation or in a dwelling on
9 real property owned by any other form of cooperative
10 association as defined in s. 719.103.

11 (3) The purchaser shall pay the tax imposed by
12 subsection (2) ~~shall be paid by the purchaser~~, and the
13 document must be recorded in the office of the clerk of the
14 circuit court as evidence of ownership.

15 (4) The tax imposed by subsection (1) is ~~shall~~ also be
16 payable upon documents that ~~which~~ convey or transfer, pursuant
17 to s. 689.071, any beneficial interest in lands, tenements, or
18 other real property, or any interest therein, even though such
19 interest may be designated as personal property,
20 notwithstanding the provisions of s. 689.071(4). The tax
21 shall be paid upon execution of any such document.

22 (5) All conveyances of real property to a partner from
23 a partnership, which property was conveyed to the partnership
24 after July 1, 1986, are taxable if:

25 (a) The partner receiving the real property from the
26 partnership is a partner other than the partner who conveyed
27 the real property to the partnership; or

28 (b) The partner receiving the real property from the
29 partnership is the partner who conveyed the real property to
30 the partnership and there is a mortgage debt or other debt
31 secured by such real property for which the partner was not

1 personally liable before ~~prior~~ to conveying the real property
2 to the partnership.

3
4 For purposes of this subsection, the value of the
5 consideration paid for the conveyance of the real property to
6 the partner from the partnership includes, but is not limited
7 to, the amount of any outstanding mortgage debt or other debt
8 that which the partner pays or agrees to pay in exchange for
9 the real property, regardless of whether the partner was
10 personally liable for the debts of the partnership before
11 ~~prior~~ to the conveyance to the partner from the partnership.

12 (6) Taxes imposed by this section do shall not apply
13 to any assignment, transfer, or other disposition, or any
14 document, that which arises out of a transfer of real property
15 from a nonprofit organization to the Board of Trustees of the
16 Internal Improvement Trust Fund, to any state agency, to any
17 water management district, or to any local government. For
18 purposes of this subsection, the term "nonprofit organization"
19 means an organization whose purpose is the preservation of
20 natural resources and which is exempt from federal income tax
21 under s. 501(c)(3) of the Internal Revenue Code. The
22 Department of Revenue shall provide a form, or a place on an
23 existing form, for the nonprofit organization to indicate its
24 exempt status.

25 (7) Taxes imposed by this section do not apply to a
26 deed, transfer, or conveyance between spouses or former
27 spouses pursuant to an action for dissolution of their
28 marriage wherein the real property is or was their marital
29 home or an interest therein. This subsection applies to a
30 deed, transfer, or conveyance in anticipation of the
31 dissolution of marriage by not more than 1 year. This

1 subsection applies despite any consideration as defined in
2 subsection (1).

3 Section 2. This act shall take effect July 1, 1997.

4 *****

5 SENATE SUMMARY

6 Provides that the documentary stamp tax on instruments
7 relating to real property or interests in real property
8 does not apply to certain conveyances between spouses or
9 former spouses pursuant to an action for dissolution of
10 marriage.

301-1998-97

1 A bill to be entitled
2 An act relating to taxation; amending s.
3 199.185, F.S.; exempting certain investments
4 secured by liens on real property from taxation
5 under ch. 199, F.S.; amending s. 201.02, F.S.;
6 providing that the tax on instruments relating
7 to real property does not apply to certain
8 conveyances between spouses or former spouses
9 pursuant to an action for dissolution of
10 marriage; providing an exemption from the tax
11 imposed by section 201.02, F.S., for certain
12 transfers between merged entities; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Paragraph (k) is added to subsection (1) of
18 section 199.185, Florida Statutes, 1996 Supplement, to read:

19 199.185 Property exempted from annual and nonrecurring
20 taxes.—

21 (1) The following intangible personal property shall
22 be exempt from the annual and nonrecurring taxes imposed by
23 this chapter:

24 (k) Real estate mortgage investment conduits (REMIC)
25 that are directly or indirectly secured by or payable from
26 notes and obligations that are in turn secured by a mortgage,
27 deed of trust, or other lien upon real property situated in or
28 outside of the state, including but not limited to mortgage
29 pools, participations, and derivatives and are held as
30 investments by banks or savings associations in compliance
31 with regulatory agency guidelines.

1 Section 2. Section 201.02, Florida Statutes, is
2 amended to read:

3 201.02 Tax on deeds and other instruments relating to
4 real property or interests in real property.--

5 (1) On deeds, instruments, or writings whereby any
6 lands, tenements, or other real property, or any interest
7 therein, is ~~shall~~ be granted, assigned, transferred, or
8 otherwise conveyed to, or vested in, the purchaser or any
9 other person by his or her direction, on each \$100 of the
10 consideration therefor the tax shall be 70 cents. When the
11 full amount of the consideration for the execution,
12 assignment, transfer, or conveyance is not shown in the face
13 of such deed, instrument, document, or writing, the tax shall
14 be at the rate of 70 cents for each \$100 or fractional part
15 thereof of the consideration therefor. For purposes of this
16 section, consideration includes, but is not limited to, the
17 money paid or agreed to be paid; the discharge of an
18 obligation; and the amount of any mortgage, purchase money
19 mortgage lien, or other encumbrance, whether or not the
20 underlying indebtedness is assumed. If the consideration paid
21 or given in exchange for real property or any interest therein
22 includes property other than money, it is presumed that the
23 consideration is equal to the fair market value of the real
24 property or interest therein.

25 (2) The tax imposed by subsection (1) is ~~shall~~ also be
26 payable upon documents by which the right is granted to a
27 tenant-stockholder to occupy an apartment in a building owned
28 by a cooperative apartment corporation or in a dwelling on
29 real property owned by any other form of cooperative
30 association as defined in s. 719.103.

31

1 (3) The purchaser shall pay the tax imposed by
2 subsection (2) ~~shall be paid by the purchaser~~, and the
3 document must be recorded in the office of the clerk of the
4 circuit court as evidence of ownership.

5 (4) The tax imposed by subsection (1) is ~~shall~~ also be
6 payable upon documents that which convey or transfer, pursuant
7 to s. 689.071, any beneficial interest in lands, tenements, or
8 other real property, or any interest therein, even though such
9 interest may be designated as personal property,
10 notwithstanding the provisions of s. 689.071(4). The tax
11 shall be paid upon execution of any such document.

12 (5) All conveyances of real property to a partner from
13 a partnership, which property was conveyed to the partnership
14 after July 1, 1986, are taxable if:

15 (a) The partner receiving the real property from the
16 partnership is a partner other than the partner who conveyed
17 the real property to the partnership; or

18 (b) The partner receiving the real property from the
19 partnership is the partner who conveyed the real property to
20 the partnership and there is a mortgage debt or other debt
21 secured by such real property for which the partner was not
22 personally liable before ~~prior to~~ conveying the real property
23 to the partnership.

24
25 For purposes of this subsection, the value of the
26 consideration paid for the conveyance of the real property to
27 the partner from the partnership includes, but is not limited
28 to, the amount of any outstanding mortgage debt or other debt
29 that which the partner pays or agrees to pay in exchange for
30 the real property, regardless of whether the partner was
31

1 personally liable for the debts of the partnership before
2 ~~prior to~~ the conveyance to the partner from the partnership.

3 (6) Taxes imposed by this section ~~do shall~~ not apply
4 to any assignment, transfer, or other disposition, or any
5 document, that which arises out of a transfer of real property
6 from a nonprofit organization to the Board of Trustees of the
7 Internal Improvement Trust Fund, to any state agency, to any
8 water management district, or to any local government. For
9 purposes of this subsection, the term "nonprofit organization"
10 means an organization whose purpose is the preservation of
11 natural resources and which is exempt from federal income tax
12 under s. 501(c)(3) of the Internal Revenue Code. The
13 Department of Revenue shall provide a form, or a place on an
14 existing form, for the nonprofit organization to indicate its
15 exempt status.

16 (7) Taxes imposed by this section do not apply to a
17 deed, transfer, or conveyance between spouses or former
18 spouses pursuant to an action for dissolution of their
19 marriage wherein the real property is or was their marital
20 home or an interest therein. Taxes paid pursuant to this
21 section shall be refunded in those cases in which a deed,
22 transfer, or conveyance occurred 1 year before a dissolution
23 of marriage. This subsection applies in spite of any
24 consideration as defined in subsection (1). This subsection
25 does not apply to a deed, transfer, or conveyance executed
26 before July 1, 1997.

27 Section 3. In the event of a merger, consolidation,
28 conversion, or acquisition by a financial institution as
29 defined by section 655.05(1)(h), Florida Statutes, the tax
30 imposed by section 201.02, Florida Statutes, shall not apply
31 to any deed, instrument, writing, or other document

301-1998-97

1 transferring property between the financial institution and
2 any subsidiary, provided that:

3 (1) The merger, consolidation, conversion, or
4 acquisition occurred within the 3 years preceding the
5 effective date of this act;

6 (2) The operations performed on the transferred
7 property employ in excess of 1,000 persons;

8 (3) The transfer occurs within 1 year after the
9 effective date of this act; and

10 (4) The subsidiary of the financial institution is
11 100-percent owned by the financial institution.

12 Section 4. This act shall take effect July 1, 1997.

13
14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 SB 62

17 This committee substitute adds an intangibles tax exemption
18 for real estate mortgage investment conduits (REMIC) that are
19 held as investments by banks or savings associations in
20 compliance with regulatory agency guidelines.

21 It provides that if a dissolution of marriage occurs within
22 one year after property is conveyed, documentary stamp tax
23 shall be refunded. It also provides that the provisions
24 relating to dissolution of marriage have prospective
25 application only.

26 It provides a documentary stamp tax exemption for transfers
27 between certain financial institutions and any subsidiary. The
28 merger must have occurred within three years before the
29 effective date of the act.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below)

Date: April 23, 1997 Revised: _____

Subject: Taxation

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	<u>Fournier</u>	<u>Smith</u>	<u>WM</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill provides an intangibles tax exemption for real estate mortgage investment conduits (REMIC) held by banks or savings associations in compliance with regulatory guidelines. It exempts from the Documentary Stamp Tax transfers of property between spouses or former spouses pursuant to the dissolution of their marriage, regardless of whether consideration is paid for the transfer. The exemption also applies to any transfer in anticipation of the dissolution by not more than one year. The bill also provides a tax exemption for transfers between certain merged entities.

This bill amends sections 199.185 and 201.02, Florida Statutes.

II. Present Situation:

Chapter 199, F.S., imposes a tax on intangible personal property held by individuals and businesses, including banks.

Chapter 201, F.S., establishes the Documentary Stamp Tax which is administered by the Department of Revenue. There are two main bases for collecting documentary stamp taxes. (1) deeds and other documents relating to realty collect 70 cents per \$100 or fractional part of \$100 of the consideration (in Dade County the rate is 60 cents), and (2) corporate shares, bonds, certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements collect 35 cents per \$100 or fractional part of \$100 of the consideration. Since 1979, increases in the documentary stamp tax have been used to fund several programs, including the acquisition of environmentally sensitive land, state infrastructure, and affordable housing. The total revenue estimated to be generated by the Documentary Stamp Tax for all programs in FY 1996-97 is \$839,700,000, and is distributed as follows:

Fund	Total Distribution by Fund (in millions)
General Revenue	339.2
Service Charge	58.8
Land Acquisition TF	72.6
Water Management Lands TF	44.6
Conservation and Recreation Lands TF	44.6
Local Housing TF	86.7
State Housing TF	37.0
P2000 Debt Service	149.9
DOR Admin Costs	6.2
TOTAL	839.7

Section 201.02, F.S., describes instruments relating to real property or interests in real property to include deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, is granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or any other person by his or her direction.

Department of Revenue rules 12B-4.013 (32) and 12B-4.014(2)(d), F.A.C., provide that unencumbered property transferred between spouses is not taxable; however, encumbered property transferred between spouses is taxable based on the balance of the mortgage in proportion to the interest transferred by the grantor. For example, if a husband and wife jointly own a \$150,000 home encumbered by a \$120,000 mortgage (for which both are liable), and the couple divorce and the home is awarded to one spouse, the documentary stamp tax due on the conveyance of the home to the awarded spouse = \$420 ($\$120,000 \times .05 = \$60,000$ (1/2 of the balance of the mortgage) \times 70 cents per \$100 (70% of 600 = 420))

Several class action and individual law suits have been filed in Florida circuit courts against the Department of Revenue challenging the collection of documentary stamp taxes on deeds conveying mortgaged property incident to the dissolution of marriage. However, most of the circuit court opinions have addressed only procedural issues such as class certification and exhaustion of remedies. One circuit court case, Bauta v. Dept. of Revenue, No. 95-443 CA 30 (11th Fla. Cir. Ct., Jan. 9, 1996), did reach the merits of the issue and declared the assessment of the tax "illegal and improper." That decision has been appealed by the Department of Revenue to the Third District Court of Appeal, and oral arguments were heard on June 24, 1996. A decision is still pending.

III. Effect of Proposed Changes:

Section 1 provides an intangibles tax exemption for real estate mortgage investment conduits held as investments by banks and savings associations in compliance with regulatory guidelines

Section 2 adds subsection (7) to s. 201.02, F.S., to exempt from the documentary stamp tax any deed, transfer, or conveyance of the marital home, or any interest therein, between spouses or former spouses upon dissolution of their marriage. The exemption also applies to conveyances in anticipation of dissolution by not more than one year. The exemption applies regardless of any consideration, including the assumption of underlying indebtedness.

Section 3 provides an exemption from documentary stamp tax for transfers between certain merged entities. This section applies only to a financial institution and subsidiary which merged within the three years preceding the effective date of the bill and it applies only to transfers occurring within one year of the effective date. The transferred property must be the site of employment for at least 1,000 persons, and the merged subsidiary must be 100 percent owned by the financial institution with which it merged.

Section 4 provides an effective date of July 1, 1997

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

This bill will reduce state revenue as shown below:

	General Revenue		State Trust		Local		Total	
	1997-98	Recurring	1997-98	Recurring	1997-98	Recurring	1997-98	Recurring
Section 1 REMIC	\$(0 8)	\$(0 5)	\$0	\$0	\$(0 3)	\$(0 2)	\$(1 1)	\$(0 7)
Section 2 Divorces	(2 4)	(4 8)	(1 3)	(2 5)	0	0	(3 7)	(7 3)
Section 3 Mergers	(0 2)	0	0	0	0	0	(0 2)	0
Totals	(3 4)	(5 3)	(1 3)	(2 5)	(3)	(2)	(5 0)	(8.0)

Estimates for section 1 are preliminary.

B Private Sector Impact:

Certain bank and savings association investments will be exempt from intangibles tax.

The divorcing spouse awarded the marital home upon dissolution of the marriage will not have to pay documentary stamp tax on the transaction conveying the property from the names of both spouses to one spouse.

Transactions between certain merged entities will not be subject to documentary stamp tax.

C Government Sector Impact.

Intangibles tax is distributed to General Revenue (67%) and local governments (33%).

Documentary Stamp Tax revenue is distributed to several trust funds used for land acquisition and affordable housing, as well as to General Revenue

The Department of Revenue reports that the bill presents difficulty in administration and enforcement because it will be difficult to determine from the deed or conveyance whether a divorce has occurred within one year of the transaction

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate

12-899-97

A bill to be entitled

An act relating to taxation; amending s.
199.143, F.S.; defining the term "residence"
for purposes of provisions that specify when
the nonrecurring intangible personal property
tax must be paid if the property subject to a
mortgage, deed of trust, or other lien that
secures a line of credit is the borrower's
residence; amending s. 201.02, F.S.; providing
that the tax on instruments relating to real
property does not apply to certain conveyances
between spouses or former spouses pursuant to
an action for dissolution of marriage; amending
s. 212.02, F.S.; defining the terms
"self-propelled farm equipment," "power-drawn
farm equipment," and "power-driven farm
equipment" for purposes of ch. 212, F.S.;
amending s. 212.05, F.S.; exempting
transactions in excess of a specified amount
from the tax on the sale of coins or currency;
amending s. 212.054, F.S.; exempting certain
charges for electricity from the discretionary
sales surtax; providing for the exemption to be
phased-in over a specified period; amending s.
212.08, F.S.; revising the sales tax exemption
provided for food and drinks; providing
definitions; revising application of the
partial exemption for self-propelled or
power-drawn farm equipment; including
power-driven farm equipment within such
exemption; reducing the rate of tax on such

1 equipment over a specified period and exempting
2 such equipment beginning July 1, 2000;
3 providing a tax exemption of certain radio
4 stations and other organizations that conduct
5 religious activities; revising the activities
6 that constitute a manufacturing function for
7 purposes of the sales tax exemption on certain
8 uses of electricity; deleting a requirement
9 that the electricity be separately metered;
10 providing a sales tax exemption for the sale of
11 gold, silver, or platinum bullion in excess of
12 a specified amount; providing a sales tax
13 exemption for the sale or lease of an aircraft
14 used by a common carrier; providing a sales tax
15 exemption for the repair and maintenance of
16 certain commercial aircraft; providing for
17 application of the sales tax when an
18 advertising agency acts as an agent of its
19 client; providing a sales tax exemption for
20 certain foods, drinks, and other items provided
21 to customers on a complimentary basis by a
22 dealer who sells food products at retail;
23 providing an exemption for foods and beverages
24 donated by such dealers to certain
25 organizations; revising provisions relating to
26 the technical assistance advisory committee
27 established to provide advice in determining
28 taxability of foods and medicines; directing
29 the Department of Revenue to develop guidelines
30 for such determination and providing
31 requirements with respect thereto; providing

2 for use of the guidelines by the committee;
3 providing for the department to determine the
4 taxability of specific products; authorizing
5 the department to develop a central database;
6 amending s. 212.12, F.S.; increasing the amount
7 of the dealer's credit for collecting taxes;
8 authorizing the Department of Revenue to adopt
9 rules with respect to tax amounts and brackets;
10 creating s. 213.285, F.S.; authorizing the
11 Department of Revenue to initiate a certified
12 audit project; providing that audits be
13 conducted according to procedures established
14 by the department; providing rulemaking
15 authority; authorizing the department to
16 compromise penalties and abate interest as an
17 incentive for a taxpayer to incur the cost of
18 an audit; providing for expiration of the
19 project; providing procedures for conducting an
20 audit under the certified audit project;
21 providing for acceptance of the audit report by
22 the department; amending s. 213.053, F.S.;
23 authorizing the department to release certain
24 information to the Department of Business and
25 Professional Regulation with respect to
26 proceedings that involve a certified public
27 accountant who participates in the certified
28 audit project; providing for the court to limit
29 disclosure of tax information in judicial
30 proceedings; providing for expiration of the
31 provision; amending s. 213.21, F.S.; requiring
the executive director of the department to

12-899-97

1 settle or compromise liabilities for penalties
2 for taxpayers who participate in the certified
3 audit project; providing for expiration of the
4 provision; amending s. 220.15, F.S., relating
5 to the apportionment of adjusted federal income
6 under the Florida Income Tax Code; providing
7 that the property factor fraction may not
8 include real or tangible personal property that
9 is dedicated to research and development
10 activities conducted in conjunction with a
11 public or private university; providing that
12 the payroll factor fraction does not include
13 compensation paid to any employee who is
14 dedicated to such research and development
15 activities; requiring certification of such
16 activities and providing intent with respect
17 thereto; amending s. 319.32, F.S.; deleting a
18 fee imposed on the owner of a motor vehicle
19 previously registered outside the state and
20 deposited into the Nongame Wildlife Trust Fund;
21 amending s. 372.991, F.S., relating to the
22 Nongame Wildlife Trust Fund; conforming a
23 cross-reference to changes made by the act;
24 amending s. 328.03, F.S.; deleting a fee
25 charged to the owner of a vessel previously
26 registered outside the state; amending s.
27 395.701, F.S.; providing an exemption from the
28 annual assessment on net operating revenues of
29 hospitals to fund public medical assistance for
30 certain health care facilities and services;
31 providing effective dates.

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

Section 1. Section 199.143, Florida Statutes, is amended to read:

199.143 Future advances.--

(1) Except as provided in subsection (3), if the mortgage, deed of trust, or other lien is recorded or executed after December 31, 1985, and secures a line of credit or otherwise secures future advances, as provided in s. 697.04, the nonrecurring tax shall initially be paid on the initial obligation secured, excluding future advances. Each time an additional amount is borrowed or a future advance is made, additional nonrecurring tax shall be paid on the amount of the advance. However, any increase in the amount of original indebtedness caused by interest accruing under an adjustable interest rate obligation having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the original indebtedness is incurred.

(2) The trustee, if a deed of trust, or the owner of the obligation, if a mortgage or other lien, making the advance shall pay the additional tax to the clerk to whom the initial tax was paid. The clerk shall note the amount received upon the instrument, if one has been recorded, or shall otherwise give a receipt.

(3) If the property subject to the mortgage, deed of trust, or other lien which secures a line of credit is a residence of the borrower at the time the mortgage, deed of trust, or other lien is created, then the nonrecurring tax shall be paid as provided in s. 199.135 on the maximum amount

1 of the line of credit and no further nonrecurring tax shall be
2 due on any borrowing under the line of credit. As used in
3 this subsection, the term "residence" includes only a dwelling
4 unit that is a primary, secondary, or vacation home of the
5 borrower, who is a natural person, and that has been primarily
6 occupied for residential or recreational purposes at any time
7 during the immediately preceding 1-year period by the borrower
8 or by the borrower's spouse or children. The term excludes
9 any dwelling that is used primarily as a rental unit. Use by
10 a member of the borrower's immediate family for consideration
11 is deemed rental of the dwelling unit. Notwithstanding the
12 fact that a dwelling unit is held by a trustee, the dwelling
13 unit shall be considered a residence of the borrower and may
14 be used as security for a line of credit under this
15 subsection, as long as the dwelling unit is a residence of the
16 borrower as defined in this subsection.

17 Section 2. Section 201.02, Florida Statutes, is
18 amended to read:

19 201.02 Tax on deeds and other instruments relating to
20 real property or interests in real property.--

21 (1) On deeds, instruments, or writings whereby any
22 lands, tenements, or other real property, or any interest
23 therein, ~~is shall~~ be granted, assigned, transferred, or
24 otherwise conveyed to, or vested in, the purchaser or any
25 other person by his or her direction, on each \$100 of the
26 consideration therefor the tax shall be 70 cents. When the
27 full amount of the consideration for the execution,
28 assignment, transfer, or conveyance is not shown in the face
29 of such deed, instrument, document, or writing, the tax shall
30 be at the rate of 70 cents for each \$100 or fractional part
31 thereof of the consideration therefor. For purposes of this

1 section, consideration includes, but is not limited to, the
2 money paid or agreed to be paid; the discharge of an
3 obligation; and the amount of any mortgage, purchase money
4 mortgage lien, or other encumbrance, whether or not the
5 underlying indebtedness is assumed. If the consideration paid
6 or given in exchange for real property or any interest therein
7 includes property other than money, it is presumed that the
8 consideration is equal to the fair market value of the real
9 property or interest therein.

10 (2) The tax imposed by subsection (1) is ~~shall~~ also be
11 payable upon documents by which the right is granted to a
12 tenant-stockholder to occupy an apartment in a building owned
13 by a cooperative apartment corporation or in a dwelling on
14 real property owned by any other form of cooperative
15 association as defined in s. 719.103.

16 (3) The purchaser shall pay the tax imposed by
17 subsection (2) ~~shall be paid by the purchaser~~, and the
18 document must be recorded in the office of the clerk of the
19 circuit court as evidence of ownership.

20 (4) The tax imposed by subsection (1) is ~~shall~~ also be
21 payable upon documents that ~~which~~ convey or transfer, pursuant
22 to s. 689.071, any beneficial interest in lands, tenements, or
23 other real property, or any interest therein, even though such
24 interest may be designated as personal property,
25 notwithstanding the provisions of s. 689.071(4). The tax
26 shall be paid upon execution of any such document.

27 (5) All conveyances of real property to a partner from
28 a partnership, which property was conveyed to the partnership
29 after July 1, 1986, are taxable if:

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1 (a) The partner receiving the real property from the
2 partnership is a partner other than the partner who conveyed
3 the real property to the partnership; or

4 (b) The partner receiving the real property from the
5 partnership is the partner who conveyed the real property to
6 the partnership and there is a mortgage debt or other debt
7 secured by such real property for which the partner was not
8 personally liable before ~~prior to~~ conveying the real property
9 to the partnership.

10
11 For purposes of this subsection, the value of the
12 consideration paid for the conveyance of the real property to
13 the partner from the partnership includes, but is not limited
14 to, the amount of any outstanding mortgage debt or other debt
15 that ~~which~~ the partner pays or agrees to pay in exchange for
16 the real property, regardless of whether the partner was
17 personally liable for the debts of the partnership before
18 ~~prior to~~ the conveyance to the partner from the partnership.

19 (6) Taxes imposed by this section do ~~shall~~ not apply
20 to any assignment, transfer, or other disposition, or any
21 document, that ~~which~~ arises out of a transfer of real property
22 from a nonprofit organization to the Board of Trustees of the
23 Internal Improvement Trust Fund, to any state agency, to any
24 water management district, or to any local government. For
25 purposes of this subsection, the term "nonprofit organization"
26 means an organization whose purpose is the preservation of
27 natural resources and which is exempt from federal income tax
28 under s. 501(c)(3) of the Internal Revenue Code. The
29 Department of Revenue shall provide a form, or a place on an
30 existing form, for the nonprofit organization to indicate its
31 exempt status.

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1 (7) Taxes imposed by this section do not apply to a
2 deed, transfer, or conveyance between spouses or former
3 spouses pursuant to an action for dissolution of their
4 marriage wherein the real property is or was their marital
5 home or an interest therein. This subsection applies to a
6 deed, transfer, or conveyance in anticipation of the
7 dissolution of marriage by not more than 1 year. This
8 subsection applies despite any consideration as defined in
9 subsection (1).

10 Section 3. Subsections (27), (28), and (29) are added
11 to section 212.02, Florida Statutes, 1996 Supplement, to read:

12 212.02 Definitions.--The following terms and phrases
13 when used in this chapter have the meanings ascribed to them
14 in this section, except where the context clearly indicates a
15 different meaning:

16 (27) "Self-propelled farm equipment" means equipment
17 that contains within itself the means for its own propulsion,
18 including, but not limited to, tractors.

19 (28) "Power-drawn farm equipment" means equipment that
20 is pulled, dragged, or otherwise attached to self-propelled
21 equipment, including, but not limited to, discs, harrows, hay
22 balers, and mowers.

23 (29) "Power-driven farm equipment" means moving or
24 stationary equipment that is dependent upon an external power
25 source in order to perform its function, including, but not
26 limited to, conveyors, augers, feeding systems, and vacuum
27 pumps.

28 Section 4. Paragraph (1) of subsection (1) of section
29 212.05, Florida Statutes, 1996 Supplement, is amended to read:

30 212.05 Sales, storage, use tax.--It is hereby declared
31 to be the legislative intent that every person is exercising a

1 taxable privilege who engages in the business of selling
2 tangible personal property at retail in this state, including
3 the business of making mail order sales, or who rents or
4 furnishes any of the things or services taxable under this
5 chapter, or who stores for use or consumption in this state
6 any item or article of tangible personal property as defined
7 herein and who leases or rents such property within the state.

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

11 (1)1. Notwithstanding any other provision of this
12 part, there is hereby levied a tax on the sale, use,
13 consumption, or storage for use in this state of any coin or
14 currency, whether in circulation or not, when such coin or
15 currency:

- 16 a. Is not legal tender;
17 b. If legal tender, is sold, exchanged, or traded at a
18 rate in excess of its face value; or
19 c. Is sold, exchanged, or traded at a rate based on
20 its precious metal content.

21 2. Such tax shall be at a rate of 6 percent of the
22 price at which the coin or currency is sold, exchanged, or
23 traded, except that, with respect to a coin or currency which
24 is legal tender of the United States and which is sold,
25 exchanged, or traded at a rate in excess of its face value,
26 the tax shall be at a rate of 6 percent of the difference
27 between the price at which it is sold, exchanged, or traded
28 and its face value.

29 3. There are exempt from this tax exchanges of coins
30 or currency which are in general circulation in, and legal
31 tender of, one nation for coins or currency which are in

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general circulation in, and legal tender of, another nation
2 when exchanged solely for use as legal tender and at an
3 exchange rate based on the relative value of each as a medium
4 of exchange.

5 4. With respect to any transaction that involves the
6 sale of coins or currency taxable under this paragraph in
7 which the taxable amount represented by the sale of such coins
8 or currency exceeds \$200, the entire amount represented by the
9 sale of such coins or currency shall be exempt from the tax
10 imposed by this paragraph. The dealer must maintain proper
11 documentation, as prescribed by rule of the department, to
12 identify that portion of a transaction which involves the sale
13 of coins or currency and is exempt under this subparagraph.

14 Section 5. Subsection (2) of section 212.054, Florida
Statutes, 1996 Supplement, is amended to read:

16 212.054 Discretionary sales surtax; limitations,
17 administration, and collection.--

18 (2)(a) The tax imposed by the governing body of any
19 county authorized to so levy pursuant to s. 212.055 shall be a
20 discretionary surtax on all transactions occurring in the
21 county which transactions are subject to the state tax imposed
22 on sales, use, services, rentals, admissions, and other
23 transactions by this part. The surtax, if levied, shall be
24 computed as the applicable rate or rates authorized pursuant
25 to s. 212.055 times the amount of taxable sales and taxable
26 purchases representing such transactions. If the surtax is
27 levied on the sale of an item of tangible personal property or
28 on the sale of a service, the surtax shall be computed by
29 multiplying the rate imposed by the county within which the
30 sale occurs by the amount of the taxable sale. The sale of an
31 item of tangible personal property or the sale of a service is

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1 not subject to the surtax if the property, the service, or the
2 tangible personal property representing the service is
3 delivered within a county that does not impose a discretionary
4 sales surtax.

5 (b) However:

6 1. The tax on any sales amount above \$5,000 on any
7 item of tangible personal property and on long-distance
8 telephone service shall not be subject to the surtax. For
9 purposes of administering the \$5,000 limitation on an item of
10 tangible personal property, if two or more taxable items of
11 tangible personal property are sold to the same purchaser at
12 the same time and, under generally accepted business practice
13 or industry standards or usage, are normally sold in bulk or
14 are items that, when assembled, comprise a working unit or
15 part of a working unit, such items must be considered a single
16 item for purposes of the \$5,000 limitation when supported by a
17 charge ticket, sales slip, invoice, or other tangible evidence
18 of a single sale or rental. The limitation provided in this
19 subparagraph does not apply to the sale of any other service.

20 2. In the case of utility, telecommunication, or
21 television system program services billed on or after the
22 effective date of any such surtax, the entire amount of the
23 tax for utility, telecommunication, or television system
24 program services shall be subject to the surtax. In the case
25 of utility, telecommunication, or television system program
26 services billed after the last day the surtax is in effect,
27 the entire amount of the tax on said items shall not be
28 subject to the surtax.

29 3. In the case of written contracts which are signed
30 prior to the effective date of any such surtax for the
31 construction of improvements to real property or for

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remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. In the case of charges for electricity which are exempt under s. 212.08(7)(ii), sales amounts of \$5,000 or less are exempt from the surtax. Such exemption shall be applied as follows:

a. Beginning July 1, 1997, 40 percent of the charges for such electricity shall be exempt.

1 b. Beginning July 1, 1998, 60 percent of the charges
2 for such electricity shall be exempt.

3 c. Beginning July 1, 1999, 80 percent of the charges
4 for such electricity shall be exempt.

5 d. Beginning July 1, 2000, 100 percent of the charges
6 for such electricity shall be exempt.

7 Section 6. Subsections (1) and (3), paragraphs (o) and
8 (ii) of subsection (7), and subsection (14) of section 212.08,
9 Florida Statutes, 1996 Supplement, are amended, and paragraphs
10 (nn), (oo), (pp), (qq), (rr), (ss), and (tt) are added to
11 subsection (7) of that section, to read:

12 212.08 Sales, rental, use, consumption, distribution,
13 and storage tax; specified exemptions.--The sale at retail,
14 the rental, the use, the consumption, the distribution, and
15 the storage to be used or consumed in this state of the
16 following are hereby specifically exempt from the tax imposed
17 by this part.

18 (1) EXEMPTIONS; GENERAL GROCERIES.--

19 (a) Food products for human consumption are exempt
20 from the tax imposed by this chapter.

21 (b) As used in this subsection, "food products" means
22 edible commodities, whether processed, cooked, raw, canned, or
23 in any other form, which are generally regarded as food. This
24 includes, but is not limited to:

25 1. Cereals and cereal products, baked goods,
26 oleomargarine, meat and meat products, fish and seafood
27 products, frozen foods and dinners, poultry, eggs and egg
28 products, vegetables and vegetable products, fruit and fruit
29 products, spices, salt, sugar and sugar products, milk and
30 dairy products, and products intended to be mixed with milk.

2 2. Natural fruit or vegetable juices or their
3 concentrates or reconstituted natural concentrated fruit or
4 vegetable juices, whether frozen or unfrozen, dehydrated,
5 powdered, granulated, sweetened or unsweetened, seasoned with
6 salt or spice, or unseasoned; and coffee, coffee substitutes,
7 tea, or cocoa, unless these products are sold in a liquid
8 form.

9 3. Bakery products sold by bakeries, pastry shops, or
10 like establishments which do not have eating facilities.

11 (c) The exemption provided by this subsection does not
12 apply:

13 1. When the food products are sold as meals for
14 consumption on or off the premises of the dealer.

15 2. When the food products are furnished, prepared, or
16 served for consumption at tables, chairs, or counters or from
17 trays, glasses, dishes, or other tableware, whether provided
18 by the dealer or by a person with whom the dealer contracts to
19 furnish, prepare, or serve food products to others.

20 3. When the food products are ordinarily sold for
21 immediate consumption on the premises or near a location at
22 which parking facilities are provided primarily for the use of
23 patrons in consuming the products purchased at the location,
24 even though such products are sold on a "take out" or "to go"
25 order and are actually packaged or wrapped and taken from the
26 premises of the dealer.

27 4. To sandwiches sold ready for immediate consumption
28 on or off the premises.

29 5. When the food products are sold ready for immediate
30 consumption within a place, the entrance to which is subject
31 to an admission charge.

1 6. When the food products are sold as hot prepared
2 food products.

3 7. To soft drinks, which include, but are not limited
4 to, any nonalcoholic beverage, any preparation or beverage
5 commonly referred to as a "soft drink," or any noncarbonated
6 drink made from milk derivatives or tea, when sold in cans or
7 similar containers.

8 8. To ice cream, frozen yogurt, and similar frozen
9 dairy or nondairy products in cones, small cups, or pints,
10 popsicles, frozen fruit bars, or other novelty items, whether
11 or not sold separately.

12 9. To food prepared, whether on or off the premises,
13 and sold for immediate consumption. This does not apply to
14 food prepared off the premises and sold in the original sealed
15 container, or the slicing of products into smaller portions.

16 10. When the food products are sold through a vending
17 machine, pushcart, motor vehicle, or any other form of
18 vehicle.

19 11. To candy and any similar product regarded as candy
20 or confection, based on its normal use, as indicated on the
21 label or advertising thereof.

22 12. To bakery products sold by bakeries, pastry shops,
23 or like establishments which have eating facilities, except
24 when sold for consumption off the premises.

25 13. When food products are served, prepared, or sold
26 in or by restaurants, lunch counters, cafeterias, hotels,
27 taverns, or other like places of business.

28 (d) As used in this subsection:

29 1. "For consumption off the premises" means that the
30 food or drink is intended by the customer to be consumed at a
31 place away from the dealer's premises.

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1 2. "For consumption on the premises" means that the
2 food or drink sold may be immediately consumed on the premises
3 where the dealer conducts his or her business. In determining
4 whether an item of food is sold for immediate consumption,
5 there shall be considered the customary consumption practices
6 prevailing at the selling facility.

7 3. "Premises" shall be construed broadly, and means,
8 but is not limited to, the lobby, aisle, or auditorium of a
9 theater; the seating, aisle, or parking area of an arena,
10 rink, or stadium; or the parking area of a drive-in or outdoor
11 theater. The premises of a caterer with respect to catered
12 meals or beverages shall be the place where such meals or
13 beverages are served.

14 4. "Hot prepared food products" means those products,
15 items, or components which have been prepared for sale in a
16 heated condition and which are sold at any temperature which
17 is higher than the air temperature of the room or place where
18 they are sold. "Hot prepared food products," for the purposes
19 of this subsection, includes a combination of hot and cold
20 food items or components where a single price has been
21 established for the combination and the food products are sold
22 in such combination, such as a hot meal, a hot specialty dish
23 or serving, or a hot sandwich or hot pizza, including cold
24 components or side items.

25 ~~{a}-There are exempt from the tax imposed by this~~
26 ~~chapter food and drinks for human consumption except candy.~~
27 ~~Unless the exemption provided by paragraph (7)(q) for school~~
28 ~~lunches, paragraph (7)(i) for meals to certain patients or~~
9 ~~inmates, paragraph (7)(k) for meals provided by certain~~
10 ~~nonprofit organizations, or paragraph (7)(2) for food or~~
31

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1 drinks sold through vending machines pertains; none of such
2 items of food or drinks means:

3 1. -- Food or drinks served, prepared, or sold in or by
4 restaurants, drugstores, lunch counters, cafeterias, hotels,
5 amusement parks, racetracks, taverns, concession stands at
6 arenas, auditoriums, carnivals, fairs, stadiums, theaters, or
7 other like places of business, or by any business or place
8 required by law to be licensed by the Division of Hotels and
9 Restaurants of the Department of Business and Professional
10 Regulation, except bakery products sold in or by pastry shops,
11 doughnut shops, or like establishments for consumption off the
12 premises;

13 2. -- Foods and drinks sold ready for immediate
14 consumption from vending machines, pushcarts, motor vehicles,
15 or any other form of vehicle;

16 3. -- Soft drinks, which include, but are not limited to,
17 any nonalcoholic beverage, any preparation or beverage
18 commonly referred to as a "soft drink," or any noncarbonated
19 drink made from milk derivatives or tea, when sold in cans or
20 similar containers. The term "soft drink" does not include
21 natural fruit or vegetable juices or their concentrates or
22 reconstituted natural concentrated fruit or vegetable juices,
23 whether frozen or unfrozen, dehydrated, powdered, granulated,
24 sweetened or unsweetened, seasoned with salt or spice, or
25 unseasoned, coffee or coffee substitutes, tea except when sold
26 in containers as provided herein, cocoa, products intended to
27 be mixed with milk, or natural fluid milk;

28 4. -- Foods or drinks cooked or prepared on the seller's
29 premises and sold ready for immediate consumption either on or
30 off the premises, excluding bakery products for off-premises
31

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~~consumption unless such foods are taxed under subparagraph f-~~

2 ~~or subparagraph 277 or~~

3 ~~57--Sandwiches sold ready for immediate consumption.~~

4
5 ~~For the purposes of this paragraph, "seller's premises" shall~~

6 ~~be construed broadly, and means, but is not limited to, the~~

7 ~~lobby, aisle, or auditorium of a theater, the seating, aisle,~~

8 ~~or parking area of an arena, rink, or stadium, or the parking~~

9 ~~area of a drive-in or outdoor theater. The premises of a~~

10 ~~caterer with respect to catered meals or beverages shall be~~

11 ~~the place where such meals or beverages are served.~~

12 (e)(b)1. Food or drinks not exempt under paragraphs

13 (a), (b), (c), and (d) paragraph (a) shall be exempt,

14 notwithstanding those paragraphs that paragraph, when

15 purchased with food coupons or Special Supplemental Food

16 Program for Women, Infants, and Children vouchers issued under

17 authority of federal law.

18 2. This paragraph is effective only while federal law

19 prohibits a state's participation in the federal food coupon

20 program or Special Supplemental Food Program for Women,

21 Infants, and Children if there is an official determination

22 that state or local sales taxes are collected within that

23 state on purchases of food or drinks with such coupons.

24 3. This paragraph shall not apply to any food or

25 drinks on which federal law shall permit sales taxes without

26 penalty, such as termination of the state's participation.

27 4. Notwithstanding any other provision of law, the

28 department shall make refunds or allow credits to a

29 distributor equal to the fee imposed and paid under s.

30 403.7197 on containers purchased by consumers with food

31 coupons or Special Supplemental Food Program for Women,

1 Infants, and Children vouchers issued under authority of
2 federal law.

3 (3) ~~EXEMPTIONS~~~~7-PARTIAL~~; CERTAIN FARM

4 EQUIPMENT.--Until July 1, 1998, there shall be taxable at the
5 rate of 3 percent the sale, use, consumption, or storage for
6 use in this state of self-propelled, or power-drawn, or
7 power-driven farm equipment used exclusively on a farm or in a
8 forest by a farmer on a farm-owned, leased, or sharecropped by
9 the farmer in plowing, planting, cultivating, or harvesting
10 crops or products as produced by those agricultural industries
11 included in s. 570.02(1). Beginning July 1, 1998, the tax
12 rate applicable to such equipment shall be 2 percent.
13 Beginning July 1, 1999, the tax rate applicable to such
14 equipment shall be 1 percent. Beginning July 1, 2000, and
15 thereafter, such equipment is exempt from the tax imposed by
16 this chapter. Harvesting is not to be construed to include
17 processing activities. This exemption is not forfeited by the
18 act of moving farm equipment between farms or forests. The
19 rental of self-propelled, or power-drawn, or power-driven farm
20 equipment shall be taxed at the rate of 6 percent.

21 (7) MISCELLANEOUS EXEMPTIONS.--

22 (c) Religious, charitable, scientific, educational,
23 and veterans' institutions and organizations.--

24 1. There are exempt from the tax imposed by this part
25 transactions involving:

26 a. Sales or leases directly to churches or sales or
27 leases of tangible personal property by churches;

28 b. Sales or leases to nonprofit religious, nonprofit
29 charitable, nonprofit scientific, or nonprofit educational
30 institutions when used in carrying on their customary
31 nonprofit religious, nonprofit charitable, nonprofit

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scientific, or nonprofit educational activities, including
2 church cemeteries; and

3 c. Sales or leases to the state headquarters of
4 qualified veterans' organizations and the state headquarters
5 of their auxiliaries when used in carrying on their customary
6 veterans' organization activities. If a qualified veterans'
7 organization or its auxiliary does not maintain a permanent
8 state headquarters, then transactions involving sales or
9 leases to such organization and used to maintain the office of
10 the highest ranking state official are exempt from the tax
11 imposed by this part.

12 2. The provisions of this section authorizing
13 exemptions from tax shall be strictly defined, limited, and
14 applied in each category as follows:

15 a. "Religious institutions" means churches,
16 synagogues, and established physical places for worship at
17 which nonprofit religious services and activities are
18 regularly conducted and carried on. The term "religious
19 institutions" includes nonprofit corporations the sole purpose
20 of which is to provide free transportation services to church
21 members, their families, and other church attendees. The term
22 "religious institutions" also includes state, district, or
23 other governing or administrative offices the function of
24 which is to assist or regulate the customary activities of
25 religious organizations or members. The term "religious
26 institutions" also includes any nonprofit corporation which is
27 qualified as nonprofit pursuant to s. 501(c)(3), United States
28 Internal Revenue Code of 1986, as amended, which owns and
29 operates a Florida radio or television station, at least 90
30 percent of the programming of which station consists of
31 programs of a religious nature, and the financial support for

1 which, exclusive of receipts for broadcasting from other
2 nonprofit organizations, is predominantly from contributions
3 from the general public. The term "religious institutions"
4 also includes any nonprofit corporation which is qualified as
5 nonprofit pursuant to s. 501(c)(3), United States Internal
6 Revenue Code of 1986, as amended, which provides regular
7 religious services to Florida state prisoners and which from
8 its own established physical place of worship, operates a
9 ministry providing worship and services of a charitable nature
10 to the community on a weekly basis. The term "religious
11 institutions" also includes any nonprofit corporation that is
12 qualified as nonprofit pursuant to s. 501(c)(3) of the
13 Internal Revenue Code of 1986, as amended, the sole or primary
14 function of which is to provide at any location nonprofit
15 religious services, evangelistic services, religious
16 education, or missionary activities for, or in direct
17 participation with, one or more churches, synagogues, or
18 established physical places of worship at which nonprofit
19 religious services and activities are regularly conducted.

20 b. "Charitable institutions" means only nonprofit
21 corporations qualified as nonprofit pursuant to s. 501(c)(3),
22 United States Internal Revenue Code of 1954, as amended, and
23 other nonprofit entities, the sole or primary function of
24 which is to provide, or to raise funds for organizations which
25 provide, one or more of the following services if a reasonable
26 percentage of such service is provided free of charge, or at a
27 substantially reduced cost, to persons, animals, or
28 organizations that are unable to pay for such service:

29 (I) Medical aid for the relief of disease, injury, or
30 disability;

31

2 (II) Regular provision of physical necessities such as
3 food, clothing, or shelter;

4 (III) Services for the prevention of or rehabilitation
5 of persons from alcoholism or drug abuse; the prevention of
6 suicide; or the alleviation of mental, physical, or sensory
7 health problems;

8 (IV) Social welfare services including adoption
9 placement, child care, community care for the elderly, and
10 other social welfare services which clearly and substantially
11 benefit a client population which is disadvantaged or suffers
12 a hardship;

13 (V) Medical research for the relief of disease,
14 injury, or disability;

15 (VI) Legal services; or

16 (VII) Food, shelter, or medical care for animals or
17 adoption services, cruelty investigations, or education
18 programs concerning animals;

19 and the term includes groups providing volunteer staff to
20 organizations designated as charitable institutions under this
21 sub-subparagraph; nonprofit organizations the sole or primary
22 purpose of which is to coordinate, network, or link other
23 institutions designated as charitable institutions under this
24 sub-subparagraph with those persons, animals, or organizations
25 in need of their services; and nonprofit national, state,
26 district, or other governing, coordinating, or administrative
27 organizations the sole or primary purpose of which is to
28 represent or regulate the customary activities of other
29 institutions designated as charitable institutions under this
30 sub-subparagraph. Notwithstanding any other requirement of
31 this section, any blood bank that relies solely upon volunteer

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1 donations of blood and tissue, that is licensed under chapter
2 483, and that qualifies as tax exempt under s. 501(c)(3) of
3 the Internal Revenue Code constitutes a charitable institution
4 and is exempt from the tax imposed by this part.

5 c. "Scientific organizations" means scientific
6 organizations which hold current exemptions from federal
7 income tax under s. 501(c)(3) of the Internal Revenue Code and
8 also means organizations the purpose of which is to protect
9 air and water quality or the purpose of which is to protect
10 wildlife and which hold current exemptions from the federal
11 income tax under s. 501(c)(3) of the Internal Revenue Code.

12 d. "Educational institutions" means state
13 tax-supported or parochial, church and nonprofit private
14 schools, colleges, or universities which conduct regular
15 classes and courses of study required for accreditation by, or
16 membership in, the Southern Association of Colleges and
17 Schools, the Department of Education, the Florida Council of
18 Independent Schools, or the Florida Association of Christian
19 Colleges and Schools, Inc., or nonprofit private schools which
20 conduct regular classes and courses of study accepted for
21 continuing education credit by a Board of the Division of
22 Medical Quality Assurance of the Department of Business and
23 Professional Regulation or which conduct regular classes and
24 courses of study accepted for continuing education credit by
25 the American Medical Association. Nonprofit libraries, art
26 galleries, and museums open to the public are defined as
27 educational institutions and are eligible for exemption. The
28 term "educational institutions" includes private nonprofit
29 organizations the purpose of which is to raise funds for
30 schools teaching grades kindergarten through high school,
31 colleges, and universities. The term "educational

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1 institutions" includes any nonprofit newspaper of free or paid
2 circulation primarily on university or college campuses which
3 holds a current exemption from federal income tax under s.
4 501(c)(3) of the Internal Revenue Code, and any educational
5 television or radio network or system established pursuant to
6 s. 229.805 or s. 229.8051 and any nonprofit television or
7 radio station which is a part of such network or system and
8 which holds a current exemption from federal income tax under
9 s. 501(c)(3) of the Internal Revenue Code. The term
10 "educational institutions" also includes state, district, or
11 other governing or administrative offices the function of
12 which is to assist or regulate the customary activities of
13 educational organizations or members. The term "educational
14 institutions" also includes a nonprofit educational cable
15 consortium which holds a current exemption from federal income
16 tax under s. 501(c)(3) of the Internal Revenue Code of 1986,
17 as amended, whose primary purpose is the delivery of
18 educational and instructional cable television programming and
19 whose members are composed exclusively of educational
20 organizations which hold a valid consumer certificate of
21 exemption and which are either an educational institution as
22 defined in this sub-subparagraph, or qualified as a nonprofit
23 organization pursuant to s. 501(c)(3) of the Internal Revenue
24 Code of 1986, as amended.

25 e. "Veterans' organizations" means nationally
26 chartered or recognized veterans' organizations, including,
27 but not limited to, Florida chapters of the Paralyzed Veterans
28 of America, Catholic War Veterans of the U.S.A., Jewish War
29 Veterans of the U.S.A., and the Disabled American Veterans,
30 Department of Florida, Inc., which hold current exemptions
31

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1 from federal income tax under s. 501(c)(4) or (19) of the
2 Internal Revenue Code.

3 (ii) Certain electricity uses.--

4 1. Charges for electricity used primarily to operate
5 machinery and equipment directly and exclusively at a fixed
6 location in this state when such to-operate machinery and
7 equipment that is used to manufacture, process, compound, or
8 produce, or prepare for shipment items of tangible personal
9 property for sale, or to operate pollution control equipment,
10 recycling equipment, maintenance equipment, or monitoring or
11 control equipment used in such operations are exempt to the
12 extent provided in this paragraph from the tax imposed by this
13 part as provided in subparagraph 2. Machinery and equipment
14 used primarily in the manufacturing process also includes
15 temperature or humidity control equipment necessary to
16 maintain certain temperature or humidity levels in a limited
17 area of the processing or manufacturing facility where either
18 temperature or humidity must be closely regulated for the
19 proper function or production process to occur. The term
20 "primarily" means that more than 50 percent of the electricity
21 is used to operate qualifying machinery or equipment.

22 2. The exemption provided for in this paragraph hereinafter
23 is applicable if the electricity that is used primarily for
24 the exempt purposes. If the electricity is not primarily used
25 for exempt purposes is separately metered or if it is not
26 separately metered, it is irrevocably presumed that 50 percent
27 of the charge for electricity is for nonexempt purposes. If
28 none of the electricity is used for an exempt purpose, the
29 total charge is taxable.

30 3. This exemption only applies only to industries
31 classified under SIC Industry Major Group Numbers 10, 12, 13,

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14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33,
2 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC"
3 means those classifications contained in the Standard
4 Industrial Classification Manual, 1987, as published by the
5 Office of Management and Budget, Executive Office of the
6 President.

7 4. Possession by a seller of a written certification
8 by the purchaser, certifying the purchaser's entitlement to an
9 exemption permitted by this subsection, relieves the seller
10 from the responsibility of collecting the tax on the
11 nontaxable amounts, and the department shall look solely to
12 the purchaser for recovery of such tax if it determines that
13 the purchaser was not entitled to the exemption.

14 5. Such exemption shall be applied as follows:

5 a.4- Beginning July 1, 1996, 20 percent of the charges
16 for such electricity shall be exempt.

17 b.2- Beginning July 1, 1997, 40 percent of the charges
18 for such electricity shall be exempt.

19 c.3- Beginning July 1, 1998, 60 percent of the charges
20 for such electricity shall be exempt.

21 d.4- Beginning July 1, 1999, 80 percent of the charges
22 for such electricity shall be exempt.

23 e.5- Beginning July 1, 2000, 100 percent of the
24 charges for such electricity shall be exempt.

25 6. Notwithstanding any other provision in this
26 paragraph to the contrary, in order to receive the exemption
27 provided in this paragraph a taxpayer must first register with
28 the WAGES Program Business Registry established by the local
9 WAGES coalition for the area in which the taxpayer is located.
30 Such registration establishes a commitment on the part of the
31

1 taxpayer to hire WAGES program participants to the maximum
2 extent possible consistent with the nature of their business.

3 7.a. In order to determine whether the exemption
4 provided in this paragraph from the tax on charges for
5 electricity has an effect on retaining or attracting companies
6 to this state, the Office of Program Policy Analysis and
7 Governmental Accountability shall periodically monitor and
8 report on the industries receiving the exemption.

9 b. The first report shall be submitted no later than
10 January 1, 1997, and must be conducted in such a manner as to
11 specifically determine the number of companies within each SIC
12 Industry Major Group receiving the exemption as of September
13 1, 1996, and the number of individuals employed by companies
14 within each SIC Industry Major Group receiving the exemption
15 as of September 1, 1996.

16 c. The second report shall be submitted no later than
17 January 1, 2001, and must be comprehensive in scope, but, at a
18 minimum, must be conducted in such a manner as to specifically
19 determine the number of companies within each SIC Industry
20 Major Group receiving the exemption as of September 1, 2000,
21 the number of individuals employed by companies within each
22 SIC Industry Major Group receiving the exemption as of
23 September 1, 2000, whether the change, if any, in such number
24 of companies or employees is attributable to the exemption
25 provided in this paragraph, whether it would be sound public
26 policy to continue or discontinue the exemption, and the
27 consequences of doing so.

28 d. Both reports shall be submitted to the President of
29 the Senate, the Speaker of the House of Representatives, the
30 Senate Minority Leader, and the House Minority Leader.

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1 (nn) Bullion.--The sale of gold, silver, or platinum
2 bullion, or any combination thereof in a single transaction,
3 is exempt if the sales price exceeds \$200. The dealer must
4 maintain proper documentation, as prescribed by rule of the
5 department, to identify that portion of a transaction which
6 involves the sale of gold, silver, or platinum bullion and is
7 exempt under this paragraph.

8 (oo) Aircraft sales or leases.--The sale or lease of
9 an aircraft for use by a common carrier is exempt from the tax
10 imposed by this part. As used in this paragraph, the term
11 "common carrier" means an airline operating under part 121,
12 129, or 135 of the federal aviation regulations.

13 (pp) Aircraft repair and maintenance.--There shall be
14 exempt from the tax imposed by this chapter replacement
15 engines, parts, and equipment used in the repair or
16 maintenance of commercial aircraft of more than 20,000 pounds
17 maximum certified takeoff weight, when such parts or equipment
18 are installed on such aircraft that is being repaired or
19 maintained in this state.

20 (qq) Advertising agencies.--When advertising agencies
21 act as agents for their clients in purchasing property such as
22 photographic negatives and positives, videos, films, galleys,
23 mechanicals, veloxes, illustrations, and artwork, the tax
24 applies to the gross receipts from the sale of such property
25 to the advertising agency. The tax does not apply to charges
26 by the advertising agency to its clients.

27 (rr) Complimentary meals.--Also exempt from the tax
28 imposed by this part are food or drinks that are furnished as
29 part of a packaged room rate by any person offering for rent
30 or lease any transient living accommodations as described in
31 s. 509.013(4)(a) which are licensed under part I of chapter

1 509 and which are subject to the tax under s. 212.03, if a
2 separate charge or specific amount for the food or drinks is
3 not shown. Such food or drinks are considered to be sold at
4 retail as part of the total charge for the transient living
5 accommodations. Moreover, the person offering the
6 accommodations is not considered to be the consumer of items
7 purchased in furnishing such food or drinks and may purchase
8 those items under conditions of a sale for resale.

9 (ss) Complimentary items.--There is exempt from the
10 tax imposed by this chapter:

11 1. Any food or drink, whether or not cooked or
12 prepared on the premises, provided without charge as a sample
13 or for the convenience of customers by a dealer that primarily
14 sells food product items at retail.

15 2. Any item given to a customer as part of a price
16 guarantee plan related to point-of-sale errors by a dealer
17 that primarily sells food products at retail.

18
19 The exemptions in this paragraph do not apply to businesses
20 with the primary activity of serving prepared meals or
21 alcoholic beverages for immediate consumption.

22 (tt) Donated foods or beverages.--Any food or beverage
23 donated by a dealer that sells food products at retail to a
24 food bank or an organization that holds a current exemption
25 from federal corporate income tax pursuant to s. 501(c) of the
26 Internal Revenue Code of 1986, as amended, is exempt from the
27 tax imposed by this chapter.

28 (14)(a) The department shall establish a technical
29 assistance advisory committee with public and private sector
30 members, including representatives of both manufacturers and
31 retailers, to advise the Department of Revenue and the

1 Department of Health and Rehabilitative Services in
2 determining the taxability of specific products and product
3 lines pursuant to subsection (1) and paragraph (2)(a). In
4 determining taxability and in preparing a list of specific
5 products and product lines which are or are not taxable, the
6 committee shall not be subject to the provisions of chapter
7 120. Private sector members shall not be compensated for
8 serving on the committee.

9 (b) The department, with the advice of the committee,
10 shall develop guidelines for determining the taxability of
11 specific products. The guidelines are not subject to chapter
12 120 and are a public record. In developing the guidelines, if
13 the department determines that a proposed guideline
14 substantially affects a particular person, it shall notify the
15 person of the development of the proposed guideline. The
16 guidelines shall be submitted to the Administrative Procedures
17 Committee and the department shall respond to any comments
18 made by the committee or to any person substantially affected
19 by the guidelines.

20 (c) The advisory committee shall use guidelines
21 determined by the department in making its recommendations.
22 The committee shall forward its recommendations to the
23 department, which shall determine the taxability of specific
24 products. The determination is a public record, is final upon
25 its publication, and remains effective unless a change of
26 determination is published. The determination may be
27 challenged pursuant to a proceeding conducted under ss.
28 120.569 and 120.57.

29 (d) The department may develop a central database and
30 publish the determination as to the taxability of specific
31 products in a manner that generally provides retailers with

1 information to properly tax products based on their universal
2 product codes. To assure maximum benefit to the retail
3 community, the advisory committee shall help in identifying
4 the scope of information that should be included in the
5 central database and the appropriate methods to assure
6 efficient and effective communication. Information contained
7 in the central database is not subject to chapter 120 and is a
8 public record.

9 Section 7. Effective January 1, 1998, subsections (1)
10 and (11) of section 212.12, Florida Statutes, 1996 Supplement,
11 are amended to read:

12 212.12 Dealer's credit for collecting tax; penalties
13 for noncompliance; powers of Department of Revenue in dealing
14 with delinquents; brackets applicable to taxable transactions;
15 records required.--

16 (1) Notwithstanding any other provision of law and for
17 the purpose of compensating persons granting licenses for and
18 the lessors of real and personal property taxed hereunder, for
19 the purpose of compensating dealers in tangible personal
20 property, for the purpose of compensating dealers providing
21 communication services and taxable services, for the purpose
22 of compensating owners of places where admissions are
23 collected, and for the purpose of compensating remitters of
24 any taxes or fees reported on the same documents utilized for
25 the sales and use tax, as compensation for the keeping of
26 prescribed records and the proper accounting and remitting of
27 taxes by them, such seller, person, lessor, dealer, owner, and
28 remitter (except dealers who make mail order sales) shall be
29 allowed 2.5 percent of the amount of the tax due and accounted
30 for and remitted to the department, in the form of a deduction
31 in submitting his or her report and paying the amount due by

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1 him or her; the department shall allow such deduction of 2.5
2 percent of the amount of the tax to the person paying the same
3 for remitting the tax in the manner herein provided, for
4 paying the amount due to be paid by him or her, and as further
5 compensation to dealers in tangible personal property for the
6 keeping of prescribed records and for collection of taxes and
7 remitting the same. However, if the amount of the tax due and
8 remitted to the department for the reporting period exceeds
9 \$2,000 ~~\$4,200~~, no allowance shall be allowed for all amounts
10 in excess of \$2,000 ~~\$4,200~~. The executive director of the
11 department is authorized to negotiate a collection allowance,
12 pursuant to rules promulgated by the department, with a dealer
13 who makes mail order sales. The rules of the department shall
14 provide guidelines for establishing the collection allowance
15 based upon the dealer's estimated costs of collecting the tax,
16 the volume and value of the dealer's mail order sales to
17 purchasers in this state, and the administrative and legal
18 costs and likelihood of achieving collection of the tax absent
19 the cooperation of the dealer. However, in no event shall the
20 collection allowance negotiated by the executive director
21 exceed 10 percent of the tax remitted for a reporting period.

22 (a) The collection allowance may not be granted, nor
23 may any deduction be permitted, if the tax is delinquent at
24 the time of payment.

25 (b) The Department of Revenue may reduce the
26 collection allowance by 10 percent or \$50, whichever is less,
27 if a taxpayer files an incomplete return.

28 1. An "incomplete return" is, for purposes of this
29 chapter, a return which is lacking such uniformity,
30 completeness, and arrangement that the physical handling,
31

1 verification, or review of the return may not be readily
2 accomplished.

3 2. The department shall adopt rules requiring such
4 information as it may deem necessary to ensure that the tax
5 levied hereunder is properly collected, reviewed, compiled,
6 and enforced, including, but not limited to: the amount of
7 gross sales; the amount of taxable sales; the amount of tax
8 collected or due; the amount of lawful refunds, deductions, or
9 credits claimed; the amount claimed as the dealer's collection
10 allowance; the amount of penalty and interest; the amount due
11 with the return; and such other information as the Department
12 of Revenue may specify. The department shall require that
13 transient rentals and agricultural equipment transactions be
14 separately shown. For returns remitted on or after February 1,
15 1992, the department shall also require that sales made
16 through vending machines as defined in s. 212.0515 be
17 separately shown. For returns remitted on or after February 1,
18 1995, sales made through coin-operated amusement machines as
19 defined by s. 212.02 and the number of machines operated must
20 be separately shown on the return or on a form prescribed by
21 the department. If a separate form is required, the same
22 penalties for late filing, incomplete filing, or failure to
23 file as provided for the sales tax return shall apply to said
24 form.

25 (c) The collection allowance and other credits or
26 deductions provided in this part shall be applied
27 proportionally to any taxes or fees reported on the same
28 documents used for the sales and use tax.

29 (11) The department is authorized to provide by rule
30 the tax amounts and brackets applicable to all taxable
31 transactions that occur in counties that have a surtax at a

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rate other than 1 percent which transactions would otherwise
have been transactions taxable at the rate of 6 percent.
Likewise, the department is authorized to adopt ~~promulgate~~ by
rule the tax amounts and brackets applicable to transactions
taxable at 3 percent, 2 percent, or 1 percent pursuant to s.
212.08(3), transactions taxable at 7 percent pursuant to s.
212.05(1)(e), and on transactions that ~~which~~ would otherwise
have been so taxable in counties that ~~which~~ have adopted a
discretionary sales surtax.

Section 8. Section 213.285, Florida Statutes, is
created to read:

213.285 Certified audit project.--

(1) As used in this section, the term:

(a) "Certification program" means an instructional
curriculum and examination for the professional development of
certified public accountants. The program shall be
administered by an independent provider, under the approval of
the department, to ensure that a certified public accountant
possesses the necessary skills and abilities to successfully
perform an attestation engagement for tax-compliance review
under the certified audit project.

(b) "Department" means the Department of Revenue.

(c) "Participating taxpayer" means any person subject
to the revenue laws administered by the department who enters
into an engagement with a qualified practitioner for
tax-compliance review and who is approved by the department
under the certified audit project.

(d) "Qualified practitioner" means a certified public
accountant who is licensed to practice in this state, who is
in good standing with the Board of Accountancy, and who has
completed the certification program.

1 (2) The department may initiate a certified audit
2 project to enhance tax-compliance reviews performed by
3 qualified practitioners and to encourage taxpayers to hire
4 qualified practitioners, at the expense of the taxpayers, to
5 review and report on the compliance of the taxpayers with
6 revenue laws. A certified audit must be performed according to
7 procedures agreed upon by the department and the qualified
8 practitioner. The department shall be the specified user of
9 the audit report.

10 (a) The department may adopt rules to administer the
11 certified audit project and the certification program for
12 certified public accountants.

13 (b) As an incentive for a taxpayer to incur the cost
14 of a certified audit, the department shall compromise
15 penalties and abate interest due on any tax liability revealed
16 by a certified audit as provided in s. 213.21. The authority
17 to compromise penalties or abate interest does not apply to
18 any liability for taxes collected by a participating taxpayer
19 but which were not remitted to the department.

20 (c) The certified audit project expires July 1, 2000,
21 or upon completion of the project as determined by the
22 department, whichever occurs earlier.

23 (3) Any practitioner responsible for planning,
24 directing, conducting, or reporting on a participating
25 taxpayer's tax compliance in a certified audit must be a
26 qualified practitioner. For purposes of this section, a
27 qualified practitioner is responsible for:

28 (a) Planning tax compliance in a certified audit when
29 performing work that involves determining the objectives,
30 scope, and methodology of the certified audit; when
31 establishing criteria to evaluate matters subject to review as

1 part of the certified audit; when gathering information used
2 in planning the certified audit; or when coordinating the
3 certified audit with the department.

4 (b) Directing a certified audit if the work involves
5 supervising the efforts of others or reviewing the work to
6 determine whether it is properly accomplished and complete.

7 (c) Conducting a certified audit if the work involves
8 performing tests, procedures, or field work necessary to
9 accomplish the audit objectives in accordance with applicable
10 standards.

11 (d) Reporting on a certified audit if the work
12 involves determining report contents and substance or
13 reviewing reports for technical content and substance before
14 issuing a report.

15 (4) A qualified practitioner shall notify the
16 department of an engagement to perform a certified audit and
17 shall provide to the department the information the department
18 deems necessary to identify the taxpayer, confirm that the
19 taxpayer is not currently under audit by the department, and
20 establish the nature of the taxpayer's business and the
21 taxpayer's potential exposure to state revenue laws.

22 (a) The information provided in the notification must
23 include the taxpayer's name, federal employer identification
24 number or social security number, state tax account number,
25 mailing address, business location, and the specific taxes and
26 period proposed to be covered by the engagement for the
27 certified audit. In addition, the notice must include the
28 name, address, identification number, contact person, and
29 telephone number of the qualified practitioner.

30 (b) If the taxpayer has not been issued a written
31 notice of intent to conduct an audit, the taxpayer shall be a

1 participating taxpayer and the department shall so advise the
2 qualified practitioner in writing within 10 days after the
3 date the department receives the engagement notice.

4 Notwithstanding this paragraph, the department may exclude a
5 taxpayer from a certified audit or may limit the taxes or
6 periods subject to the certified audit if the department has
7 previously conducted an audit, if the department is currently
8 conducting an investigation or other examination of the
9 taxpayer's records, or for just cause determined solely by the
10 department.

11 (c) Notice of the qualification of a taxpayer for a
12 certified audit tolls the statute of limitations provided in
13 s. 95.091 with respect to the taxpayer for the tax and periods
14 covered by the engagement.

15 (d) Within 30 days after receipt of the notice of
16 qualification from the department, the qualified practitioner
17 shall contact the department and submit a proposed audit plan
18 and procedures for review and agreement by the department. The
19 department may extend the time for submitting the plan and
20 procedures for reasonable cause. The qualified practitioner
21 shall initiate action to advise the department that an
22 amendment or modification of the plan and procedures is
23 necessary if the qualified practitioner's inspection reveals
24 that the taxpayer's circumstances or exposure to the revenue
25 laws are substantially different than as described in the
26 engagement notice.

27 (5) Upon the department's designation of the
28 agreed-upon procedures to be followed by the qualified
29 practitioner in the certified audit, the qualified
30 practitioner shall proceed to perform the engagement and shall
31 timely submit a completed report to the department. The report

1 must attest to the taxpayer's compliance with the specified
2 laws during the periods specified in the notification. The
3 report must affirm completion of the agreed-upon procedures
4 and provide any required disclosures.

5 (6) The department shall review the report of the
6 certified audit and accept the report when the department
7 determines it to be complete.

8 (a) When the report is accepted by the department, the
9 department shall issue a notice of proposed assessment which
10 reflects the determination of any additional liability
11 reflected in the report. The taxpayer is entitled to the
12 rights of payment, protest, and appeal with respect to the
13 liability as otherwise provided by law. If the report
14 indicates that an overpayment has been made, the taxpayer may
15 submit to the department an application for refund.

16 (b) Except as otherwise provided in this subsection, a
17 certified audit report is a final and conclusive determination
18 with respect to the tax and period covered by the audit. The
19 department may not make an additional assessment for the
20 specific tax and period referenced in the report, except upon
21 a showing of fraud or misrepresentation of material facts and
22 except for an adjustment made under s. 198.16 or s. 220.03.
23 The certified audit report does not prevent the department
24 from collecting any liability not covered by the report or
25 from conducting an audit or investigation and making an
26 assessment for any additional tax for a period not covered by
27 the report or for the penalty or interest for a tax not
28 covered by the report.

29 Section 9. Subsection (7) of section 213.053, Florida
30 Statutes, 1996 Supplement, is amended to read:

31 213.053 Confidentiality and information sharing.--

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1 (7) Notwithstanding any other provision of this
2 section, the department may provide:

3 (a) Information relative to chapter 211, chapter 376,
4 or chapter 377 to the proper state agency in the conduct of
5 its official duties.

6 (b) Names, addresses, and dates of commencement of
7 business activities of corporations to the Division of
8 Corporations of the Department of State in the conduct of its
9 official duties.

10 (c) Information relative to chapter 212 and chapters
11 561 through 568 to the Division of Alcoholic Beverages and
12 Tobacco of the Department of Business and Professional
13 Regulation in the conduct of its official duties.

14 (d) Names, addresses, and sales tax registration
15 information to the Division of Hotels and Restaurants of the
16 Department of Business and Professional Regulation in the
17 conduct of its official duties.

18 (e) Names, addresses, taxpayer identification numbers,
19 and outstanding tax liabilities to the Department of the
20 Lottery and the Department of Banking and Finance in the
21 conduct of their official duties.

22 (f) State tax information to the Nexus Program of the
23 Multistate Tax Commission pursuant to any formal agreement for
24 the exchange of mutual information between the department and
25 the commission.

26 (g) Tax information to principals, and their
27 designees, of the Revenue Estimating Conference for the
28 purpose of developing official revenue estimates.

29 (h) Names and addresses of persons paying taxes
30 pursuant to part IV of chapter 206 to the Department of
31

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Environmental Protection in the conduct of its official
2 duties.

3 (i) Information relative to chapters 212 and 326 to
4 the Division of Florida Land Sales, Condominiums, and Mobile
5 Homes of the Department of Business and Professional
6 Regulation in the conduct of its official duties.

7 (j) Information authorized pursuant to s. 213.0535 to
8 eligible participants in the Registration Information Sharing
9 and Exchange Program.

10 (k) Information relative to s. 403.7197 to the
11 Department of Environmental Protection in the conduct of its
12 official business.

13 (l) Payment information relative to chapters 199, 201,
14 212, 220, and 221 to the Department of Commerce in its
15 administration of the tax refund program for qualified defense
16 contractors authorized by s. 288.104 and the tax refund
17 program for qualified target industry businesses authorized by
18 s. 288.106.

19 (m) Information relative to part I of chapter 212 to
20 the Office of Agriculture Law Enforcement of the Department of
21 Agriculture and Consumer Services in the conduct of the Bill
22 of Lading Program. This information is limited to the business
23 name and whether the business is in compliance with part I of
24 chapter 212.

25 (n) Information relative to chapter 198 to the Agency
26 for Health Care Administration in the conduct of its official
27 business relating to ss. 409.901-409.910.

28 (o) Information to the Department of Business and
29 Professional Regulation which is contained in returns,
30 reports, accounts, or declarations in connection with a
31 disciplinary proceeding conducted under chapter 473 which

1 relates to a certified public accountant who participates in
2 the certified audit project under s. 213.285 or in connection
3 with a civil proceeding brought by the department which
4 relates to a claim for recovery of taxes due to negligence on
5 the part of a certified public accountant who participates in
6 the certified audit project under s. 213.285. Communications
7 and records of proceedings that are otherwise confidential
8 under chapter 473 shall remain confidential for all purposes
9 under this section. In any judicial proceeding brought by the
10 department, upon motion for a protective order, the court
11 shall limit disclosure of tax information if necessary to
12 effectuate the purpose of this paragraph. This paragraph
13 expires July 1, 2000.

14
15 Disclosure of information under this subsection shall be
16 pursuant to a written agreement between the executive director
17 and the agency. Such agencies, governmental or
18 nongovernmental, shall be bound by the same requirements of
19 confidentiality as the Department of Revenue. Breach of
20 confidentiality is a misdemeanor of the first degree,
21 punishable as provided by s. 775.082 or s. 775.083.

22 Section 10. Subsection (7) is added to section 213.21,
23 Florida Statutes, 1996 Supplement, to read:

24 213.21 Informal conferences; compromises.--

25 (7) In order to determine whether certified audits are
26 an effective tool in the overall effort to collect state
27 taxes, the executive director of the department or his or her
28 designee shall settle or compromise liabilities for penalties
29 for taxpayers who participate in the certified audit project
30 under s. 213.285. As further incentive to participate in the
31 project, the department shall abate the first \$25,000 of any

1 liability for interest and 25 percent of any interest due in
 2 excess of the first \$25,000. A settlement or compromise of
 3 penalties or interest under this subsection is not subject to
 4 paragraph (3)(a). The department may consider an additional
 5 compromise of tax or interest under paragraph (3)(a). This
 6 subsection does not apply to any liability for taxes collected
 7 but not remitted to the department. This subsection expires
 8 July 1, 2000.

9 Section 11. Paragraph (c) is added to subsection (2)
 10 of section 220.15, Florida Statutes, and subsections (4) and
 11 (5) of that section are amended, to read:

12 220.15 Apportionment of adjusted federal income.--

13 (2)

14 (c) The property factor fraction must not include any
 5 real or tangible personal property located in this state which
 6 is certified by the Board of Regents for state universities,
 7 or by the president of a private university, to be dedicated
 8 to research and development activities or sponsored research
 9 conducted in conjunction with and through the university or
 20 college.

21 (4) The payroll factor is a fraction the numerator of
 22 which is the total amount paid in this state during the
 23 taxable year or period by the taxpayer for compensation and
 24 the denominator of which is the total compensation paid
 25 everywhere during the taxable year or period.

26 (a) As used in this subsection, the term
 27 "compensation" means wages, salaries, commissions, and any
 28 other form of remuneration paid to employees for personal
 29 services.

30 (b) Compensation is paid in this state if:
 31

1 1. The employee's service is performed entirely within
2 the state; or

3 2. The employee's service is performed both within and
4 without the state, but the service performed without the state
5 is incidental to the employee's service within the state; or

6 3. Some of the employee's service is performed in the
7 state, and

8 a. The base of operations or, if there is no base of
9 operations, the place from which the service is directed or
10 controlled is in the state, or

11 b. The base of operations or the place from which the
12 service is directed or controlled is not in any state in which
13 some part of the service is performed and the employee's
14 residence is in this state.

15 (c) The payroll factor fraction must not include any
16 compensation paid to any employee located in this state which
17 is certified by the Board of Regents for state universities,
18 or by the president of a private university, to be dedicated
19 to research and development activities or sponsored research
20 conducted in conjunction with and through the university or
21 college.

22 (5) The sales factor is a fraction the numerator of
23 which is the total sales of the taxpayer in this state during
24 the taxable year or period and the denominator of which is the
25 total sales of the taxpayer everywhere during the taxable year
26 or period.

27 (a) As used in this subsection, the term "sales" means
28 all gross receipts of the taxpayer except interest, dividends,
29 rents, royalties, and gross receipts from the sale, exchange,
30 maturity, redemption, or other disposition of securities.

31 However:

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1 1. Rental income is included in the term if a
2 significant portion of the taxpayer's business consists of
3 leasing or renting real or tangible personal property; and

4 2. Royalty income is included in the term if a
5 significant portion of the taxpayer's business consists of
6 dealing in or with the production, exploration, or development
7 of minerals.

8 (b)1. Sales of tangible personal property occur in
9 this state if the property is delivered or shipped to a
10 purchaser within this state, regardless of the f.o.b. point,
11 other conditions of the sale, or ultimate destination of the
12 property, unless shipment is made via a common or contract
13 carrier.

14 2. When citrus fruit is delivered by a cooperative for
15 a grower-member, by a grower-member to a cooperative, or by a
16 grower-participant to a Florida processor, the sales factor
17 for the growers for such citrus fruit delivered to such
18 processor shall be the same as the sales factor for the most
19 recent taxable year of that processor. That sales factor,
20 expressed only as a percentage and not in terms of the dollar
21 volume of sales, so as to protect the confidentiality of the
22 sales of the processor, shall be furnished on the request of
23 such a grower promptly after it has been determined for that
24 taxable year.

25 3. Reimbursement of expenses under an agency contract
26 between a cooperative, a grower-member of a cooperative, or a
27 grower and a processor is not a sale within this state.

28 (c) Sales of a financial organization, including, but
29 not limited to, banking and savings institutions, investment
30 companies, real estate investment trusts, and brokerage
31 companies, occur in this state if derived from:

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- 1 1. Fees, commissions, or other compensation for
2 financial services rendered within this state;
- 3 2. Gross profits from trading in stocks, bonds, or
4 other securities managed within this state;
- 5 3. Interest received within this state, other than
6 interest from loans secured by mortgages, deeds of trust, or
7 other liens upon real or tangible personal property located
8 without this state, and dividends received within this state;
- 9 4. Interest charged to customers at places of business
10 maintained within this state for carrying debit balances of
11 margin accounts, without deduction of any costs incurred in
12 carrying such accounts;
- 13 5. Interest, fees, commissions, or other charges or
14 gains from loans secured by mortgages, deeds of trust, or
15 other liens upon real or tangible personal property located in
16 this state or from installment sale agreements originally
17 executed by a taxpayer or the taxpayer's agent to sell real or
18 tangible personal property located in this state;
- 19 6. Rents from real or tangible personal property
20 located in this state; or
- 21 7. Any other gross income, including other interest,
22 resulting from the operation as a financial organization
23 within this state.

24

25 In computing the amounts under this paragraph, any amount
26 received by a member of an affiliated group (determined under
27 s. 1504(a) of the Internal Revenue Code, but without reference
28 to whether any such corporation is an "includable corporation"
29 under s. 1504(b) of the Internal Revenue Code) from another
30 member of such group shall be included only to the extent such
31 amount exceeds expenses of the recipient directly related

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thereto. Research and development activities certified as
2 being conducted in conjunction with and through a public or
3 private university located within this state do not cause a
4 corporation to become subject to the taxes imposed by this
5 chapter if the corporation would otherwise not be subject to
6 those taxes.

7 Section 12. Section 319.32, Florida Statutes, is
8 amended to read:

9 319.32 Fees; service charges; disposition.--

10 (1) The department shall charge a fee of \$24 for each
11 original certificate of title except for a certificate of
12 title for a motor vehicle for hire registered under s.
13 320.08(6), for which the title fee shall be \$3, \$24 for each
14 duplicate copy of a certificate of title except for a
15 certificate of title for a motor vehicle for hire registered
16 under s. 320.08(6), for which the title fee shall be \$3, \$2
17 for each salvage certificate of title, and \$3 for each
18 assignment by a lienholder. It shall also charge a fee of \$2
19 for noting a lien on a title certificate, which fee shall
20 include the services for the subsequent issuance of a
21 corrected certificate or cancellation of lien when that lien
22 is satisfied. If an application for a certificate of title is
23 for a rebuilt vehicle, the department shall charge an
24 additional fee of \$40 for conducting a physical examination of
25 the vehicle to assure its identity. In addition to all other
26 fees charged, a sum of \$1 shall be paid for the issuance of an
27 original or duplicate certificate of title to cover the cost
28 of materials used for security purposes.

29 (2)(a) There shall be a service charge of \$4.25 for
30 each application which is handled in connection with the
31 issuance, duplication, or transfer of any certificate of

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1 title. There shall be a service charge of \$1.25 for each
 2 application which is handled in connection with the
 3 recordation or notation of a lien on a motor vehicle or mobile
 4 home which is not in connection with the purchase of such
 5 vehicle.

6 (b) The service charges specified in paragraph (a)
 7 shall be collected by the department on any application
 8 handled directly from its office. Otherwise, these service
 9 charges shall be collected and retained by the tax collector
 10 who handles the application.

11 ~~(3)--The department shall charge a fee of \$4 in~~
 12 ~~addition to that charged in subsection (1) for each original~~
 13 ~~certificate of title issued for a vehicle previously~~
 14 ~~registered outside this state.~~

15 ~~(3)(4)--All fees collected pursuant to subsection (3)~~
 16 ~~shall be paid into the Nongame Wildlife Trust Fund. Twenty-one~~
 17 ~~dollars of each fee for each applicable original certificate~~
 18 ~~of title and each applicable duplicate copy of a certificate~~
 19 ~~of title, after deducting the service charges imposed by s.~~
 20 ~~215.20, shall be deposited into the State Transportation Trust~~
 21 ~~Fund. All other fees collected by the department under this~~
 22 ~~chapter shall be paid into the General Revenue Fund.~~

23 Section 13. Paragraph (a) of subsection (2) of section
 24 372.991, Florida Statutes, is amended to read:

25 372.991 Nongame Wildlife Trust Fund.--

26 (2)(a) There is established within the Game and Fresh
 27 Water Fish Commission the Nongame Wildlife Trust Fund. The
 28 fund shall be credited with moneys collected pursuant to s.
 29 ~~ss--319.32(3) and 320.02(8)~~. Additional funds may be provided
 30 from legislative appropriations and by donations from
 31 interested individuals and organizations. The commission

shall designate an identifiable unit to administer the trust fund.

Section 14. Section 328.03, Florida Statutes, 1996 Supplement, is amended to read:

328.03 Certificate of title required.--

(1) Each vessel that is operated on the waters of this state must be titled by this state pursuant to this chapter, unless it is:

(a) A vessel used exclusively on private lakes and ponds.

(b) A vessel owned by the United States Government.

(c) A non-motor-powered vessel less than 16 feet in length.

(d) A federally documented vessel.

(e) A vessel already covered by a registration number in full force and effect which was awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, if the vessel is not located in this state for a period in excess of 90 consecutive days.

(f) A vessel from a country other than the United States temporarily using the waters of this state for a period that is not in excess of 90 days.

(g) An amphibious vessel for which a vehicle title is issued by the Department of Highway Safety and Motor Vehicles.

(h) A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer.

(i) A vessel owned and operated by the state or a political subdivision thereof.

(2) A person may ~~shall~~ not operate a vessel for which a certificate of title is required unless the owner has

1 received from the Department of Highway Safety and Motor
2 Vehicles a valid certificate of title for such vessel.
3 However, such vessel may be operated for a period of up to 180
4 days from the date of application for a certificate of title
5 while the application is pending.

6 (3) A person may ~~shall~~ not sell, assign, or transfer a
7 vessel titled by the state without delivering to the purchaser
8 or transferee a valid certificate of title with an assignment
9 on it showing the transfer of title to the purchaser or
10 transferee. A person may ~~shall~~ not purchase or otherwise
11 acquire a vessel required to be titled by the state without
12 obtaining a certificate of title for the vessel in his or her
13 name. The purchaser or transferee shall, within 30 days after
14 a change in vessel ownership, file an application for a title
15 transfer with the county tax collector. An additional \$10 fee
16 shall be charged against the purchaser or transferee if he or
17 she files a title transfer application after the 30-day
18 period. The county tax collector may ~~shall be entitled to~~
19 retain \$5 of the additional amount.

20 (4) A certificate of title is prima facie evidence of
21 the ownership of the vessel. A certificate of title is good
22 for the life of the vessel so long as the certificate is owned
23 or held by the legal holder. If a titled vessel is destroyed
24 or abandoned, the owner, with the consent of any recorded
25 lienholders, shall, within 30 days after the destruction or
26 abandonment, surrender to the department for cancellation any
27 and all title documents. If a titled vessel is insured and
28 the insurer has paid the owner for the total loss of the
29 vessel, the insurer shall obtain the title to the vessel and,
30 within 30 days after receiving the title, forward the title to
31 the Department of Highway Safety and Motor Vehicles for

1 cancellation. The insurer may retain the certificate of title
2 when payment for the loss was made because of the theft of the
3 vessel.

4 (5) The Department of Highway Safety and Motor
5 Vehicles shall provide labeled places on the title where the
6 seller's price shall be indicated when a vessel is sold and
7 where a selling dealer shall record his or her valid sales tax
8 certificate of registration number.

9 (6)(a) The Department of Highway Safety and Motor
10 Vehicles shall charge a fee of \$5.25 for issuing each
11 certificate of title. The tax collector may ~~shall be entitled~~
12 ~~to~~ retain \$3.75 of the fee.

13 (b) ~~Beginning July 1, 1996,~~ The Department of Highway
14 Safety and Motor Vehicles shall use security procedures,
15 processes, and materials in the preparation and issuance of
16 each certificate of title to prohibit, to the extent possible,
17 a person's ability to alter, counterfeit, duplicate, or modify
18 the certificate.

19 ~~(7) The Department of Highway Safety and Motor~~
20 ~~Vehicles shall charge a fee of \$4 in addition to that charged~~
21 ~~in subsection (6) for each initial certificate of title issued~~
22 ~~for a vessel previously registered outside this state.~~

23 (7)(b) The Department of Highway Safety and Motor
24 Vehicles shall make regulations necessary and convenient to
25 carry out the provisions of this chapter.

26 Section 15. Effective January 1, 1998, subsection (2)
27 of section 395.701, Florida Statutes, is amended to read:

28 395.701 Annual assessments on net operating revenues
29 to fund public medical assistance; administrative fines for
30 failure to pay assessments when due.--

1 (2) There is hereby imposed upon each hospital an
2 assessment in an amount equal to 1.5 percent of the annual net
3 operating revenue for each hospital, such revenue to be
4 determined by the department, based on the actual experience
5 of the hospital as reported to the department. Such
6 assessment may not be imposed on net operating revenues
7 generated by assisted living facilities licensed under part
8 III of chapter 400, home health agencies licensed under part
9 IV of chapter 400, hospices licensed under part VI of chapter
10 400, nursing homes licensed under part II of chapter 400, or
11 health care services provided by a hospital to nursing home
12 patients in a nursing home licensed under part II of chapter
13 400. Within 6 months after the end of each hospital fiscal
14 year, the department shall certify the amount of the
15 assessment for each hospital. The assessment shall be payable
16 to and collected by the department in equal quarterly amounts,
17 on or before the first day of each calendar quarter, beginning
18 with the first full calendar quarter that occurs after the
19 department certifies the amount of the assessment for each
20 hospital. All moneys collected pursuant to this subsection
21 shall be deposited into the Public Medical Assistance Trust
22 Fund.

23 Section 16. Except as otherwise expressly provided in
24 this act, this act shall take effect July 1, 1997.

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SENATE SUMMARY

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3 Defines the term "residence" for purposes of the
4 nonrecurring intangible property tax that is imposed on a
5 mortgage, deed of trust, or other lien on property that
6 is a residence of the borrower when such property is used
7 to secure a line of credit. Provides that the documentary
8 stamp tax on instruments that relate to real property or
9 interests in real property does not apply to certain
10 conveyances between spouses or former spouses pursuant to
11 an action for dissolution of marriage. Exempts
12 transactions in excess of \$200 from the tax on the sale
13 of coins or currency. Exempts certain uses of electricity
14 from the discretionary sales surtax. Revises the sales
15 tax exemption for food and drinks. Provides definitions
16 and clarifying language. Revises application of the
17 partial sales tax exemption for self-propelled or
18 power-drawn farm equipment and includes power-driven farm
19 equipment within such exemption. Reduces the rate of tax
20 on such equipment over a 2-year period and completely
21 exempts such equipment beginning July 1, 2000. Redefines
22 the term "religious institutions" for purposes of
23 exemption from the tax on sales, use, and other
24 transactions to include certain owners of radio stations
25 and certain organizations that provide religious
26 services, evangelistic services, religious education, or
27 missionary activities in conjunction with other religious
28 organizations. Revises the sales tax exemption provided
29 for certain uses of electricity. Provides a sales tax
30 exemption for sales of gold, silver, or platinum bullion
31 in excess of \$200; the sale or lease of aircraft for use
by a common carrier; repair and maintenance of commercial
aircraft of more than 20,000 pounds maximum takeoff
weight; certain sales made by an advertising agency when
the agency is an agent for a client; certain
complimentary meals; certain items of food and drink; and
donated foods or beverages. Authorizes the Department of
Revenue to implement a certified audit project to
encourage taxpayers to hire certified public accountants
to conduct audits. Authorizes the department to
compromise penalties and abate interest due on tax
liabilities revealed pursuant to the certified audit
project. Provides procedures for conducting such audits.
Provides for the project to expire on July 1, 2000, or as
determined by the department. Provides that, in
calculating economic development tax exemptions and
credits, the property factor fraction as used in the
formula to calculate the apportionment of adjusted
federal income under the Florida Income Tax Code must not
include certain property used in connection with research
and development activities that are performed in
conjunction with a public or private university, and that
the payroll factor fraction must not include certain
compensation paid to an employee who is dedicated to such
activities. Providing, as a condition precedent to these
exclusions, that specified officials must certify that
the activities are conducted as required. Deletes
provisions that impose an additional fee for obtaining a
certificate of title on a vehicle or vessel that was
previously registered outside of the state.