

POST Legislative REVIEW



2009

**Changes to Florida Tax and
Child Support Enforcement Laws**



The Florida Department of Revenue has compiled this Post Legislative Review to provide information about general laws enacted by the Florida Legislature during the 2009 Legislative Session.

This booklet should be used for reference only. The discussion of each item is brief and may not include every detail of the law that could affect a particular taxpayer or child support enforcement customer. Before applying the changes to a specific decision on taxes or child support, please review the applicable statute or Department rule. For current statutes, please visit the Florida Legislature's web site at www.leg.state.fl.us.

If you have questions about child support issues, you may call the Child Support Enforcement Program at (800) 622-5437, or you may visit your local office. The addresses of local child support offices can be found on our web site at <http://dor.myflorida.com/dor/childsupport/phone.html>.

If you have questions about tax issues, you may call Taxpayer Services at (800) 352-3671, or you may request a written response to a tax question by writing to Taxpayer Services, Florida Department of Revenue, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112.

For additional information about the Florida Department of Revenue, please visit our web site at www.myflorida.com/dor.

We hope you find this information useful. We welcome your comments and suggestions. Please write to our Office of Legislative and Cabinet Services at P.O. Box 5906, Tallahassee, Florida 32314-5906, or e-mail thomasd@dor.state.fl.us.

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The following abbreviations are used in this publication:

- Ch. – Chapter
- Chs. – Chapters
- Clerk – Clerk of the Court
- CS – Committee Substitute
- Eng. – Engrossed
- F.S. – Florida Statutes
- HB – House Bill
- L.O.F. – Laws of Florida
- SB – Senate Bill
- s. – section
- ss. – sections

CHILD SUPPORT ENFORCEMENT

➤ Administrative Support Order Conforming Changes

Effective Date: May 27, 2009
Statute Reference: Section 409.2563(7)(e), F.S.
Chapter Law: Section 6, 2009-90 (HB 5129)

Requires administrative support orders to comply with the reasonable cost and accessibility standards for medical support provisions outlined in s. 61.13(1), F.S.

➤ Confidentiality of Case Records

Effective Date: July 1, 2009
Statute Reference: Section 39.00145(4), F.S.
Chapter Law: Section 1, 2009-34 (SB 126) and Section 2, 2009-43 (HB 381)

The sharing of confidential records or information for children under the supervision or custody of the Department of Children and Families is now permitted among specified agencies, including the Department of Revenue. Records or information may be shared when it is reasonably necessary to ensure the safety of the child or to provide appropriate services for the child, including child support enforcement services. Records or information made confidential by federal law may not be shared.

➤ Health Insurance Accessibility

Effective Date: May 27, 2009
Statute Reference: Section 61.13(1)(b), F.S.
Chapter Law: Section 2, 2009-90 (HB 5129)

Health insurance is considered accessible to the child if it is available to be used in the county of the child's primary residence or in another county if the parent who has the most time under the time-sharing plan agrees. If there is equal time-sharing then health insurance is considered accessible to the child in either county where the child resides or another county if both parents agree.

➤ Health Insurance Definition

Effective Date: May 27, 2009
Statute Reference: Sections 61.046(7) and 409.2554(5), F.S.
Chapter Law: Sections 1 and 4, 2009-90 (HB 5129)

Provides a definition of the term health insurance. "Health insurance" means coverage under a fee-for-service arrangement, health maintenance organization, or preferred provider organization, and other types of coverage available to either parent, under which medical services could be provided to the dependent child or children.

➤ **Health Insurance Reasonable Cost**

Effective Date: May 27, 2009

Statute Reference: Section 61.13(1)(b), F.S.

Chapter Law: Section 2, 2009-90 (HB 5129)

Health insurance is presumed reasonable if the cost of adding health insurance for the child does not exceed 5 percent of the obligor's gross income as defined in s. 61.30, F.S. The presumption of reasonable cost may be rebutted and the court may deviate only upon a written finding explaining its determination.

➤ **Insurance Data Claim Information**

Effective Date: June 2, 2009

Statute Reference: Section 409.25661(2), F.S.

Chapter Law: Section 1, 2009-119 (HB 7039)

Extends the public records exemption repeal date from October 1, 2009, to October 1, 2010, for insurance claim information obtained by the Department for child support enforcement purposes.

➤ **Medical Support Only Cases Calculation**

Effective Date: May 27, 2009

Statute Reference: Section 61.13(1)(b), F.S.

Chapter Law: Section 2, 2009-90 (HB 5129)

In a medical support only proceeding, each parent's share of the child's health insurance and noncovered medical expenses shall equal the parent's percentage share of the combined net income of both parents. Net income is calculated as specified by s. 61.30(3) and (4), F.S.

➤ **Payment of Child Support by Income Deduction**

Effective Date: October 1, 2009

Statute Reference: Section 61.13(1)(d), F.S.

Chapter Law: Section 3, 2009-180 (SB 904)

Requires payments for all support orders that provide for immediate income deduction to be made to the State Disbursement Unit. If both parties agree and the court finds it is in the best interests of the child, support payments need not be subject to immediate income deduction and in those cases payments may be directed through the clerk of the court depository. For support orders not subject to immediate income deduction any party may subsequently require payments to be made through the State Disbursement Unit by filing an affidavit of default and providing a copy to each party and the court.

CORPORATE INCOME TAX

➤ Additions to Adjusted Federal Income

Effective Date: July 1, 2009

Statute Reference: Section 220.13(1)(a)16., F.S.

Chapter Law: Section 3, 2009-50 (CS/CS/HB 485, 1st Eng.)

Requires taxpayers to add back any portion of qualified equity investment that is claimed as a deduction by the taxpayer and taken as a New Markets Development Program tax credit under s. 288.9916, F.S., in computing adjusted federal income.

➤ Alternative Minimum Tax Credit

Effective Date: July 1, 2009

Statute Reference: Section 220.186(2), F.S.

Chapter Law: Section 1, 2009-108 (CS/CS/HB 453)

Provides that the credit for the Florida alternative minimum tax is computed prior to the application of any credits taken for contributions made to nonprofit scholarship funding organizations.

➤ Florida Tax Credit Scholarship Program

Effective Date: July 1, 2009

Statute Reference: Section 220.187, F.S.

Chapter Law: Section 2, 2009-108 (CS/CS/HB 453)

Changes the "Corporate Income Tax Credit Scholarship Program" to the "Florida Tax Credit Scholarship Program." Limits the total amount of tax credits and carry forward tax credits (corporate income tax and insurance premium tax) that may be granted each state fiscal year to \$118 million. Under this program, taxpayers eligible for an insurance premium tax credit are not eligible for the corporate income tax credit.

➤ New Markets Development Program

Effective Date: July 1, 2009

Statute Reference: Sections 288.991 - 288.9922, F.S.

Chapter Law: Sections 4 - 15, 2009-50 (CS/CS/HB 485, 1st Eng.)

Creates the New Markets Development Program. Requires the Office of Tourism, Trade, and Economic Development, in consultation with Enterprise Florida, Inc., to designate industries, using the North American Industry Classification System, that are eligible to receive low-income community investments. The designated industries must be those industries that have the greatest potential to create strong positive impacts on or benefits to Florida, regional, and local economies.

Requires a qualified community development entity to submit an application to the Office of Tourism, Trade, and Economic Development for approval of a qualified investment. A copy of the final order approving a qualified investment will be provided to the Department, including the identity of the taxpayers who are eligible to claim the tax credits and the amount that may be claimed by each taxpayer.

Limits a qualified active low-income community business, including its affiliates, to \$10 million in qualified low-income community investments under the New Markets Development Program. A person or entity that makes a qualified investment earns a vested tax credit against corporate income tax or insurance premium tax equal to 39 percent of the purchase price of the qualified investment. Restricts how the holder of a qualified equity investment may claim the credit up to the amount of its tax liability. Insurance companies subject to the insurance premium tax under s. 624.509, F.S., must claim the credit against insurance premium tax due, but they are not subject to any additional retaliatory tax as a result of the credit.

Authorizes a taxpayer to carry forward the amount of unused credit for a period not to exceed five years when its tax liability does not allow it to fully use the credit in any single year. Prohibits the Program credits from being transferred or sold, except as specifically provided. If the qualified equity investment is sold, the credit, including any carryover credit, follows the investment. Such transfers of the investment must be reported to the Office of Tourism, Trade, and Economic Development and to the Department. A partner, member, or shareholder of a partnership, limited liability company, subchapter S corporation, or other pass-through entity may claim New Markets Development Program tax credits pursuant to an agreement among the partners, members, or shareholders. Any change in the allocation of a tax credit under the agreement must be reported to the Office of Tourism, Trade, and Economic Development and to the Department.

Requires the Office of Tourism, Trade, and Economic Development to certify to the Department the amount of tax credit authorized for each taxpayer eligible to claim the tax credit in a tax year.

Authorizes the Office of Tourism, Trade, and Economic Development to direct the Department, at a time before December 31, 2022, to recapture all or a portion of a New Markets Development Program tax credit under specified conditions. Authorizes the Department and the Office of Tourism, Trade, and Economic Development to adopt rules to administer the Program.

Provides that the Program will expire on December 31, 2022.

➤ **Order of Tax Credits**

Effective Date: July 1, 2009

Statute Reference: Section 220.02(8), F.S.

Chapter Law: Section 2, 2009-50 (CS/CS/HB 485, 1st Eng.)

Provides that a New Markets Development Program tax credit is the last credit in the order in which credits are to be claimed against the corporate income tax.

➤ **Clarification of 2008 Partial Adoption of the Internal Revenue Code**

Effective Date: March 17, 2009 (Retroactive to January 1, 2008)

Statute Reference: Sections 220.03(3) and 220.13(1)(a)14., 15., (e), F.S.

Chapter Law: 2009-18 (SB 1112)

Florida requires an addition to taxable income equal to the amount deducted as bonus depreciation for property placed in service on or after January 1, 2008. In the same taxable year and each of the six succeeding taxable years, an amount equal to one-seventh of the amount by which taxable income was increased by this addition is to be subtracted from taxable income. The basis of the bonus depreciation property is the same for federal and Florida tax purposes.

Florida also requires an addition to taxable income equal to the amount in excess of \$128,000 deducted federally under s. 179 of the Internal Revenue Code, for tax years that begin during the 2008 calendar year. In the same taxable year and each of the six succeeding taxable years, an amount equal to one-seventh of the amount by which taxable income was increased by this addition is to be subtracted from taxable income. The basis of the property is the same for federal and Florida tax purposes.

Provides that each of these subtractions will transfer in a merger or acquisition and that these additions and subtractions are permitted to change a taxpayer's Florida net operating loss. Requires the Department to compromise penalties and interest if a taxpayer is required to file an amended return as a result of the retroactive application of these provisions.

➤ **2009 Partial Adoption of the Internal Revenue Code**

Effective Date: July 1, 2009 (Retroactive to January 1, 2009)

Statute Reference: Sections 220.03(1)(n) and (2)(c) and 220.13(1)(e), F.S.

Chapter Law: 2009-192 (CS/SB 2504)

Updates the Florida Income Tax Code to partially adopt the United States Internal Revenue Code in effect beginning January 1, 2009.

Effective January 1, 2009, Florida will require additions to taxable income equal to the amount of bonus depreciation and increased Section 179 expense (amounts over \$128,000) allowed by the American Recovery and Reinvestment Act of 2009 that are claimed by taxpayers in computing adjusted federal income.

Effective January 1, 2009, Florida will require an addition to taxable income equal to the total amount of income deferred under Section 108(i)(1) of the Internal Revenue Code (relating to forgiveness of indebtedness) pursuant to the American Recovery and Reinvestment Act of 2009.

In the same taxable year and each of the six succeeding taxable years, an amount equal to one-seventh of the amount by which taxable income was increased by these additions is to be subtracted from taxable income. The basis of the property is the same for federal and Florida tax purposes.

➤ **Sales Factor Portion of Apportionment Factor**

Effective Date: July 1, 2009

Statute Reference: Section 220.15(5)(b)1., F.S.

Chapter Law: Section 7, 2009-51 (CS/CS/HB 7031, 2nd Eng.)

Provides that for the purpose of determining the sales factor portion of the apportionment factor for industries with NAICS National Number 311411, a sale will not be deemed to occur in Florida if the ultimate destination of the property is to a location outside Florida. "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

DOCUMENTARY STAMP TAX

➤ Tax on Transfers of Property to a Conduit Entity

Effective Date: July 1, 2009

Statute Reference: Section 201.02(1), F.S.

Chapter Law: Sections 4 and 5, 2009-131 (CS/CS/CS/SB 2430, 3rd Eng., and SB 1960)

Provides that if a property owner transfers property to an entity (“conduit entity”) and no consideration is exchanged, the transfer of conduit entity ownership is subject to tax if the transfer happens within the three-year period after the property is placed into the conduit entity. A “conduit entity” is a legal entity to which property is conveyed without full consideration by a grantor who owns a direct or indirect interest in the entity or a successor entity. Tax is due at the rate of 70 cents for each \$100 or a fraction thereof on the consideration given for the conduit entity ownership interest transferred. Tax is to be paid in the same manner as the documentary stamp tax due for all other taxable documents.

Provides that the following transfers are not subject to this tax:

- A gift of an ownership interest in a conduit entity;
- A transfer of shares or equity interests in a conduit entity that are traded on public, regulated security exchanges or markets; or
- A transfer for purposes of estate planning by a natural person to an irrevocable grantor trust.

The conversion or merger of a trust that is not a legal entity that owns real property into a legal entity is to be treated as a conveyance of the real property and subject to the tax.

These provisions are clarifying and remedial in nature and do not provide a basis for tax assessments or tax refunds for periods prior to July 1, 2009.

➤ Crescent Miami Center, LLC v. Florida Department of Revenue

Effective Date: July 1, 2009

Statute Reference: N/A

Chapter Law: Sections 3 and 5, 2009-131 (CS/CS/CS/SB 2430, 3rd Eng., and SB 1960)

In Crescent Miami Center, LLC v. Dep’t of Revenue, 903 So.2d 913 (Fla. 2005), May 19, 2005, the Florida Supreme Court held that, absent consideration, when a property owner transfers the property to an entity that the property owner solely owns, the transfer is not subject to documentary stamp tax. This law provides that the Legislature rejects any application of the court’s interpretation where the facts of the transfer of property are not comparable to the facts in this case and that documentary stamp tax would apply on a transfer, for consideration, of a beneficial interest in real property. These provisions are clarifying and remedial in nature and do not provide a basis for tax assessments or tax refunds for periods prior to July 1, 2009.

➤ **Discretionary Surtax**

Effective Date: July 1, 2009

Statute Reference: Chapter 83-220, L.O.F., as amended by s. 1, Chapter 84-270, L.O.F.

Chapter Law: Section 1, 2009-131 (CS/CS/CS/SB 2430, 3rd Eng., and SB 1960)

Extends to October 1, 2031, the authorization for counties that establish a Housing Assistance Loan Trust Fund to assist in the financing of construction, rehabilitation, or purchase of housing for low-income and moderate-income families to levy a discretionary surtax on documents subject to the documentary stamp tax.

➤ **Distribution of Tax Proceeds to Fund Debt Service**

Effective Date: January 27, 2009

Statute Reference: Section 201.15(3), F.S.

Chapter Law: 2009-17 (HB 5115-A)

Beginning with the 2009-2010 fiscal year, the lesser of 1.94 percent of the documentary stamp tax proceeds or \$26 million is to be distributed in the following order:

- 1) Amounts necessary to pay debt service or fund required reserves, rebate obligations, or other amounts for paying bonds issued prior to February 1, 2009.
- 2) \$11 million into the General Revenue Fund.
- 3) The remaining amount into the Land Acquisition Trust Fund.

➤ **Trust Fund Distributions from Tax Proceeds**

Effective Date: July 1, 2009

Statute Reference: Section 201.15, F.S.

Chapter Law: Section 1, 2009-68 (CS/SB 1750, 1st Eng.)
Section 8, 2009-131 (CS/CS/CS/SB 2430, 3rd Eng., and SB 1960)

Requires that after distributions are made under s. 201.15(1), F.S., all costs of the collection and enforcement of the documentary stamp tax and the service charge be transferred to the extent necessary to pay debt service and any other amounts relating to bonds issued before July 1, 2010, secured by revenues distributed under s. 201.15(1), F.S.

Removes the annual distribution to the following trust funds:

- Water Protection and Sustainability Program Trust Fund; and
- Marine Resources Conservation Trust Fund.

Provides that the lesser of 7.56 percent of the remaining proceeds or \$84.9 million in each fiscal year is to be distributed as follows:

- \$6,300,000 to the General Revenue Fund; and
- The remainder to the Land Acquisition Trust Fund.

Requires that the amounts necessary to pay debt service on Preservation 2000 bonds, Florida Forever bonds, or Everglades Restoration bonds authorized before July 1, 2010, that exceed the amount distributed under s. 201.15(1), F.S., are to be transferred to pay such obligations when due. Provides that amounts distributed under s. 201.15(2)-(5), (9)(a), or (10)(a), F.S., will not be available to pay such obligations to the extent that the moneys are necessary to pay debt service on bonds secured by revenues provided by those sections.

ECONOMIC DEVELOPMENT

➤ **Enterprise Zones – City of Ocala**

Effective Date: January 1, 2010

Statute Reference: Section 290.00725, F.S.

Chapter Law: 2009-48 (CS/CS/HB 127)

Authorizes the City of Ocala to apply to the Office of Tourism, Trade, and Economic Development for designation of one new enterprise zone. Provides requirements for the area. Requires that the application must be submitted by December 31, 2009.

INSURANCE PREMIUM TAX

➤ **Florida Tax Credit Scholarship Program**

Effective Date: July 1, 2009

Statute Reference: Section 624.51055, F.S.

Chapter Law: Sections 3 and 8, 2009-108 (CS/CS/HB 453)

Allows insurance companies to receive a credit of 100 percent of an eligible contribution to an eligible scholarship-funding organization against any net tax due for a taxable year; however, the credit may not exceed 75 percent of the net tax due. Insurance companies claiming the credit are not required to pay any additional retaliatory tax.

Provides specified circumstances where an insurer who made past contributions to the Florida Tax Credit Scholarship Program may receive credits against future corporate income tax liability.

➤ **Excise Tax on Property Insurance Premiums**

Effective Date: July 1, 2009

Statute Reference: Section 175.101, F.S.

Chapter Law: Section 6, 2009-97 (CS/SB 538, 1st Eng.)

Provides that a special fire control district includes an area that has been annexed:

- If the district is providing services under an interlocal agreement as provided in s. 171.093(3), F.S., or,
- Until the completion of the four-year period provided in s. 171.093(4), F.S., when an interlocal agreement is not reached.

LOCAL GOVERNMENT

➤ **Charter County Transportation System Surtax**

Effective Date: July 1, 2009

Statute Reference: Section 212.055(1), F.S.

Chapter Law: 2009-146 (CS/CS/HB 1205)

Changes the name of the Charter County Transit System Surtax to the Charter County Transportation System Surtax.

➤ **Emergency Fire Rescue Services and Facilities Surtax**

Effective Date: July 1, 2009

Statute Reference: Section 212.055(8), F.S.

Chapter Law: 2009-182 (CS/CS/SB 1000, 1st Eng.)

Authorizes a county's governing authority that has not imposed two separate discretionary surtaxes without expiration to levy an emergency fire rescue services and facilities surtax of up to 1 percent. Requires the surtax to be adopted by county ordinance and approved by a majority of the electors of the county voting in the referendum. Requires the county to develop and execute an interlocal agreement with participating jurisdictions. Requires the surtax collections to be initiated on January 1 of the year following a successful referendum. Prohibits a county from imposing the surtax within the boundaries of the Reedy Creek Improvement District.

Requires the Department to distribute the surtax collected, less administrative fees, to the imposing county. Requires the county to distribute the proceeds to the participating jurisdictions that have entered into an interlocal agreement with the county. Requires the county and the participating jurisdictions to reduce the ad valorem tax levy and non-ad valorem assessment for fire control and emergency fire rescue services in their next and subsequent budgets by the estimated amount of revenue provided by the surtax. Requires the surtax collections that exceed projected collections in any fiscal year to be used to further reduce ad valorem taxes in the next fiscal year. Requires these proceeds to be applied as a rebate to the final millage, after the TRIM notice is completed. Entities not entering into interlocal agreements are not eligible to receive a share of the surtax proceeds and are not required to reduce ad valorem taxes or non-ad valorem assessments.

PROPERTY TAX OVERSIGHT

➤ Duties of the Property Appraiser in Making Assessments; Using Image Technology

Effective Date: July 1, 2009

Statute Reference: Section 193.023, F.S.

Chapter Law: Section 1, 2009-135 (HB 179)

Amends s. 193.023(2), F.S., to provide that the property appraiser may use image technology, where geographically suitable, to inspect property instead of a physical inspection every five years. Specifies the Department of Revenue shall establish minimum standards for the use of image technology consistent with standards developed by professionally recognized sources for mass appraisal of real property.

➤ Annual Application Required for Exemption; Applicant Unable to Timely File

Effective Date: July 1, 2009

Statute Reference: Section 196.011, F.S.

Chapter Law: Section 2, 2009-135 (HB 179)

Amends s. 196.011(8), F.S., to provide that an applicant who is qualified to receive any exemption under subsection 196.011(1) and who fails to file an application by March 1 must file an application with the property appraiser on or before the 25th day after mailing of the TRIM notice. If there is sufficient evidence that the applicant was unable to timely file by March 1 or demonstrates extenuating circumstances that the property appraiser deems to warrant granting the exemption, then the property appraiser may grant the exemption. Where the property appraiser does not grant the exemption, the applicant may file a petition with the value adjustment board requesting the petition be granted. The petition must be filed during the taxable year on or before the 25th day after mailing of the TRIM notice.

➤ Permanent Residency; Factual Determination by Property Appraiser; Additional Factors

Effective Date: July 1, 2009

Statute Reference: Section 196.015, F.S.

Chapter Law: Section 3, 2009-135 (HB 179)

Amends s. 196.015, F.S., by adding additional factors that a property appraiser may consider in making the determination of permanent residency for homestead exemption purposes. The additional factors include:

- A formal declaration of domicile by the applicant recorded in the public records.
- Evidence of the location where the applicant's dependent children are registered for school.
- Proof of voter registration at the homestead address.
- Valid Florida driver's license issued under s. 322.18, F.S., or identification card issued under s. 322.051, F.S., and evidence of relinquishment of licenses from any other state.
- State where applicant's bank statements are registered.
- Proof of payment of utilities.

➤ **Land Owned by a Community Land Trust Used to Provide Affordable Housing; Assessment; Structural Improvements, Condominium Parcels, and Cooperative Parcels**

Effective Date: June 1, 2009

Statute Reference: Section 193.018, F.S.

Chapter Law: Section 16, 2000-96 (SB 360)

Creates s. 193.018, F.S, to define the term “community land trust” to mean a nonprofit entity that qualifies as charitable under Section 501(c)(3) of the Internal Revenue Code, which has a purpose of acquiring land to be held for the primary purpose of providing affordable homeownership.

A community land trust may convey certain improvements that are located on specific parcels of land when the parcels are subject to a ground lease having a term of at least 99 years, if conveyed for the purpose of providing affordable housing to natural persons or families who meet the criteria specified in s. 420.0004, F.S., or the income limits for workforce housing, as defined in s. 420.5095(3), F.S.

Provides that a community land trust shall retain a preemptive option to purchase any structural improvements, condominium parcels, or cooperative parcels on the land at a price set by a formula specified in the ground lease which is designed to ensure that the structural improvements, condominium parcels, or cooperative parcels remain affordable.

Provides for arriving at a just valuation under s. 193.011, F.S., on a structural improvement, condominium parcel, or cooperative parcel that provides affordable housing on land owned by a community land trust and land owned by a community land trust that is subject to a 99-year or longer ground lease using the following criteria:

- The amount a willing purchaser would pay a willing seller is limited to an amount commensurate with the terms of the ground lease, which restricts the use of the land to the provision of affordable housing.
- The amount a willing purchaser would pay a willing seller for the resale-restricted improvements, condominium parcel, or cooperative parcel is limited to the amount determined by the formula in the ground lease.

Provides guidance on when the ground lease will be deemed a land use regulation.

➤ **Determining Whether Property is Entitled to Charitable, Religious, Scientific, or Literary Exemption; Affordable Housing**

Effective Date: June 1, 2009

Statute Reference: Section 196.196, F.S.

Chapter Law: Section 17, 2009-96 (SB 360)

Amends s. 196.196(5), F.S., to provide that property owned by an exempt organization qualified as charitable under Section 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low, very-low, low, or moderate income limits as specified under s. 420.0004, F.S.

Defines the term “affirmative steps” to mean “environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.”

Also provides that if property owned by an organization that is granted an exemption is transferred for a purpose other than directly providing affordable home ownership or rental housing to persons or families that meet the extremely-low, very-low, low, or moderate income limits, or is not in actual use to provide affordable housing within five years after the date the exemption is granted, the property appraiser can serve upon that organization a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county. Also states the organization is subject to the taxes otherwise due as a result of the failure to use the property to provide affordable housing plus 15 percent interest per year and a penalty of 50 percent of the taxes owed.

Provides that when a lien is filed, it attaches to any property identified in the notice of tax lien. If the organization no longer owns property in the county but owns property in any other county in the state, the property appraiser can record in each other county a notice of tax lien identifying the property owned by the organization, which shall become a lien against the identified property. Before the lien can be filed, the organization must be given 30 days to pay the taxes, penalties, and interest.

If an exemption is improperly granted as the result of a clerical mistake or an omission by the property appraiser, the organization shall not be assessed a penalty or interest.

Provides that the five year limitation may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.

➤ **Affordable Housing Property Exemption**

Effective Date: June 1, 2009

Statute Reference: Section 196.1978, F.S.

Chapter Law: Section 18, 2009-96 (SB 360)

Amends s. 196.1978, F.S., by providing that property used to provide affordable housing to natural persons or families meeting the extremely-low, very-low, low, or moderate income limits specified in s. 420.0004, F.S., and this property is owned entirely by a non-profit entity that is a corporation not for profit, qualified as charitable under Section 501(c)(3) of the Internal Revenue Code and in compliance with Revenue Procedure, 1996-1 C.B. 717, or a Florida-based limited partnership, the sole general partner of which is a corporation not for profit, shall be considered property owned by an exempt entity and used for a charitable purpose and shall be exempt from ad valorem taxes.

Also provides that the Legislature intends that any property owned by a limited liability company or limited partnership will be treated as owned by its sole member or sole general partner.

➤ **Challenges to Ad Valorem Property Tax Assessments; Burden of Proof**

Effective Date: June 4, 2009 and first applying to assessments in 2009

Statute Reference: Section 194.301, F.S.

Chapter Law: Section 1, 2009-121 (HB 521)

Amends s. 194.301, F.S., by substantially rewording that section. This new law first applies to administrative reviews of assessments made as of January 1, 2009.

A taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or court of the appropriateness of the appraisal methodology used in making the assessment. The value of property must be determined by an appraisal methodology that complies with the criteria of s. 193.011, F.S., and professionally accepted appraisal practices.

The provisions of s. 194.301(1), F.S., as created by the bill, preempt any prior case law that is inconsistent with the subsection.

Provides that in an administrative or judicial action in which an ad valorem tax assessment is challenged, the burden of proof is on the party initiating the challenge. If the challenge is to the assessed value of the property, the party initiating the challenge has the burden of proving by a preponderance of the evidence that the assessed value:

- Does not represent the just value of the property after taking into account any applicable limits on annual increases in the value of the property;
- Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on its character or use; or
- Is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the property appraiser to comparable property within the same county.

If the party challenging the assessment satisfies those requirements, the value adjustment board or the court must establish the assessment if there is competent, substantial evidence of value in the record which cumulatively meets the criteria of s. 193.011, F.S., and professionally accepted appraisal practices. If the record lacks such evidence, the matter must be remanded to the property appraiser with appropriate directions from the value adjustment board or the court, and the property appraiser must comply with those directions.

If the revised assessment following remand is challenged, the procedures described in this section apply.

If the challenge is to the classification or exemption status of the property, there is no presumption of correctness and the party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.

Provides guidance on legislative intent.

➤ **Certain Non-Homestead Property Assessment Limit; Additional Homestead Exemption for New Home Buyers**

Effective Date: January 1, 2011 and applies to property purchased after January 1, 2010

Statute Reference: Sections 4 and 6, Art. VII; Art. XII

Chapter Law: n/a (SJR 532)

Proposes an amendment to the State Constitution to amend Section 4, Article VII. Changes the limit of assessment increase of certain non-homestead properties from 10 percent to 5 percent of the assessment for the prior year.

Proposal also would amend Section 6, Article VII, to allow for an additional homestead exemption on the first homestead a person establishes in Florida. The amount of the exemption in the first year would equal 25 percent of the property's just value, with a maximum exemption of \$100,000, and would be reduced by 20 percent in each succeeding year. The additional exemption limits its application to persons who have not owned a principal residence anywhere in the previous 8 years. The exemption shall not apply five years after being granted and restricts application of only one additional exemption to a single homestead property. The exemption is for properties purchased on or after January 1, 2010.

➤ **Notice of Proposed Property Taxes and Non-Ad Valorem Assessments**

Effective Date: January 1, 2010

Statute Reference: Section 200.069, F.S.

Chapter Law: Section 1, 2009-165 (HB 701)

Amends s. 200.069, F.S., to create a two-page notice of proposed property taxes. Adds two columns.

Amends s. 200.069(2)(a), F.S. Adds that the notice shall include a brief legal description of the property, the name and mailing address of the owner, and the tax information applicable to the parcel.

Implements changes in the Notice of Proposed Property Taxes that were recommended by the Department of Revenue's Report on the Effect of Recent Changes in Law on the Notice of Proposed Property Taxes, January 30, 2009.

➤ **Taxpayer Rights**

Effective Date: January 1, 2010

Statute Reference: Section 192.0105, F.S.

Chapter Law: Section 2, 2009-165 (HB 701)

The bill amends s. 192.0105, F.S., for conforming cross-references.

➤ **Method of Fixing Millage**

Effective Date: January 1, 2010

Statute Reference: Section 200.065, F.S.

Chapter Law: Section 3, 2009-165 (HB 701)

The bill amends s. 200.065(11), F.S., for conforming cross-references.

➤ **Homestead Ad Valorem Tax Credit; Deployed Military**

Effective Date: January 1, 2011

Statute Reference: Section 3, Art. VII; Section 31, Art. XII

Chapter Law: n/a (HJR 833)

Proposes an amendment to the State Constitution to authorize, as provided by general law, each person who receives a homestead exemption as provided in Section 6(a), Article VII of the State Constitution, who was a member of the United States military or its reserves, the United States Coast Guard or its reserves, or the Florida National Guard, and who was deployed during the preceding calendar year on active duty outside the continental United States, Alaska or Hawaii in support of military operations that are designated by the Legislature, shall receive an additional exemption equal to a percentage of the taxable value of his or her homestead property. This percentage will be calculated as the number of days during the preceding calendar year the person was deployed on active duty outside the continental United States, Alaska or Hawaii in support of military operations that are designated by the Legislature, divided by the number of days in that year.

Creates Section 31 of Article XII to provide that the additional exemption will take effect on January 1, 2011.

➤ **Discretionary Sales Surtax; Emergency Fire Rescue Services and Facilities; Reduction for Ad Valorem Tax Levies**

Effective Date: July 1, 2009

Statute Reference: Section 212.055, F.S.

Chapter Law: Section 1, 2009-182 (SB 1000)

Amends s. 212.055, F.S., authorizing certain counties to levy by ordinance a discretionary sales surtax for emergency fire rescue services and facilities under certain circumstances. Requires a reduction in the budget for ad valorem tax levies and non-ad valorem assessments for emergency fire rescue service by the amount of the estimated surtax. Requires any surplus surtax revenues to be used to further reduce ad valorem taxes.

Use of surtax proceeds authorized under this subsection does not relieve a local government from complying with the provisions of Chapter 200, F.S., and any related provision of law that establishes millage caps or limits undesignated budget reserves and procedures for establishing rolled-back rates for ad valorem taxes and budget adoption. If surtax collections exceed projected collections in any fiscal year, any surplus distribution shall be used to further reduce ad valorem taxes in the next fiscal year. These proceeds shall be applied as a rebate to the final millage, after the TRIM notice is completed in accordance with this provision.

➤ **Partial Payment of Current Year Taxes**

Effective Date: July 1, 2009

Statute Reference: n/a

Chapter Law: Section 1, 2009-130 (SB 1580)

This bill creates an unnumbered section of Florida Statutes to:

- Define a "partial payment" as a payment less than the full amount of taxes due.
- Authorize a tax collector, at his or her discretion, to accept one or more partial payments of current property taxes. The partial payment must be made before the date of delinquency and the remaining amount must be paid in full by the delinquency date.
- Require a \$10 processing fee be deducted from each partial payment and paid to the tax collector. A partial payment is not eligible for any early-payment discount.

- Require that the tax collector must send at least one notice of the balance due to the taxpayer. The form of the notice may be required by rule of the Department of Revenue.
- Provide that any remaining balance that is not timely paid becomes delinquent and is handled like any other delinquent tax payment.
- Provide, at the tax collector's discretion, an underpayment of less than \$10 is a payment in full.
- Require a partial payment be distributed pro rata among all applicable taxing districts and levying authorities.

➤ **Tax Notices; Additional Notice Required**

Effective Date: July 1, 2009

Statute Reference: Section 197.343, F.S.

Chapter Law: Section 2, 2009-130 (SB 1580)

Amends s. 197.343, F.S., to clarify that the additional tax notice mailed by April 30 to each taxpayer whose payment has not been received will say that if the taxes on the property are not paid in full, a tax certificate will be sold for the delinquent taxes.

➤ **Educational Institution Exemption**

Effective Date: July 1, 2009

Statute Reference: n/a

Chapter Law: Section 3, 2009-130 (SB 1580)

Provides for the amendment to s. 196.192, F.S., pertaining to educational exemptions made by Chapter 2008-193, section 2, Laws of Florida to apply retroactively to January 1, 2005.

➤ **Funds for Operation of Schools; Taxable Value for School Purposes; Certifying Final Actions of the VAB; Additional Millage for School Districts**

Effective Date: July 1, 2009

Statute Reference: Section 1011.62, F.S.

Chapter Law: Section 29, 2009-59 (SB 1676)

Amends s. 1011.62(4)(a)(1)(a), F.S. Provides that the value certified by this subsection shall be the taxable value for school purposes for that year, and no further adjustments shall be made unless adjustments are needed to reflect assessment roll changes required by final administrative actions of the value adjustment board and final judicial decisions.

Creates s. 1011.62(4)(a)(2), F.S. Requires the Department to certify prior certifications that reflect final administrative actions of the value adjustment board. For the certification in any given year, this should require the certification of final actions for the previous two years.

Creates s. 1011.62(4)(e), F.S. Provides for the Prior Period Funding Adjustment Millage. This is an additional millage that school districts must levy. It is set to raise revenues equal to those not collected in the previous year due to reductions in the district's taxable value between the first certification of the tax roll and the tax roll submitted following final value adjustment board actions.

For purposes of the TRIM notice, this millage is to be added to and included with the required local effort millage.

➤ **Forms to be Prescribed by the Department of Revenue; Aerial Photographs and Maps Furnished by the Department of Revenue**

Effective Date: July 1, 2009

Statute Reference: Section 195.022, F.S.

Chapter Law: Section 1, 2009-67 (SB 1748)

Amends s. 195.022, F.S., to require property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards to bear the expense of reproducing the Department's forms, and requires property appraisers to bear the expense of aerial photographs and maps furnished by the Department.

➤ **Electronic Tax Deed Sales**

Effective Date: July 1, 2009

Statute Reference: Section 197.542, F.S.

Chapter Law: Section 13, 2009-204 (SB 2108)

Amends s. 197.542, F.S., to require that the cost of electronic tax deed sales be paid by the certificate holder.

➤ **Exemption of Real Property Dedicated in Perpetuity for Conservation Purposes**

Effective Date: June 10, 2009 and first applies to assessments beginning January 1, 2010

Statute Reference: Section 196.26, F.S.

Chapter Law: Sections 1 and 8, 2009-157 (HB 7157)

Creates s. 196.26, F.S., to implement Section 3(f), Art. VII, State Constitution, providing an exemption for real property dedicated in perpetuity for conservation purposes. Section 196.26(1), F.S., defines specific terms related to the exemption.

Section 196.26(2), F.S., provides a complete exemption to land that is dedicated in perpetuity for conservation purposes and that is used exclusively for conservation purposes, while s. 196.26(3), F.S., limits the exemption to 50 percent of the assessed value for land that is dedicated in perpetuity for conservation purposes, but is used for allowed commercial uses.

Section 196.26(4), F.S., provides that land less than 40 contiguous acres does not qualify for a conservation lands exemption unless the use of the land for conservation purposes is determined by the Acquisition and Restoration Council (ARC) created in s. 259.035, F.S., to yield a significant public benefit. Requires that land under 40 contiguous acres approved by the ARC must have a management plan and a designated manager.

Section 196.26(5), F.S. provides that the exemption must include baseline documentation as to the natural values to be protected on the land and may include a management plan as specified.

Section 196.26(6), F.S., provides that buildings, structures and other improvements situated on land receiving the exemption, and the area immediately surrounding the improvement, must be assessed separately pursuant to the provisions of Chapter 193, F.S. Structures and other improvements auxiliary to the use of the land for conservation purposes are exempt to the same extent as the underlying land.

Section 196.26(7), F.S., provides that lands used for agriculture that receive an exemption must comply with the most recent best-management practices established by rule of the Department of Agriculture and Consumer Services.

Section 196.26(8), F.S., grants water management districts a third-party right of enforcement to enforce the terms of the applicable conservation easement for any easement that is not enforceable by a federal or state agency, county, municipality, or water management district when the holder of the easement is unable or unwilling to enforce the terms of the easement.

Section 196.26(9), F.S., provides for the Acquisition and Restoration Council to maintain a list of nonprofit entities that are qualified to enforce the provisions of a conservation easement.

➤ **Assessment of Lands Subject to a Conservation Easement**

Effective Date: June 10, 2009 and first applies to assessments beginning January 1, 2010

Statute Reference: Section 193.501, F.S.

Chapter Law: Section 2, 2009-157 (HB 7157)

Amends s. 193.501(1), F.S., to remove a reference to subsection (1) of s. 704.06, F.S., and retain the reference to s. 704.06, F.S. This change broadens the description of a conservation easement that serves as the basis for land to be assessed based on present use under s. 193.501, F.S.

Creates s. 193.501(8), F.S. Provides the application procedures date for the application to be assessed as land used for conservation purposes. Failure to file an application on or before March 1 of any year constitutes a waiver of assessment for that year. The Department of Revenue shall prescribe the application forms upon which the application is made. Allows late-filers and non-filers to petition the value adjustment board to grant the assessment.

Creates s. 193.501(8), F.S. Requires the landowner to notify the property appraiser if the land becomes ineligible for the conservation assessment. Provides for penalties and liens when an ineligible landowner receives the exemption within the preceding ten years.

➤ **Conservation Easements; Creation; Acquisition; Enforcement**

Effective Date: June 10, 2009 and first applies to assessments beginning January 1, 2010

Statute Reference: Section 704.06, F.S.

Chapter Law: Section 3, 2009-157 (HB 7157)

Amends s. 704.06, F.S., to provide that an owner of property encumbered by a conservation easement must abide by the requirements of Chapter 712, F.S., (marketable record titles) or any other similar law or rule to preserve the conservation easement in perpetuity.

➤ **Classification of Property; Land Used for Conservation Purposes**

Effective Date: June 10, 2009 and first applies to assessments beginning January 1, 2010

Statute Reference: Section 195.073, F.S.

Chapter Law: Section 4, 2009-157 (HB 7157)

Amends s. 195.073(1)(k), F.S., to add "Land assessed under s. 193.501, F.S.," to the list of properties that must be classified on the assessment rolls.

➤ **Annual Application Required for Exemption; Land Used for Conservation Purposes**

Effective Date: June 10, 2009 and first applies to assessments beginning January 1, 2010

Statute Reference: Section 196.011, F.S.

Chapter Law: Section 5, 2009-157 (HB 7157)

Creates s. 196.011(6)(b), F.S. Requires the property appraiser to send a renewal application every year to the original applicant on a form prescribed by the Department of Revenue. Requires the applicant certify that the use of the property complies with the restrictions and requirements of the conservation easement. Requires the form to state that the exemption will not be renewed unless the application is returned.

Creates s. 196.011(9)(b), F.S. Requires that the owner notify the property appraiser whenever the use of the property does not comply with the restrictions and requirements of the conservation easement. Provides for specific penalties if the property owner fails to notify the property appraiser or the property appraiser determines the owner was not entitled to the exemption.

➤ **Taxpayer Rights**

Effective Date: June 10, 2009 and first applies to assessments beginning January 1, 2010

Statute Reference: Section 192.0105, F.S.

Chapter Law: Section 6, 2009-157 (HB 7157)

Amends s. 192.0105(2)(c), F.S. Changes statute reference from s. 196.011(9)(d) to 196.011(9)(e), F.S.

➤ **Replacement for Tax Loss Associated with Certain Constitutional Amendments Affecting Fiscally Constrained Counties; Exemption of Real Property Dedicated in Perpetuity for Conservation Purposes**

Effective Date: June 10, 2009 and first applies to assessments beginning January 1, 2010

Statute Reference: Section 218.125, F.S.

Chapter Law: Section 7, 2009-157 (HB 7157)

Creates s. 218.125, F.S., which directs the Legislature to appropriate funds to reimburse fiscally constrained counties, as defined in s. 218.67(1), F.S., for the reduction in property tax revenues

caused by the provisions of the bill. The bill provides a procedure and a methodology for determining the payments to each qualifying county. The bill requires the counties to apply to the Department to participate on a form to be prescribed by the Department.

SALES AND USE TAX

➤ **Distribution of Tax Proceeds**

Effective Date: July 1, 2009

Statute Reference: Section 212.20(6)(d)1. and 2., F.S.

Chapter Law: Section 2, 2009-68 (CS/SB 1750, 1st Eng.)

Increases the distribution of the sales tax proceeds under s. 212.20(6)(d)1., F.S., into the General Revenue Fund from 5 percent to 5.2 percent.

Deletes the distribution of the sales tax proceeds under s. 212.20(6)(d)2., F.S., into the Ecosystem Management and Restoration Trust Fund.

➤ **Exemption – Boats Purchased for Export from Florida**

Effective Date: July 1, 2009

Statute Reference: Section 212.05(1)(a)2., F.S.

Chapter Law: Section 3, 2009-51 (CS/CS/HB 7031, 2nd Eng.)

Allows a nonresident purchaser of a boat to purchase an extension decal for \$425 to allow the boat to remain in Florida for up to a total of 180 days before being subject to Florida sales tax. The nonresident purchaser must purchase the extension decal from the selling dealer within 60 days after the purchase of the boat.

➤ **Detective, Burglar Protection, and Other Protection Services**

Effective Date: July 1, 2009

Statute Reference: Section 212.05(1)(i), F.S.

Chapter Law: Section 3, 2009-51 (CS/CS/HB 7031, 2nd Eng.)

Replaces outdated SIC Industry Numbers 7381 and 7382 for the tax on detective, burglar protection, and other protection services with NAICS National Numbers. "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

➤ **Nonresidential Cleaning and Nonresidential Pest Control Services**

Effective Date: July 1, 2009

Statute Reference: Section 212.05(1)(i), F.S.

Chapter Law: Section 3, 2009-51 (CS/CS/HB 7031, 2nd Eng.)

Replaces outdated SIC Industry Group Number 734 for the tax on nonresidential cleaning and nonresidential pest control services with NAICS National Numbers. "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

➤ **Temporary Accommodations – Transient Rental Taxes**

Effective Date: July 1, 2009

Statute Reference: Sections 125.0104(3), 125.0108(1) and (2), 212.03(1), and 212.0305(3), F.S.

Chapter Law: Sections 1 - 5, 2009-133 (CS/HB 61, 2nd Eng.)

Provides that consideration paid for the purchase of a timeshare license is subject to tax. Consideration paid for occupancy of a timeshare under a regulated short-term product, as defined in s. 721.05(32), F.S., is subject to sales tax, plus any local-option tourist development tax, tourist impact tax, or convention development tax, unless the consideration is applied to the purchase of a timeshare estate. Tax is due on the last day of occupancy.

Occupancy of a timeshare accommodation under a timeshare plan or through a timeshare exchange program by the owner, or the owner's guest, who does not pay monetary consideration for the accommodation is not subject to tax. Any membership or transaction fee paid by a timeshare owner for the opportunity to exchange his or her timeshare interest is not subject to tax.

These provisions are clarifying and remedial in nature and do not provide a basis for tax assessments or tax refunds for periods prior to July 1, 2009.

SECONDHAND DEALERS

➤ Mail-in Secondhand Precious Metals Dealers

Effective Date: October 1, 2009

Statute Reference: Part III, Chapter 538, F.S.

Chapter Law: Section 2, 2009-162 (CS/CS/HB 339, 2nd Eng.)
Section 2, 2009-158 (CS/CS/SB 2700, 1st Eng.)

Effective October 1, 2009, "mail-in secondhand precious metals dealers" are required to register with the Department as secondhand dealers. Such dealers include any person who conducts business in Florida and who:

- Regularly engages in the business of purchasing jewelry or precious metals through the mail or Internet-based transactions; or,
- Contracts with others to buy precious metals or jewelry through the mail, Internet website, or telemarketing.

➤ Secondhand Goods – Definition

Effective Date: October 1, 2009

Statute Reference: Section 538.03(1)(f), F.S.

Chapter Law: Section 1, 2009-162 (CS/CS/HB 339, 2nd Eng.)
Section 1, 2009-158 (CS/CS/SB 2700, 1st Eng.)

Excludes cardio and strength training or conditioning equipment designed primarily for indoor use from secondhand goods.

SEVERANCE TAXES

➤ Tax on Tertiary Oil

Effective Date: July 1, 2009

Statute Reference: Section 211.02, F.S.

Chapter Law: Section 1, 2009-139 (CS/HB 515, 1st Eng.)

Defines “tertiary oil” to include the excess oil produced as a result of the actual use of a tertiary recovery method in a “qualified enhanced oil recovery project” which meets the requirements of 26 U.S.C. s. 43(c)(2) or substantially similar requirements. Tertiary oil is taxed at the following tiered rates:

- 1 percent of the gross value of oil \$60 or less.
- 7 percent of the gross value of oil above \$60 and below \$80.
- 9 percent of the gross value of oil \$80 and above.

Defines “value” to mean the sale price or market price of a barrel of oil at the mouth of the well in its natural, unrefined condition.

TAX ADMINISTRATION

➤ Administrative Collection Processing Fee

Effective Date: September 1, 2009 (Applies retroactively to any remaining unpaid amount of tax, penalty, and interest due from any collection event prior to May 27, 2009.)

Statute Reference: Sections 213.24(3) and 213.75, F.S.

Chapter Law: Sections 2 - 4, 2009-67 (CS/SB 1748, 1st Eng.)

Imposes an administrative collection processing fee of 10 percent of the amount of tax, penalty, and interest that remains unpaid after 90 days from the initial notification of the collection event, or \$10, whichever is greater. The fee applies to those taxes and fees listed in s. 213.05, F.S., or Ch. 443, F.S., administered by the Department. Authorizes the Department to waive or reduce the fee if the taxpayer demonstrates that the noncompliant filing event was due to extraordinary circumstances.

Defines "collection event" to mean when a taxpayer fails to timely file a complete return, to timely pay the full amount of tax reported on a return, or timely pay the full amount due resulting from an audit after all appeal rights have expired or the result has been finally determined.

Defines "extraordinary circumstances" to mean the occurrence of events beyond the control of the taxpayer, including, but not limited to: the taxpayer's death; acts of war or terrorism; natural disaster, fire, or other casualty; or the nonfeasance or misfeasance of the taxpayer's employee or representative responsible for complying with the taxes and fees listed in s. 213.05, F.S., and Chapter 443, F.S. The taxpayer must show that the principals of the business lacked actual knowledge of the collection event and any notification of the collection event.

Provides that the fees collected will be distributed each year as follows:

- The first \$6.2 million into the Department of Revenue Operations Trust Fund; and
- Any remaining amount into the General Revenue Fund.

Provides that payments to the Department will be credited first to the amount of interest and penalty due, with any remaining amount to be credited to the administrative collection processing fee. If a warrant or lien has been filed, or a levy has been made by the Department, payments will be credited first to the costs to record the warrant or lien or the costs to execute the levy, with any remaining amount to be credited to the administrative collection processing fee.

➤ Clerk of the Court – Attorneys' Fees and Costs

Effective Date: July 1, 2009

Statute Reference: Section 27.562, F.S.

Chapter Law: Section 3, 2009-61 (CS/SB 1718, 1st Eng.)

Provides that funds collected for attorneys' fees and costs under s. 938.29, F.S., are to be remitted by the Clerk to the Department for deposit into the Indigent Criminal Defense Trust Fund administered by the Justice Administrative Commission.

➤ **Clerk of the Court – Civil Penalties**

Effective Date: February 1, 2009

Statute Reference: Section 318.21(8)(a), F.S.

Chapter Law: 2009-14 (SB 40-A)

Increases to \$16 the civil penalty imposed on any person who fails to comply with the court's requirements, or who fails to pay the civil penalties specified in s. 318.21, F.S. Requires the Clerk to remit the penalty to the Department for deposit as follows:

- \$6.50 into the General Revenue Fund; and
- \$9.50 into the Highway Safety Operating Trust Fund.

➤ **Clerk of the Court – Court Costs**

Effective Date: July 1, 2009

Statute Reference: Section 938.10, F.S.

Chapter Law: 2009-174 (SB 526)

Increases the court costs imposed on certain cases to \$151. Requires the Clerk to remit \$150 of the court costs to the Department for deposit into the Grants and Donations Trust Fund of the Department of Children and Family Services.

➤ **Clerk of the Court – Fines, Fees, Service Charges, and Costs**

Effective Date: July 1, 2009

Statute Reference: Sections 28.37 and 142.01, F.S.

Chapter Law: Sections 5 and 12, 2009-204 (CS/CS/SB 2108, 2nd Eng.)

Requires all court-related fines, fees, service charges, and costs to be remitted monthly by the Clerk to the Department for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission, except as otherwise provided.

➤ **Clerk of the Court – Fines for Failure to Stop for a School Bus**

Effective Date: October 1, 2009

Statute Reference: Section 318.18(5)(c), F.S.

Chapter Law: Section 1, 2009-138 (CS/CS/HB 481, 2nd Eng.)

Imposes an additional penalty of \$65 for violation of s. 316.172(1)(a) or (b), F.S., for failure to stop for a school bus. Requires the Clerk to remit the penalty to the Department for deposit into the Administrative Trust Fund of the Department of Health.

➤ **Clerk of the Court – Fines for Racing or for Reckless Driving**

Effective Date: October 1, 2009

Statute Reference: Section 318.18(19), F.S.

Chapter Law: Section 1, 2009-138 (CS/CS/HB 481, 2nd Eng.)

Imposes an additional penalty of \$65 for violation of s. 316.191, F.S. (prohibiting racing on highways), or s. 316.192, F.S. (prohibiting reckless driving). Requires the Clerk to remit the penalty to the Department for deposit into the Administrative Trust Fund of the Department of Health.

➤ **Clerk of the Court – Fines Involving Unlawful Speed**

Effective Date: February 1, 2009

Statute Reference: Section 318.18(20), F.S.

Chapter Law: Section 4, 2009-6 (SB 12-A)

Requires that portions of fines assessed for unlawful speed are to be remitted by the Clerk to the Department for deposit into the State Courts Revenue Trust Fund as follows:

- \$25 of the \$150 fine for speed exceeding the limit by 15-19 m.p.h.; and
- \$25 of the \$175 fine for speed exceeding the limit by 20-29 m.p.h.

➤ **Clerk of the Court – Nonrefundable Service Charge**

Effective Date: September 1, 2009

Statute Reference: Section 318.15(2), F.S.

Chapter Law: Section 5, 2009-71 (CS/CS/SB 1778, 2nd Eng.)

Increases to \$60 the nonrefundable service charge imposed under s. 322.29, F.S. Requires the Clerk to remit \$22.50 of the service charge to the Department for deposit into the Highway Safety Operating Trust Fund.

➤ **Clerk of the Circuit Court – Administrative Fee**

Effective Date: July 1, 2009

Statute Reference: Section 318.18(18), F.S.

Chapter Law: Section 12, 2009-61 (CS/SB 1718, 1st Eng.)

Imposes the \$12.50 administrative fee on all noncriminal moving and nonmoving violations under Chapters 316, 320, and 322, F.S. Requires the Clerk to remit the fee to the Department for deposit into the Fine and Forfeiture Fund established under s. 142.01, F.S.

➤ **Clerk of the Circuit Court – Article V Assessment**

Effective Date: July 1, 2009

Statute Reference: Section 318.18(19), F.S.

Chapter Law: Section 12, 2009-61 (CS/SB 1718, 1st Eng.)

Imposes the Article V assessment of \$10 on all noncriminal moving and nonmoving violations under Chs. 316, 320, and 322, F.S. Requires the Clerk to remit the assessment to the Department for deposit as follows:

- \$5 into the State Courts Revenue Trust Fund;
- \$3.33 into the State Attorneys Revenue Trust Fund; and
- \$1.67 into the Public Defenders Revenue Trust Fund.

➤ **Clerk of the Circuit Court – Filing Fees for Trial and Appellate Proceedings**

Effective Date: June 1, 2009

Statute Reference: Section 28.241(1)(a) and (2), F.S.

Chapter Law: Section 5, 2009-61 (CS/SB 1718, 1st Eng.)
Sections 1 and 20, 2009-204 (CS/CS/SB 2108, 2nd Eng.)

Increases the filing fee on any party instituting a civil action, suit, or proceeding in the circuit court from \$295 to \$395. Requires the Clerk to remit the fees to the Department as follows:

- The first \$265 of the fee for deposit as follows:
 - \$80 into the General Revenue Fund;
 - \$180 into the State Courts Revenue Trust Fund;
 - \$3.50 into the Clerks of the Court Trust Fund with the Justice Administrative Commission; and
 - \$1.50 into the Administrative Trust Fund within the Department of Financial Services.
- The next \$15 of the fee for deposit into the state courts' Mediation and Arbitration Trust Fund.
- One-third of any filing fees collected in excess of \$100 for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

Revises the trust funds into which the Department is to deposit the additional \$4 filing fee remitted by the Clerk as follows:

- \$3.50 is to be deposited into the Court Education Trust Fund; and
- \$.50 is to be deposited into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

Imposes a filing fee of \$295 on any party instituting a civil action, suit, or proceeding in the circuit court under Chapters 39, 61, 741, 742, 747, 752, or 753, F.S., in all cases in which there are no more than five defendants. Imposes an additional filing fee of up to \$2.50 for each defendant in excess of five. Requires the Clerk to remit the fees to the Department as follows:

- The first \$165 of the fee for deposit as follows:
 - \$80 into the General Revenue Fund;
 - \$80 into the State Courts Revenue Trust Fund;

- \$3.50 into the Clerks of the Court Trust Fund with the Justice Administrative Commission; and
- \$1.50 into the Administrative Trust Fund within the Department of Financial Services.
- The next \$15 of the fee for deposit into the state courts' Mediation and Arbitration Trust Fund.

Imposes a graduated filing fee on any party instituting a civil action in circuit court relating to real property or mortgage foreclosure based on the value of the claim as follows:

- \$395 for claims with five defendants or less when the value of the claim is \$50,000 or less;
- \$900 for claims with five defendants or less when the value of the claim is greater than \$50,000 and less than \$250,000;
- \$1,900 for claims with five defendants or less when the value of the claim is greater than \$250,000; plus
- \$2.50 for each defendant for claims with more than five defendants.

Requires the Clerk to remit the graduated filing fees to the Department as follows:

- The first \$265 of the \$395 fee, the first \$770 of the \$900 fee, and the first \$1,700 of the \$1,900 fee for deposit as follows:
 - \$80 of each fee into the General Revenue Fund;
 - \$180, \$685, and \$1,685 of each fee, respectively, into the State Courts Revenue Trust Fund;
 - \$3.50 of each fee into the Clerks of the Court Trust Fund within the Justice Administrative Commission; and
 - \$1.50 of each fee into the Administrative Trust Fund within the Department of Financial Services.
- The next \$15 for deposit into the state courts' Mediation and Arbitration Trust Fund.

Imposes an additional \$4 filing fee to be paid to the Clerk. Requires the Clerk to remit the fee to the Department for deposit as follows:

- \$3.50 into the Court Education Trust Fund; and
- \$.50 into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

Authorizes the Clerk to impose the following additional filing fees:

- Up to \$18 to be paid by the party seeking each severance that is granted; and
- Up to \$85 for all proceedings of garnishment, attachment, replevin, and distress.

Requires that postal charges incurred by the Clerk in serving process by certified or registered mail on defendants or other parties are to be paid by the party seeking severance.

One-third of the additional filing fees of up to \$18, the additional filing fees of up to \$85, and the incurred postal charges collected by the Clerk are to be remitted to the Department for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

Requires the Clerk to remit the first \$80 of the filing fee imposed for filing a notice of appeal to the Department for deposit into the General Revenue Fund. Removes the requirement for the Clerk to remit one-third of any filing fees in excess of \$100 to the Department of Revenue.

➤ **Clerk of the Circuit Court – Filing Fees for Affirmative Relief**

Effective Date: June 1, 2009

Statute Reference: Section 28.241(1)(c), F.S.

Chapter Law: Section 5, 2009-61 (CS/SB 1718, 1st Eng.)

Imposes court fees on the following parties who file a pleading in an original civil action in circuit court for affirmative relief :

- A party, in addition to the party instituting a civil action in circuit court under subparagraph 28.241(1)(a)1., F.S., is required to pay \$395; and
- A party, in addition to the party instituting a civil action, suit, or proceeding in the circuit court under Chapters 39, 61, 741, 742, 747, 752, or 753, F.S., is required to pay \$295.

Requires the Clerk to remit the court fee to the Department for deposit into the General Revenue Fund.

Imposes a graduated filing fee on a party, in addition to the party instituting a civil action in circuit court relating to real property or mortgage foreclosure as provided in s. 28.241(1)(a)1.b., F.S., who files a pleading in an original civil action in circuit court for affirmative relief as follows:

- \$395 when the value of the pleading is \$50,000 or less;
- \$900 when the value of the pleading is greater than \$50,000 and less than \$250,000; and
- \$1,900 when the value of the pleading is \$250,000 or more.

Requires the Clerk to remit the graduated filing fees to the Department for deposit as follows:

- \$100 of the \$395 fee, \$605 of the \$900 fee, and \$1,605 of the \$1,900 fee into the State Courts Revenue Trust Fund; and
- The remaining fees into the General Revenue Fund.

➤ **Clerk of the Circuit Court – Service Charges and Filing Fees**

Effective Date: June 1, 2009

Statute Reference: Section 28.2401, F.S.

Chapter Law: Section 4, 2009-61 (CS/SB 1718, 1st Eng.)

Provides that \$115 of each filing fee collected under s. 28.2401(1)(a), (c)-(i), and (k), F.S., is to be remitted by the Clerk to the Department for deposit into the State Courts Revenue Trust Fund.

➤ **Clerk of the County Court – Filing Fees**

Effective Date: July 1, 2009

Statute Reference: Section 34.041(1), F.S.

Chapter Law: Section 7, 2009-61 (CS/SB 1718, 1st Eng.)
Section 20, 2009-204 (CS/CS/SB 2108, 2nd Eng.)

Imposes a filing fee of \$125 on any party instituting any civil action, suit, or proceeding in county court for a claim of not more than \$1,000 filed simultaneously with an action for replevin of property subject to the claim.

Reduces the filing fee for removal of tenant action from \$265 to \$180.

Requires the Clerk to remit the filing fees imposed on any party instituting a civil action, suit, or proceeding in county court under s. 34.041(1)(a), F.S., to the Department as follows:

- The first \$80 of the \$295 filing fee for all claims of more than \$2,500 for deposit into the General Revenue Fund; and
- The next \$15 of that \$295 filing fee and the first \$10 of the \$265 filing fee for removal of tenant action for deposit into the state courts' Mediation and Arbitration Trust Fund.

Changes the distribution of the additional \$4 filing fee paid to the Clerk and remitted to the Department as follows:

- \$3.50 is to be deposited into the Court Education Trust Fund; and
- \$.50 is to be deposited into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

Requires all filing fees collected by the Clerk, except as otherwise provided, to be remitted to the Department for deposit into the Clerks of the Court Trust Fund within the Justice Administrative Commission.

➤ **Clerks of the Court Trust Fund**

Effective Date: July 1, 2009

Statute Reference: Section 213.131, F.S.

Chapter Law: Sections 14 and 19, 2009-204 (CS/CS/SB 2108, 2nd Eng.)

Transfers the Department of Revenue Clerks of the Court Trust Fund, FLAIR number 73-2-588, along with all balances and obligations, to the Justice Administrative Commission.

➤ **Confidentiality Related to OTTED Information**

Effective Date: July 1, 2009

Statute Reference: Section 213.053(8)(k)3., F.S.

Chapter Law: Section 6, 2009-51 (CS/CS/HB 7031, 2nd Eng.)

Allows the Department to release information for use in the administration of specific tax credit programs to the Office of Tourism, Trade, and Economic Development.

➤ **New Markets Tax Credit – Confidentiality**

Effective Date: July 1, 2009

Statute Reference: Section 213.053(19), F.S.

Chapter Law: Section 1, 2009-50 (CS/CS/HB 485, 1st Eng.)

Authorizes the Department to share information relative to a New Markets Development Program tax credit taken by a taxpayer under s. 288.9916, F.S., with the Office of Tourism, Trade, and Economic Development.

➤ **Florida Clerks of Court Operations Corporation**

Effective Date: July 1, 2009

Statute Reference: Section 28.36, F.S.

Chapter Law: Section 4, 2009-204 (CS/CS/SB 2108, 2nd Eng.)

Removes the requirement for the Florida Clerks of Court Operations Corporation to notify the Department that a Clerk is authorized to retain revenues received from fees, service charges, and any other court-related clerk fees. Removes the requirement for the Department to certify the amount of a Clerk's deficit to the Governor and to request the release of funds from the Department of Revenue Clerks of the Court Trust Fund.

➤ **Gaming Compact – Seminole Tribe**

Effective Date: June 15, 2009

Statute Reference: Section 285.710(13), F.S.

Chapter Law: Section 1, 2009-2009-170 (CS/CS/SB 788, 2nd Eng.)

Authorizes the Governor to enter into a gaming contract between the State of Florida and the Seminole Tribe.

Authorizes and directs the Governor to execute an agreement between the State of Florida and the Indian tribes in Florida to apply state taxes, including sales tax, to certain persons on Indian lands. Sales tax remitted by the Indian tribes will be based on sales to non-tribal members, except those persons that hold valid exemption certificates. The agreement will require the Tribe to register with the Department, to retain records for at least five years, to permit an annual audit by the Department, and to waive its immunity. The state will be limited to only seek monetary damages limited to the amount of taxes owed. The agreement must be ratified by the Legislature.

➤ **Transportation Facilities**

Effective Date: July 1, 2009

Statute Reference: Section 334.30(1)(e), F.S.

Chapter Law: Section 19, 2009-111 (CS/HB 1213, 1st Eng.)

Private entities or consortia that enter into agreements with the Department of Transportation to design, build, operate, own, or finance transportation facilities are exempt from ad valorem taxes regarding property that is owned by the state or other government entity, intangible taxes, and documentary stamp tax on documents or obligations to pay money under such agreements. The exemption does not apply to corporate income taxes, unemployment compensation taxes, or sales and use tax. Requires the private entities or consortia to register and collect sales tax.

➤ **Trust Fund Service Charge**

Effective Date: July 1, 2009

Statute Reference: Section 215.20(1) and (2), F.S.

Chapter Law: Section 1, 2009-78 (CS/SB 1806, 1st Eng.)

Increases the service charge on trust funds from 7 percent to 8 percent. Removes the .3 percent service charge on Department trust funds.

➤ **Trust Fund – Invasive Plant Control Trust Fund**

Effective Date: May 27, 2009

Statute Reference: N/A

Chapter Law: Section 50, 2009-86 (CS/HB 1423)
Section 1, 2009-65 (CS/SB 1742, 1st Eng.)

Transfers the Invasive Plant Control Trust Fund, FLAIR number 37-2-030, from the Department of Environmental Protection to the Fish and Wildlife Conservation Commission, FLAIR number 77-2-030. The Department currently transfers proceeds from the following taxes into this trust fund:

- \$6.30 million of the fuel sales tax on motor fuel and on diesel fuel; and
- The lesser of 2.28 percent or \$34.1 million of the documentary stamp taxes annually remaining after distribution pursuant to s. 201.15(1) - (5), F.S.

➤ **Trust Fund – Water Protection and Sustainability Program Trust Fund**

Effective Date: July 1, 2009

Statute Reference: N/A

Chapter Law: 2009-23 (CS/SB 1740)

Continues the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection into which the Department deposits a portion of the proceeds of the documentary stamp tax.

UNEMPLOYMENT TAX

➤ Employer Contributions

Effective Date: January 1, 2010

Statute Reference: Section 443.1217(2), F.S.

Chapter Law: Section 1, 2009-99 (CS/CS/SB 810, 2nd Eng.)

Increases the portion of an individual's wages subject to unemployment tax from the first \$7,000 to the first \$8,500 for the period January 1, 2010, to December 31, 2014.

➤ Unemployment Compensation Trust Fund

Effective Date: January 1, 2010

Statute Reference: Section 443.131(3), F.S.

Chapter Law: Section 2, 2009-99 (CS/CS/SB 810, 2nd Eng.)

Increases the positive fund balance adjustment factor to the Unemployment Compensation Trust Fund from 3.7 percent of taxable payrolls to 4 percent. The positive adjustment factor will remain in effect until the balance of the trust fund equals or exceeds 5 percent of the taxable payrolls for the year. The time to recapture the funds is shortened from four years to three years. The recapture time period is restored to four years on January 1, 2015.

Increases the negative fund balance adjustment factor from 4.7 percent of taxable payrolls to 5 percent. The annual computation of the negative adjustment factor is delayed until January 1, 2015. Thereafter, the negative adjustment factor will remain in effect until the balance of the Unemployment Compensation Trust Fund is between 4 and 5 percent of taxable payrolls for the year. However, the negative adjustment factor is suspended in any calendar year in which an advance, or loan, from the federal government is still outstanding.

"Taxable payroll" for purposes of computing an employer's contribution rate excludes any remuneration paid to an individual in excess of the first \$7,000 even though the first \$8,500 is being taxed.

➤ Unemployment Compensation Claims and Benefits Information System

Effective Date: July 1, 2009

Statute Reference: Section 443.1113, F.S.

Chapter Law: 2009-73 (CS/SB 1782, 1st Eng.)

Authorizes development of the Unemployment Compensation Claims and Benefits Information System. Requires, to the extent funds are appropriated, the Agency for Workforce Innovation to enhance the functionality of the system for delivery of unemployment benefits to Floridians. Establishes and defines the main business objectives that must be achieved by the project and provides for estimated completion timeframes. Designates the Director of the Agency for Workforce Innovation as the project sponsor. Designates the Executive Steering Committee for the project and its membership, including the Executive Director and the Director of General Tax Administration of the Department of Revenue or their designees as voting members.