

CHAPTER 2000-312

House Bill No. 509

An act relating to taxation; amending s. 197.182, F.S.; providing that amounts paid by a taxpayer in error because of an error in the tax notice must be refunded by the tax collector or applied to taxes actually due; amending s. 120.80, F.S.; providing for the award of reasonable attorney's fees and costs of an appeal to a prevailing appellant on an appeal of an assessment imposed or refund denied under chapter 212, F.S., under specified circumstances; amending s. 213.21, F.S.; providing conditions under which a taxpayer's liability may be compromised when the taxpayer establishes reasonable reliance on written advice issued by the department; providing application; amending s. 199.185, F.S.; providing an exemption from the tax on government leaseholds; amending ss. 125.0104, 212.0305, F.S.; authorizing the expiration of bonds issued by a county to finance a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, upon the expiration of any agreement by the county for the operation or maintenance, or both, of the facility; allowing a county to extend a tourist development tax ordinance for the purpose of operating, maintaining, repairing, or renewing and replacing such a facility; providing that a county that elects to assume responsibility for audit and enforcement with respect to the local option tourist development tax, area of critical state concern tourist impact tax, or convention development taxes may use certified public accountants in administering its duties; providing for application of confidentiality and penalty provisions to such agents; amending s. 213.053, F.S.; providing for information sharing; expanding the authorized use of the indigent care surtax to include trauma centers; renaming the surtax; requiring the plan set out in the ordinance to include additional provisions concerning Level I trauma centers; providing requirements for annual disbursements to hospitals on October 1 to be in recognition of the Level I trauma center status and to be in addition to a base contract amount, plus any negotiated additions to indigent care funding; authorizing funds received to be used to generate federal matching funds under certain conditions and authorizing payment by the clerk of the court; authorizing the School Board of Sarasota County to levy additional millage for one year to support the cost of converting to charter district status; requiring a referendum; amending s. 212.055, F.S.; revising provisions that require the counties authorized to levy the surtax to annually appropriate a specified minimum amount for operation, administration, and maintenance of the county public general hospital; providing procedure for disbursement of funds; requiring a governing board, agency, or authority in such counties to adopt and implement a health care plan for indigent health care services; providing for appointment of members of such entity; specifying provisions of the plan; providing for annual audit; providing for compensation to service providers; providing for future review and repeal; amending s. 125.0104, F.S.; exempting certain tourist development taxes from provisions providing for tax repeal by referendum; creating s. 192.0105, F.S.; creating the Florida Taxpayer's Bill of Rights for property taxes and assessments, which compiles taxpayer rights as found in the Florida Statutes and rules of the Department of Revenue, including the right to know, the right to due process, the right to redress, and the right to confidentiality;

amending s. 212.055, F.S.; authorizing certain counties to levy a voter-approved indigent care discretionary sales surtax; providing for the surtax to be conditioned upon approval by a majority vote of the electors; limiting the rate of the surtax; providing requirements for the ordinance adopted by the governing body of the county which imposes the surtax; providing for proceeds of the surtax to be used to provide health care services to qualified residents; defining "qualified residents"; providing for the administration of proceeds collected pursuant to the surtax; limiting the total amount of certain local option sales surtaxes that may be imposed by a county; providing an effective date.

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

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

120.80 Exceptions and special requirements; agencies.--

(14) DEPARTMENT OF REVENUE.--

(b) Taxpayer contest proceedings.--

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

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

3.a. Prior to filing a petition under this chapter, the taxpayer shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

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

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

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

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