

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Hukill, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Tuesday, October 20, 2015
TIME: 9:00—11:00 a.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Hukill, Chair; Senator Abruzzo, Vice Chair; Senators Altman, Diaz de la Portilla, Flores, Margolis, Simpson, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 76 Banking and Insurance / Hukill (Similar H 219)	Tax-exempt Income; Increasing the amount of income that is exempt from the corporate income tax; increasing the amount of income that is exempt from the franchise tax imposed on banks and savings associations, etc. BI 10/06/2015 Fav/CS FT 10/20/2015 Favorable AP	Favorable Yeas 8 Nays 0
2	SB 116 Hukill (Similar H 247)	Tax on Sales, Use, and Other Transactions; Reducing the tax levied on rental or license fees charged for the use of real property, etc. CA 10/06/2015 Favorable FT 10/20/2015 Favorable AP	Favorable Yeas 8 Nays 0
3	SB 198 Hukill	Sales Tax Holiday; Providing an exemption from the sales and use tax for the retail sale of certain clothing, school supplies, and personal computers and personal computer-related accessories during a specified period, etc. CM 10/05/2015 Favorable FT 10/20/2015 Favorable AP	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 76

INTRODUCER: Banking and Insurance Committee and Senator Hukill

SUBJECT: Tax-exempt Income

DATE: October 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 76 increases the amount of income that is exempt from the Florida corporate income tax from \$50,000 to \$75,000. The first \$50,000 of a corporation's income is exempt from the corporate income tax under current law.

The Revenue Estimating Conference (REC) has determined that the bill will reduce General Revenue by \$5.9 million in Fiscal Year 2016-2017, with a recurring reduction of \$14.7 million.

II. Present Situation:

Florida began imposing an income tax of five percent on corporations in 1972.¹ In 1984, the tax rate was increased to 5.5 percent.² The tax is imposed on a taxpayer's "net income."³ Net income is determined using the following process.

1. **Begin with Federal Taxable Income.** As the starting point for determining how much tax is owed in Florida, taxpayers use their federal taxable income.

¹ See ch. 71-984, Laws of Fla.

² The Florida Constitution requires a 3/5 vote of the membership of each house of the Legislature to impose a tax in excess of 5 percent. See FLA. CONST. art. VII, s. 5. The tax is imposed on "C" corporations, banks and savings associations. See ss. 220.03(1)(e) and 220.63(1), F.S. In limited circumstances, a taxpayer may be subject to an alternative 3.3 percent tax rate. See s. 220.11(3), F.S.

³ See s. 220.12, F.S.

2. **Make Certain Statutory Adjustments.** These adjustments are known as “additions and subtractions,”⁴ and they relate to various items that Florida treats differently than the federal government. The income remaining after these adjustments is known as “adjusted federal income.”
3. **Apportion and Allocate.** Multistate taxpayers must determine what portion of their adjusted federal income is taxable in Florida – a process generally referred to as “apportionment.” The taxpayer first determines what portion of its income is from business operations and what portion of its income is from non-business activities.⁵ Its business income is then “apportioned”⁶ among the states where it conducts business and its non-business income is “allocated” to the state where the transactions or activities that gave rise to the non-business income occurred.⁷

Florida generally uses a three-factor apportionment formula to determine the amount of a multistate corporation’s taxable income that is subject to tax in Florida. The formula compares the taxpayer’s total payroll, sales, and property in all states with the taxpayer’s payroll, sales, and property in Florida. The result of this calculation is a fraction. A multistate taxpayer’s business income is apportioned to Florida based on that fraction.

4. **Subtract the Exemption.** Lastly, Florida grants an exemption for the first \$50,000 of income that would otherwise be taxable in Florida. Accordingly, after apportionment and allocation are applied to determine a taxpayer’s income that is taxable in Florida, the taxpayer subtracts \$50,000 before applying the tax rate. The amount of income remaining after subtraction of the \$50,000 exemption is known as “net income” and is the amount subject to the Florida corporate income tax.

III. Effect of Proposed Changes:

The bill increases the amount of income that is exempt from the Florida corporate income tax from \$50,000 to \$75,000 for taxable years beginning on or after January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce their ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

⁴ See generally s. 220.13, F.S.

⁵ Non-business income is certain income that does not arise from transactions and activities in the regular course of business. See s. 220.03(1)(r), F.S.

⁶ See generally s. 220.15, F.S.

⁷ See generally s. 220.16, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The REC has determined that the bill will reduce General Revenue by \$5.9 million in Fiscal Year 2016-2017, with a recurring reduction of \$14.7 million.

B. Private Sector Impact:

This bill will result in a tax reduction for certain corporate income taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.14 and 220.63.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on October 6, 2015:

The amendment provides that the act applies to taxable years beginning on or after January 1, 2017, rather than January 1, 2016.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Hukill

597-00721-16

201676c1

1 A bill to be entitled
 2 An act relating to tax-exempt income; amending s.
 3 220.14, F.S.; increasing the amount of income that is
 4 exempt from the corporate income tax; amending s.
 5 220.63, F.S.; increasing the amount of income that is
 6 exempt from the franchise tax imposed on banks and
 7 savings associations; providing applicability;
 8 providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Subsection (1) of section 220.14, Florida
 13 Statutes, is amended to read:
 14 220.14 Exemption.—
 15 (1) In computing a taxpayer's liability for tax under this
 16 code, ~~\$75,000 there shall be exempt from the tax \$50,000~~ of net
 17 income as defined in s. 220.12 is exempt from the tax or such
 18 lesser amount as will, without increasing the taxpayer's federal
 19 income tax liability, provide the state with an amount under
 20 this code which is equal to the maximum federal income tax
 21 credit ~~that which~~ may be available from time to time under
 22 federal law.
 23 Section 2. Subsection (3) of section 220.63, Florida
 24 Statutes, is amended to read:
 25 220.63 Franchise tax imposed on banks and savings
 26 associations.—
 27 (3) For purposes of this part, the franchise tax base is
 28 ~~shall be~~ adjusted federal income, as defined in s. 220.13,
 29 apportioned to this state, plus nonbusiness income allocated to

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

597-00721-16

201676c1

30 this state pursuant to s. 220.16, less the deduction allowed in
 31 subsection (5) and less \$75,000 ~~\$50,000~~.
 32 Section 3. This act applies to taxable years beginning on
 33 or after January 1, 2017.
 34 Section 4. This act shall take effect January 1, 2017.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-20-15

Meeting Date

76

Bill Number (if applicable)

Topic Tax Exempt Income

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 227 S. Adams St.

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email samantha@frf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/15
Meeting Date

SB 76
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Skylar Zander

Job Title Deputy State Director

Address 800 W College Ave Suite 109

Phone _____

Street

Tallahassee
City

FL
State

32301
Zip

Email szander@alphax.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/15

Meeting Date

76

Bill Number (if applicable)

Topic Tax Exempt Income

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 E. Jefferson St

Phone 850-445-5367

Street

Tallahassee

City

FL

State

32301

Zip

Email tim.nungesser@nfib.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NFIB

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/15

Meeting Date

SB 76

Bill Number (if applicable)

Topic Tax-Exempt Income

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St.

Phone 224-7173

Street

Tallahassee

FL

3201

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Oct 20, 2015
Meeting Date

CS/SB 76
Bill Number (if applicable)

Topic Tax-exempt Income

Amendment Barcode (if applicable)

Name Richard Polangin

Job Title Government Apprais Director

Address 1300 N Duval St

Phone (850) 224-4206

Street

Tallahassee

FL

32303

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Alliance for Retired Americans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SB 116

INTRODUCER: Senator Hukill

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: October 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 116 reduces the tax rate imposed on the rent or license fee charged for the use of commercial property from six percent to five percent.

The bill reduces sales and use tax revenue by \$119.6 million in Fiscal Year 2016-2017 and \$287.0 million on a recurring basis.¹ It decreases General Revenue and local revenue by \$254.1 million and \$32.9 million, respectively, on a recurring basis. In Fiscal Year 2016-2017, the bill reduces General Revenue by \$105.9 million and local revenue by \$13.7 million.

The bill provides for an effective date of January 1, 2017.

II. Present Situation:

The Florida Sales and Use Tax is a six percent levy on retail sales of most tangible personal property, admissions, transient lodgings, commercial rentals, and motor vehicles.² Since enactment in 1949, Florida's sales tax rate has been modified several times. In 1968, the Legislature increased rates on most items from three percent to four percent. In 1982, rates were increased from four percent to five percent. Legislation passed during the 1987 Regular Session extended the tax to sales of many services.³ During Special Session D in December 1987, the Legislature repealed the recently-enacted service tax and increased the general sales tax rate from five percent to six percent, the current tax rate.⁴

¹ Office of Economic and Demographic Research, Revenue Estimating Conference, *Reduce state tax rate from 6 percent to 5 percent for commercial rentals: SB 116* (Sept. 2015).

² Chapter 212, F.S.

³ Chapter 87-6, 101, Laws of Fla.

⁴ Chapter 87-548, Laws of Fla.

Section 212.031, F.S., provides for a tax levied in an amount equal to six percent on the total rent or license fee charged for the exercise of the taxable privilege of engaging in the business of renting, leasing, letting, or granting a license for the use of any real property unless the type of property is specifically exempted. Exemptions exist for the following types of property:

- Agricultural assessed property,⁵
- Dwelling units,⁶
- Parking, docking, or storage spaces,⁷
- Recreational property or common elements of a condominium that meet certain conditions,⁸
- Streets or right-of-ways with improvements used by a utility or provider of communications services,⁹
- Public street or road used for transportation services,¹⁰
- Airport property used exclusively for landing, taxiing, passenger movement or fueling,¹¹
- Port authority property used exclusively for docking, mooring, passenger movement, or fueling,¹²
- Property used as an integral part of the performance of qualified production services,¹³
- Property used by concessionaires at certain venues,¹⁴
- Property declared to be nontaxable pursuant to a Technical Assistance Advisement issued before March 15, 1993,¹⁵ and
- Property used or occupied predominately for space-flight business.¹⁶

In addition to the exemptions specified above, other statutory provisions exempt specific uses of property from sales and use taxes.

- A special provision for air carriers provides for apportionment of the tax on real property rentals used by the carrier for aircraft maintenance.¹⁷
- A limited exemption exists for leases of real property used to provide education services described in s. 212.031 (1)(a)(9), F.S.¹⁸
- Business properties within an enterprise zone are authorized to receive a refund for certain previously paid taxes.¹⁹
- Exemptions exist for religious institutions, Section 501(c)(3) organizations, and fair associations.²⁰

⁵ Section 212.031 (1)(a)1, F.S.

⁶ Section 212.031 (1)(a)2, F.S.

⁷ Section 212.031 (1)(a)3, F.S. Parking, docking and storage facilities for boats, and tie-down or storage space for aircraft at airports is taxable under s. 212.03(6), F.S.

⁸ Section 212.031 (1)(a)4, F.S.

⁹ Section 212.031 (1)(a)5, F.S.

¹⁰ Section 212.031 (1)(a)6, F.S.

¹¹ Section 212.031 (1)(a)7, F.S.

¹² Section 212.031 (1)(a)8, F.S.

¹³ Section 212.031 (1)(a)9, F.S.

¹⁴ Section 212.031 (1)(a)10, F.S.

¹⁵ Section 212.031 (1)(a)11, F.S. This exemption applied to a limited number of situations that existed before April 1993 and is not available to new lease contracts.

¹⁶ Section 212.031 (1)(a)12, F.S.

¹⁷ Section 212.0598, F.S.

¹⁸ Section 212.0602, F.S.

¹⁹ Section 212.08(5)(h), F.S.

²⁰ Sections 212.08(7)(m),(p),and (gg), F.S.

The six percent tax on transient lodging rentals, parking and storage for motor vehicles in parking lots or garages, docking or storage for boats in boat docks or marinas, or tie-down or storage space for aircraft in airports²¹ is not affected by this bill.

III. Effect of Proposed Changes:

Section 1 amends s. 212.031(1)(c) and (d), F.S., to reduce the tax rate imposed on the rent or license fees charged for the use of commercial property from six percent to five percent.

Section 2 provides an effective date of January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference's analysis of the bill finds it will reduce sales and use tax revenue by \$119.6 million in Fiscal Year 2016-2017 and \$287.0 million on a recurring basis.²² It decreases General Revenue and local revenue by \$254.1 million and \$32.9 million, respectively, on a recurring basis. In Fiscal Year 2016-2017, the bill reduces General Revenue by \$105.9 million and local revenue by \$13.7 million.

B. Private Sector Impact:

Landlords and tenants will benefit from a reduction in the tax on commercial rentals. A 2014 study, "The Economic Impact of Sales Tax on the Rental of Real Property,"²³ found that "since the leasing market has demonstrated a history of growth and manageable vacancies over the long run, it is unlikely on its face that the rental tax had materially driven a significant number of the economic actors into other paths."²⁴ The report analyzed the impact of a total repeal of the tax on commercial rentals and concluded that "property owners would likely gain the greatest benefit from eliminating the tax (on

²¹ Section 212.03(1) and (6), F.S.

²² Office of Economic and Demographic Research, Revenue Estimating Conference, *Reduce state tax rate from 6 percent to 5 percent for commercial rentals: SB140* (Jan. 2015).

²³ Office of Economic and Demographic Research, The Florida Legislature (Nov. 15, 2014).

²⁴ *Id.* p. 3.

commercial rentals), but this effect would be masked for a period of at least three to five years by the length of existing contracts.”²⁵ The report adds “A straight reduction in the tax rate is analyzed in the same manner as complete elimination.”²⁶

C. **Government Sector Impact:**

See Tax/Fee Issues, above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.031 of the Florida Statutes.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²⁵ *Id.* p. 5.

²⁶ *Id.*

By Senator Hukill

8-00054-16

2016116__

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; amending s. 212.031, F.S.; reducing the
 4 tax levied on rental or license fees charged for the
 5 use of real property; making technical changes;
 6 providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Paragraphs (c) and (d) of subsection (1) of
 11 section 212.031, Florida Statutes, are amended to read:
 12 212.031 Tax on rental or license fee for use of real
 13 property.—
 14 (1)
 15 (c) For the exercise of such privilege, a tax is levied in
 16 an amount equal to 5 ~~6~~ percent of and on the total rent or
 17 license fee charged for such real property by the person
 18 charging or collecting the rental or license fee. The total rent
 19 or license fee charged for such real property must ~~shall~~ include
 20 payments for the granting of a privilege to use or occupy real
 21 property for any purpose and must ~~shall~~ include base rent,
 22 percentage rents, or similar charges. Such charges must ~~shall~~ be
 23 included in the total rent or license fee subject to tax under
 24 this section whether or not they can be attributed to the
 25 ability of the lessor's or licensor's property as used or
 26 operated to attract customers. Payments for intrinsically
 27 valuable personal property such as franchises, trademarks,
 28 service marks, logos, or patents are not subject to tax under
 29 this section. If ~~In the case of~~ a contractual arrangement ~~that~~

Page 1 of 2

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8-00054-16

2016116__

30 provides for ~~both~~ payments that are taxable as total rent or
 31 license fee and payments that are not taxable ~~subject to tax~~,
 32 the tax shall be based on a reasonable allocation of such
 33 payments and does ~~shall~~ not apply to the ~~that~~ portion ~~which is~~
 34 for ~~the~~ nontaxable payments.
 35 (d) If ~~When~~ the rental or license fee of any such real
 36 property is paid by way of property, goods, wares, merchandise,
 37 services, or other thing of value, the tax shall be at the rate
 38 of 5 ~~6~~ percent of the value of the property, goods, wares,
 39 merchandise, services, or other thing of value.
 40 Section 2. This act shall take effect January 1, 2017.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Oct 20, 2015

Meeting Date

SB 116

Bill Number (if applicable)

Topic Tax on Sales, Use, and Other Transactions

Amendment Barcode (if applicable)

Name Richard Polangin

Job Title Government Affairs Director

Address 1300 N Duval St

Phone (850) 224-4206

Street

Tallahassee, FL

32303

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Alliance for Retired Americans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/15

Meeting Date

116

Bill Number (if applicable)

Topic Business Rent Tax

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St

Phone 850-521-1235

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

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10/20/15

Meeting Date

SB 116

Bill Number (if applicable)

Topic Tax on Sales, Use & other Transactions

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St.

Phone 224-7173

Street

Tallahassee

FL

3201

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/2015

Meeting Date

116

Bill Number (if applicable)

Topic Tax on Sales, Use, and Other Transactions

Amendment Barcode (if applicable)

Name Steven W. Moreira

Job Title Magic Properties & Investments Inc.

Address 421 Highway 434 Suite 1015

Phone

Street

Longwood

Florida

32750

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing CCIM

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/15

Meeting Date

SB 116

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Skyler Zander

Job Title Deputy State Director

Address 200 W College Ave Suite 109

Phone _____

Street

Tallahassee

FL

State

32301

Zip

Email szander@afpq.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

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10/20/15

Meeting Date

116

Bill Number (if applicable)

Topic Tax on Sales, Use, and Other Transactions

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 E. Jefferson St.

Phone 856-445-5367

Street

Tallahassee FL 32301

City

State

Zip

Email tim.nungesser@nfib.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NFIB

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-20-15

Meeting Date

116

Bill Number (if applicable)

Topic Tax on Sales, etc.

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 227 S. Adams St.

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email samantha@flf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/2015

116

Meeting Date

Bill Number (if applicable)

Topic Tax on Sales, Use, and Other Transactions

Amendment Barcode (if applicable)

Name Danielle Scoggins

Job Title Senior Public Policy Representative

Address 200 South Monroe Street

Phone _____

Street

Tallahassee

Florida

32301

Email danielles@floridarealtors.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Realtors®

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10/20/15
Meeting Date

116
Bill Number (if applicable)

Topic COMMERCIAL LOANERS / SALES TAX

Amendment Barcode (if applicable)

Name DAVIN SUGGS

Job Title FISCAL POLICY DIRECTOR

Address 100 S. MONROE ST

Phone 850-320-2635

TALLAHASSEE FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Oct 20, 2015

Meeting Date

SB 116

Bill Number (if applicable)

Topic BUSINESS RENT TAX PHUNK OUT

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 311 EAST PARK AVENUE

Phone 224-5081

Street

TALLAHASSEE

FL

32301

Email ddaniel@smithbryandmyers.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing INTERNATIONAL COUNCIL FOR SHOPPING CENTERS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SB 198

INTRODUCER: Senator Hukill

SUBJECT: Sales Tax Holiday

DATE: October 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 198 establishes a 10-day sales tax holiday beginning August 5, 2016, and ending August 14, 2016. During the holiday, specific purchases of clothing, school supplies, and personal computers are exempt from the state sales and use tax and county discretionary sales surtaxes.

The Revenue Estimating Conference estimates that the bill will reduce General Revenue receipts by \$56.1 million and local government revenues by \$12.6 million in Fiscal Year 2016-2017.

The bill provides the Department of Revenue (DOR) a nonrecurring General Revenue appropriation of \$233,730 in Fiscal Year 2016-2017 to administer the provisions of this act.

The bill provides an effective date of July 1, 2016.

This bill may contain a mandate requiring a two-thirds vote of the membership of the House and the Senate. See section IV. A. of this analysis.

II. Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² commercial real estate rentals,³ and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale.

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Oct. 2, 2015).

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes.⁴ A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by this chapter, and on communications services as defined in ch. 202.”⁵

Florida has enacted a “back-to-school” sales tax holiday 14 times since 1998. The length of the exemption period has varied from three to 10 days. The types of items exempt have also varied over time. Most recently, clothing and footwear were exempt if the sales price was \$100 or less, and books valued at \$50 or less were exempt in five prior holidays. School supplies were included in 2001, and the value of the items exempt has increased from \$10 to \$15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempt. In 2015, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempt.

III. Effect of Proposed Changes:

The bill provides for a 10-day sales tax holiday, beginning on August 5, 2016, and ending on August 14, 2016. During the holiday, the following items that cost \$100 or less are exempt from the state sales and use tax and county discretionary sales surtaxes:

- Clothing, defined as an “article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs”;
- Footwear, which does not include skis, swim fins, roller blades, and skates; and
- Wallets or bags, including, handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases and other garment bags.

The bill also exempts “school supplies” that cost \$15 or less per item.

The first \$750 of the sales price of personal computers or related accessories purchased for noncommercial home or personal use is also exempt. This exemption includes electronic book readers, tablets, laptops, desktops, handhelds, tower computers and non-recreational software. Personal computer-related accessories that are exempt include keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, and routers. Cell phones, video game consoles, digital media devices, furniture, and devices or software intended primarily for recreational use are not exempt.

The “back-to-school” sales tax holiday does not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

⁴ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

⁵ Section 212.054, F.S.

The bill authorizes a nonrecurring appropriation of \$233,730 from the General Revenue Fund to the Department of Revenue to implement this section.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, these requirements do not apply to laws that have an insignificant fiscal impact, which for Fiscal Year 2016-2017, is \$2,012,772.30 or less.^{6,7,8}

The Revenue Estimating Conference estimates that this bill reduces the authority that counties have to raise revenues by \$5.3 million in Fiscal Year 2016-2017.⁹

Therefore, this bill may be a mandate requiring a two-thirds vote of the membership of the House and the Senate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶ FLA. CONST. art. VII, s. 18(d).

⁷ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Oct. 6, 2015).

⁸ Based on the Demographic Estimating Conference's population adopted on July 9, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Oct. 6, 2015).

⁹ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, School Sales Tax Holiday, SB 198, p. 4, (Sept. 18, 2015), Revenue Impact Results, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact0918.pdf (last visited Oct. 6, 2015).

⁹ *Id.*

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates that the bill will reduce General Revenue receipts by \$56.1 million in Fiscal Year 2016-2017. Local government revenues will decrease by \$12.6 million in Fiscal Year 2016-2017.¹⁰

B. Private Sector Impact:**C. Government Sector Impact:**

The bill provides the Department of Revenue a nonrecurring General Revenue appropriation of \$233,730 in Fiscal Year 2016-2017 to administer the provisions of the act. The department estimates its cost of administration will be \$229,982.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates an unnumbered section of Florida law.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁰ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *School Sales Tax Holiday*, SB 198, p. 4, (Sept. 18, 2015), Revenue Impact Results, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/Impact0918.pdf> (last visited Oct. 6, 2015).

By Senator Hukill

8-00227-16

2016198__

A bill to be entitled

An act relating to a sales tax holiday; providing an exemption from the sales and use tax for the retail sale of certain clothing, school supplies, and personal computers and personal computer-related accessories during a specified period; providing exceptions to the exemption; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation to the department for implementation purposes; providing an effective date.

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

Section 1. Clothing, school supplies, and personal computers and personal computer-related accessories sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$100 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and
2. All footwear, excluding skis, swim fins, roller blades,

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00227-16

2016198__

and skates.

(b) School supplies having a sales price of \$15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the first \$750 of the sales price of personal computers or personal computer-related accessories purchased for noncommercial home or personal use. As used in this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. The term does not include furniture or systems, devices, software, or peripherals that are designed or intended primarily for recreational use.

(c) "Monitors" does not include devices that include a television tuner.

Page 2 of 3

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8-00227-16

2016198__

59 (3) The tax exemptions provided in this section do not
60 apply to sales within a theme park or entertainment complex as
61 defined in s. 509.013(9), Florida Statutes, within a public
62 lodging establishment as defined in s. 509.013(4), Florida
63 Statutes, or within an airport as defined in s. 330.27(2),
64 Florida Statutes.

65 (4) The Department of Revenue may, and all conditions are
66 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
67 Florida Statutes, to administer this section.

68 (5) For the 2016-2017 fiscal year, the sum of \$233,730 in
69 nonrecurring funds is appropriated from the General Revenue Fund
70 to the Department of Revenue for the purpose of implementing
71 this section.

72 Section 2. This act shall take effect July 1, 2016.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

10-20-13

Meeting Date

198

Bill Number (if applicable)

Topic Sales Tax Holiday

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 227 S. Adams St.

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email samantha@trf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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CourtSmart Tag Report

Room: SB 401

Case:

Type:

Caption: Senate Finance and Tax Committee **Judge:**

Started: 10/20/2015 9:03:17 AM

Ends: 10/20/2015 9:20:34 AM **Length:** 00:17:18

9:03:17 AM Meeting Called to Order
9:03:23 AM Roll Call
9:03:37 AM Opening remarks
9:04:21 AM Chair Abruzzo
9:05:06 AM Tab 1 - Tax Exempt Income (CS/SB 76) by Sen. Hukill
9:05:38 AM Richard Polangin, Florida Alliance for Retired Americans, spoke in opposition
9:09:08 AM Brewster Bevis, Associated Industries of Florida, waives in support
9:09:13 AM Tim Nungesser, NFIB, waives in support
9:09:18 AM Skylar Zander, Americans for Prosperity, waives in support
9:09:25 AM Carolyn Johnson, Florida Chamber, waives in support
9:09:29 AM Samantha Padgett, Florida Retail Federation, waives in support
9:09:38 AM Chair Abruzzo
9:09:45 AM Sen. Hukill waives closing
9:09:46 AM Roll Call - CS/SB 76
9:10:01 AM Chair Abruzzo
9:10:10 AM Tab 2 - Tax on Sales, Use, and Other Transactions (SB 116) by Sen. Hukill
9:12:15 AM David Daniel, International Council for Shopping Centers, waives in support
9:12:21 AM Davin Suggs, Florida Association of Counties, waives in support
9:12:29 AM Danielle Scoggins, Florida Realtors, waives in support
9:12:43 AM Samantha Padgett, Florida Retail Federation, spoke in support
9:13:19 AM Tim Nungesser, NFIB, waives in support
9:13:22 AM Skylar Zander, Americans for Prosperity, waives in support
9:13:27 AM Steven Moreira, CCIM, spoke in support
9:16:49 AM Brewster Bevis, Associated Industries of Florida, waives in support
9:16:55 AM Carolyn Johnson, Florida Chamber, waives in support
9:16:59 AM Richard Polangin, Florida Alliance for Retired Americans, waives in opposition
9:17:12 AM Sen. Hukill closing remarks
9:17:20 AM Roll Call - SB 116
9:17:40 AM Tab 3 - Sales Tax Holiday (SB 198) by Sen. Hukill
9:18:56 AM Samantha Padgett, Florida Retail Federation, spoke in support
9:19:46 AM Sen. Hukill waives closing
9:19:49 AM Roll Call - SB 198
9:20:14 AM Senator Flores' Motion -- voting favorably on CS/SB 76, Tax-exempt Income
9:20:27 AM Meeting adjourned