

**SB 342** by **Thrasher**; (Identical to H 0279) Rental of Homestead Property

189360 A S L FAV AFT, Margolis Delete L.22: 03/14 10:23 AM

**SB 354** by **Thrasher**; (Compare to CS/H 0531) Ad Valorem Tax Exemptions

181644 A S L FAV AFT, Gardiner Delete L.48: 03/14 10:23 AM

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
 APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND  
 TAX  
 Senator Hukill, Chair  
 Senator Ring, Vice Chair

**MEETING DATE:** Wednesday, March 13, 2013  
**TIME:** 2:00 —5:00 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Hukill, Chair; Senator Ring, Vice Chair; Senators Abruzzo, Altman, Brandes, Clemens, Diaz de la Portilla, Evers, Gardiner, Margolis, Sachs, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Proposed draft legislation relating to Tax Administration		Recommend Favorable
2	<b>SB 342</b> Thrasher (Identical H 279)	Rental of Homestead Property; Revising criteria under which rental of homestead property is allowed for tax exemption purposes and not considered abandoned, etc.  CA 02/21/2013 Favorable AFT 03/13/2013 Fav/CS AP	Fav/CS Yeas 10 Nays 0
3	<b>SB 354</b> Thrasher (Compare CS/H 531)	Ad Valorem Tax Exemptions; Providing that certain leasehold interests and improvements to land owned by the United States, a branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States are exempt from ad valorem taxation under specified circumstances; providing that such leasehold interests and improvements are entitled to an exemption from ad valorem taxation without an application being filed for the exemption or the property appraiser approving the exemption, etc.  CA 02/21/2013 Favorable MS 03/07/2013 Favorable AFT 03/13/2013 Fav/CS AP	Fav/CS Yeas 10 Nays 0
4	Continuation of Review of Economic Development Tax Incentives		Discussed

Other Related Meeting Documents

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1                                   A bill to be entitled  
2           An act relating to tax administration; amending s.  
3           198.13, F.S.; deleting a requirement for filing a tax  
4           return for a decedent who dies after a certain date;  
5           amending s. 212.07, F.S.; conforming a cross-reference  
6           to changes made by the act; providing monetary and  
7           criminal penalties for a dealer's willful failure to  
8           collect certain taxes or fees after receiving notice  
9           of such duty to collect from the Department of  
10          Revenue; amending s. 212.12, F.S.; deleting provisions  
11          relating to the imposition of criminal penalties after  
12          department notice of requirements to register as a  
13          dealer or to collect taxes; making technical and  
14          grammatical changes to provisions specifying penalties  
15          for making a false or fraudulent return with the  
16          intent to evade payment of a tax or fee; amending s.  
17          212.14, F.S.; modifying the definition of the term  
18          "person"; authorizing the department to adopt rules  
19          relating to requirements for a person to deposit cash,  
20          a bond, or other security with the department in order  
21          to ensure compliance with sales tax laws; making  
22          technical and grammatical changes; amending s. 212.18,  
23          F.S.; providing criminal penalties for a person who  
24          willfully fails to register as a dealer after  
25          receiving notice of such duty by the department;  
26          making technical and grammatical changes; amending s.  
27          213.13, F.S.; revising the due date for transmitting  
28          funds collected by the clerks of court to the  
29          department; providing retroactive application;

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30 amending s. 213.21, F.S.; increasing dollar threshold  
31 of compromise authority that can be delegated to the  
32 executive director; creating s. 213.295, F.S.,  
33 relating to automated sales suppression devices;  
34 providing definitions; subjecting a person to criminal  
35 penalties and monetary penalties for knowingly selling  
36 or engaging in certain other actions involving a  
37 zapper or phantom-ware; providing that sales  
38 suppression devices and phantom-ware are contraband  
39 articles under the Florida Contraband Forfeiture Act;  
40 amending s. 322.142, F.S.; authorizing the Department  
41 of Highway Safety and Motor Vehicles to release  
42 photographs or digital images to the Department of  
43 Revenue in order to identify individuals for purposes  
44 of tax administration; amending s. 443.131, F.S.;  
45 imposing a requirement on employers to produce records  
46 for the Department of Economic Opportunity or its tax  
47 collection service provider as a prerequisite for a  
48 reduction in the rate of reemployment tax; amending s.  
49 443.141, F.S.; providing a method to calculate the  
50 interest rate for past due contributions and  
51 reimbursements, and delinquent, erroneous, incomplete,  
52 or insufficient reports; providing effective dates.

53

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

55

56 Section 1. Operating retroactively to January 1, 2013,  
57 subsection (4) of section 198.13, Florida Statutes, is amended  
58 to read:

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59 198.13 Tax return to be made in certain cases; certificate  
60 of nonliability.—

61 (4) Notwithstanding any other provisions of this section  
62 and applicable to the estate of a decedent who dies after  
63 December 31, 2004, if, upon the death of the decedent, a state  
64 death tax credit or a generation-skipping transfer credit is not  
65 allowable pursuant to the Internal Revenue Code of 1986, as  
66 amended:

67 (a) The personal representative of the estate is not  
68 required to file a return under subsection (1) in connection  
69 with the estate.

70 (b) The person who would otherwise be required to file a  
71 return reporting a generation-skipping transfer under subsection  
72 (3) is not required to file such a return in connection with the  
73 estate.

74

75 ~~The provisions of this subsection do not apply to estates of~~  
76 ~~decedents dying after December 31, 2012.~~

77 Section 2. Paragraph (b) of subsection (1) and subsection  
78 (3) of section 212.07, Florida Statutes, are amended to read:

79 212.07 Sales, storage, use tax; tax added to purchase  
80 price; dealer not to absorb; liability of purchasers who cannot  
81 prove payment of the tax; penalties; general exemptions.—

82 (1)

83 (b) A resale must be in strict compliance with s. 212.18  
84 and the rules and regulations, and any dealer who makes a sale  
85 for resale which is not in strict compliance with s. 212.18 and  
86 the rules and regulations shall himself or herself be liable for  
87 and pay the tax. Any dealer who makes a sale for resale shall

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88 document the exempt nature of the transaction, as established by  
89 rules adopted ~~promulgated~~ by the department, by retaining a copy  
90 of the purchaser's resale certificate. In lieu of maintaining a  
91 copy of the certificate, a dealer may document, before ~~prior to~~  
92 the time of sale, an authorization number provided  
93 telephonically or electronically by the department, or by such  
94 other means established by rule of the department. The dealer  
95 may rely on a resale certificate issued pursuant to s.  
96 212.18(3)(d) ~~212.18(3)(c)~~, valid at the time of receipt from the  
97 purchaser, without seeking annual verification of the resale  
98 certificate if the dealer makes recurring sales to a purchaser  
99 in the normal course of business on a continual basis. For  
100 purposes of this paragraph, "recurring sales to a purchaser in  
101 the normal course of business" refers to a sale in which the  
102 dealer extends credit to the purchaser and records the debt as  
103 an account receivable, or in which the dealer sells to a  
104 purchaser who has an established cash or C.O.D. account, similar  
105 to an open credit account. For purposes of this paragraph,  
106 purchases are made from a selling dealer on a continual basis if  
107 the selling dealer makes, in the normal course of business,  
108 sales to the purchaser no less frequently than once in every 12-  
109 month period. A dealer may, through the informal protest  
110 provided for in s. 213.21 and the rules of the department ~~of~~  
111 Revenue, provide the department with evidence of the exempt  
112 status of a sale. Consumer certificates of exemption executed by  
113 those exempt entities that were registered with the department  
114 at the time of sale, resale certificates provided by purchasers  
115 who were active dealers at the time of sale, and verification by  
116 the department of a purchaser's active dealer status at the time

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117 of sale in lieu of a resale certificate shall be accepted by the  
118 department when submitted during the protest period, but may not  
119 be accepted in any proceeding under chapter 120 or any circuit  
120 court action instituted under chapter 72.

121 (3)(a) A ~~Any~~ dealer who fails, neglects, or refuses to  
122 collect the tax or fees imposed under this chapter herein  
123 ~~provided, either~~ by himself or herself or through the dealer's  
124 agents or employees, ~~is,~~ in addition to the penalty of being  
125 liable for ~~and~~ paying the tax ~~himself or herself~~, commits guilty  
126 ~~of~~ a misdemeanor of the first degree, punishable as provided in  
127 s. 775.082 or s. 775.083.

128 (b) A dealer who willfully fails to collect a tax or fee  
129 after the department provides notice of the duty to collect the  
130 tax or fee is liable for a specific penalty of 100 percent of  
131 the uncollected tax or fee. This penalty is in addition to any  
132 other penalty that may be imposed by law. A dealer who willfully  
133 fails to collect taxes or fees totaling:

134 1. Less than \$300:

135 a. For a first offense, commits a misdemeanor of the second  
136 degree, punishable as provided in s. 775.082 or s. 775.083.

137 b. For a second offense, commits a misdemeanor of the first  
138 degree, punishable as provided in s. 775.082 or s. 775.083.

139 c. For a third or subsequent offense, commits a felony of  
140 the third degree, punishable as provided in s. 775.082, s.  
141 775.083, or s. 775.084.

142 2. An amount equal to \$300 or more, but less than \$20,000,  
143 commits a felony of the third degree, punishable as provided in  
144 s. 775.082, s. 775.083, or s. 775.084.

145 3. An amount equal to \$20,000 or more, but less than

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146 \$100,000, commits a felony of the second degree, punishable as  
147 provided in s. 775.082, s. 775.083, or s. 775.084.

148 4. An amount equal to \$100,000 or more, commits a felony of  
149 the first degree, punishable as provided in s. 775.082, s.  
150 775.083, or s. 775.084.

151 (c) The department shall give written notice of the duty to  
152 collect taxes or fees to the dealer by personal service, by  
153 sending notice to the dealer's last known address by registered  
154 mail, or by both personal service and mail.

155 Section 3. Paragraph (d) of subsection (2) of section  
156 212.12, Florida Statutes, is amended to read:

157 212.12 Dealer's credit for collecting tax; penalties for  
158 noncompliance; powers of Department of Revenue in dealing with  
159 delinquents; brackets applicable to taxable transactions;  
160 records required.-

161 (2)

162 (d) A ~~Any~~ person who makes a false or fraudulent return and  
163 who has ~~with~~ a willful intent to evade payment of any tax or fee  
164 imposed under this chapter is; ~~any person who, after the~~  
165 ~~department's delivery of a written notice to the person's last~~  
166 ~~known address specifically alerting the person of the~~  
167 ~~requirement to register the person's business as a dealer,~~  
168 ~~intentionally fails to register the business; and any person~~  
169 ~~who, after the department's delivery of a written notice to the~~  
170 ~~person's last known address specifically alerting the person of~~  
171 ~~the requirement to collect tax on specific transactions,~~  
172 ~~intentionally fails to collect such tax, shall, in addition to~~  
173 ~~the other penalties provided by law, be liable for a specific~~  
174 ~~penalty of 100 percent of any unreported or any uncollected tax~~



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175 or fee. This penalty is in addition to any other penalty  
176 provided by law. A person who makes a false or fraudulent return  
177 with a willful intent to evade payment of taxes or fees  
178 totaling:

179 1. Less than \$300:

180 a. For a first offense, commits a misdemeanor of the second  
181 degree, punishable as provided in s. 775.082 or s. 775.083.

182 b. For a second offense, commits a misdemeanor of the first  
183 degree, punishable as provided in s. 775.082 or s. 775.083.

184 c. For a third or subsequent offense, commits a felony of  
185 the third degree, punishable as provided in s. 775.082, s.  
186 775.083, or s. 775.084.

187 2. An amount equal to \$300 or more, but less than \$20,000,  
188 commits a felony of the third degree, punishable as provided in  
189 s. 775.082, s. 775.083, or s. 775.084.

190 3. An amount equal to \$20,000 or more, but less than  
191 \$100,000, commits a felony of the second degree, punishable as  
192 provided in s. 775.082, s. 775.083, or s. 775.084.

193 4. An amount equal to \$100,000 or more, commits a felony of  
194 the first degree, punishable and, upon conviction, for fine and  
195 punishment as provided in s. 775.082, s. 775.083, or s. 775.084.

196 ~~Delivery of written notice may be made by certified mail, or by~~  
197 ~~the use of such other method as is documented as being necessary~~  
198 ~~and reasonable under the circumstances. The civil and criminal~~  
199 ~~penalties imposed herein for failure to comply with a written~~  
200 ~~notice alerting the person of the requirement to register the~~  
201 ~~person's business as a dealer or to collect tax on specific~~  
202 ~~transactions shall not apply if the person timely files a~~  
203 ~~written challenge to such notice in accordance with procedures~~

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204 ~~established by the department by rule or the notice fails to~~  
205 ~~clearly advise that failure to comply with or timely challenge~~  
206 ~~the notice will result in the imposition of the civil and~~  
207 ~~criminal penalties imposed herein.~~

208 ~~1. If the total amount of unreported or uncollected taxes~~  
209 ~~or fees is less than \$300, the first offense resulting in~~  
210 ~~conviction is a misdemeanor of the second degree, the second~~  
211 ~~offense resulting in conviction is a misdemeanor of the first~~  
212 ~~degree, and the third and all subsequent offenses resulting in~~  
213 ~~conviction is a misdemeanor of the first degree, and the third~~  
214 ~~and all subsequent offenses resulting in conviction are felonies~~  
215 ~~of the third degree.~~

216 ~~2. If the total amount of unreported or uncollected taxes~~  
217 ~~or fees is \$300 or more but less than \$20,000, the offense is a~~  
218 ~~felony of the third degree.~~

219 ~~3. If the total amount of unreported or uncollected taxes~~  
220 ~~or fees is \$20,000 or more but less than \$100,000, the offense~~  
221 ~~is a felony of the second degree.~~

222 ~~4. If the total amount of unreported or uncollected taxes~~  
223 ~~or fees is \$100,000 or more, the offense is a felony of the~~  
224 ~~first degree.~~

225 Section 4. Effective July 1, 2013, subsection (4) of  
226 section 212.14, Florida Statutes, is amended to read:

227 212.14 Departmental powers; hearings; distress warrants;  
228 bonds; subpoenas and subpoenas duces tecum.-

229 (4) In all cases where it is necessary to ensure  
230 compliance with ~~the provisions of~~ this chapter, the department  
231 shall require a cash deposit, bond, or other security as a  
232 condition to a person obtaining or retaining a dealer's

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233 certificate of registration under this chapter. Such bond must  
 234 ~~shall~~ be in the form and ~~such~~ amount ~~as~~ the department deems  
 235 appropriate under the particular circumstances. A Every person  
 236 failing to produce such cash deposit, bond, or other security is  
 237 ~~as provided for herein shall~~ not be entitled to obtain or retain  
 238 a dealer's certificate of registration under this chapter, and  
 239 the Department of Legal Affairs is hereby authorized to proceed  
 240 by injunction, if ~~when so~~ requested by the Department of  
 241 Revenue, to prevent such person from doing business subject to  
 242 ~~the provisions of~~ this chapter until such cash deposit, bond, or  
 243 other security is posted with the department, and any temporary  
 244 injunction for this purpose may be granted by any judge or  
 245 chancellor authorized by law to grant injunctions. Any security  
 246 required to be deposited may be sold by the department at public  
 247 sale if ~~it becomes necessary so to do~~ in order to recover any  
 248 tax, interest, or penalty due. Notice of such sale may be served  
 249 personally or by mail upon the person who deposited the such  
 250 security. If by mail, notice sent to the last known address as  
 251 it the same appears on the records of the department is shall be  
 252 sufficient for the purpose of this requirement. Upon such sale,  
 253 the surplus, if any, above the amount due under this chapter  
 254 shall be returned to the person who deposited the security. The  
 255 department may adopt rules necessary to administer this  
 256 subsection. For the purpose of the cash deposit, bond, or other  
 257 security required by this subsection, the term "person" includes  
 258 those entities defined in s. 212.02(12), as well as:  
 259 (a) An individual or entity owning a controlling interest  
 260 in an entity;  
 261 (b) An individual or entity that has acquired an ownership

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262 interest or a controlling interest in a business that would  
263 otherwise be liable for posting a cash deposit, bond, or other  
264 security, unless the department has determined that the  
265 individual or entity is not liable for taxes, interest, or  
266 penalties as set forth in s. 213.758; or

267 (c) An individual or entity seeking to obtain a dealer's  
268 certificate of registration for a business that will be operated  
269 at the same location as a previous business that would otherwise  
270 have been liable for posting a cash deposit, bond, or other  
271 security, if the individual or entity fails to provide evidence  
272 that the business was acquired for consideration in an arms-  
273 length transaction.

274 Section 5. Subsection (3) of section 212.18, Florida  
275 Statutes, is amended to read:

276 212.18 Administration of law; registration of dealers;  
277 rules.—

278 (3)(a) A ~~Every~~ person desiring to engage in or conduct  
279 business in this state as a dealer, ~~as defined in this chapter,~~  
280 or to lease, rent, or let or grant licenses in living quarters  
281 or sleeping or housekeeping accommodations in hotels, apartment  
282 houses, roominghouses, or tourist or trailer camps that are  
283 subject to tax under s. 212.03, or to lease, rent, or let or  
284 grant licenses in real property, ~~as defined in this chapter,~~ and  
285 every person who sells or receives anything of value by way of  
286 admissions, must file with the department an application for a  
287 certificate of registration for each place of business. The  
288 application must include, ~~showing~~ the names of the persons who  
289 have interests in such business and their residences, the  
290 address of the business, and ~~such~~ other data reasonably required

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291 by ~~as~~ the department ~~may reasonably require~~. However, owners and  
 292 operators of vending machines or newspaper rack machines are  
 293 required to obtain only one certificate of registration for each  
 294 county in which such machines are located. The department, by  
 295 rule, may authorize a dealer that uses independent sellers to  
 296 sell its merchandise to remit tax on the retail sales price  
 297 charged to the ultimate consumer in lieu of having the  
 298 independent seller register as a dealer and remit the tax. The  
 299 department may appoint the county tax collector as the  
 300 department's agent to accept applications for registrations. The  
 301 application must be submitted ~~made~~ to the department before the  
 302 person, firm, copartnership, or corporation may engage in such  
 303 business, and it must be accompanied by a registration fee of  
 304 \$5. However, a registration fee is not required to accompany an  
 305 application to engage in or conduct business to make mail order  
 306 sales. The department may waive the registration fee for  
 307 applications submitted through the department's Internet  
 308 registration process.

309 (b) The department, upon receipt of such application, shall  
 310 ~~will~~ grant to the applicant a separate certificate of  
 311 registration for each place of business, which certificate may  
 312 be canceled by the department or its designated assistants for  
 313 any failure by the certificateholder to comply with ~~any of the~~  
 314 ~~provisions of~~ this chapter. The certificate is not assignable  
 315 and is valid only for the person, firm, copartnership, or  
 316 corporation to which issued. The certificate must be placed in a  
 317 conspicuous place in the business or businesses for which it is  
 318 issued and must be displayed at all times. Except as provided in  
 319 this subsection, a ~~no~~ person may not ~~shall~~ engage in business as

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320 a dealer or in leasing, renting, or letting of or granting  
 321 licenses in living quarters or sleeping or housekeeping  
 322 accommodations in hotels, apartment houses, roominghouses,  
 323 tourist or trailer camps, or real property, or as hereinbefore  
 324 ~~defined, nor shall any person~~ sell or receive anything of value  
 325 by way of admissions, without a valid ~~first having obtained such~~  
 326 a certificate. ~~A or after such certificate has been canceled; no~~  
 327 person may not ~~shall~~ receive a any license from any authority  
 328 within the state to engage in any such business without a valid  
 329 certificate first having obtained such a certificate or after  
 330 such certificate has been canceled. A person may not engage ~~The~~  
 331 ~~engaging~~ in the business of selling or leasing tangible personal  
 332 property or services or as a dealer; engage, ~~as defined in this~~  
 333 ~~chapter, or the engaging~~ in leasing, renting, or letting of or  
 334 granting licenses in living quarters or sleeping or housekeeping  
 335 accommodations in hotels, apartment houses, roominghouses, or  
 336 tourist or trailer camps that are taxable under this chapter, or  
 337 real property; ~~or~~ engage ~~the engaging~~ in the business of  
 338 selling or receiving anything of value by way of admissions,  
 339 without a valid ~~such certificate first being obtained or after~~  
 340 ~~such certificate has been canceled by the department, is~~  
 341 ~~prohibited.~~

342 (c)1. A ~~The failure or refusal of any person who engages in~~  
 343 acts requiring a certificate of registration under this  
 344 subsection who fails or refuses to register commits, ~~firm,~~  
 345 ~~copartnership, or corporation to so qualify when required~~  
 346 ~~hereunder~~ is a misdemeanor of the first degree, punishable as  
 347 provided in s. 775.082 or s. 775.083. Such acts are, ~~or~~ subject  
 348 to injunctive proceedings as provided by law. A person who

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349 engages in acts requiring a certificate of registration and who  
350 fails or refuses to register is also subject ~~Such failure or~~  
351 ~~refusal also subjects the offender~~ to a \$100 initial  
352 registration fee in lieu of the \$5 registration fee required by  
353 ~~authorized in~~ paragraph (a). However, the department may waive  
354 the increase in the registration fee if it finds ~~is determined~~  
355 ~~by the department~~ that the failure to register was due to  
356 reasonable cause and not to willful negligence, willful neglect,  
357 or fraud.

358 2.a. A person who willfully fails to register after the  
359 department provides notice of the duty to register as a dealer  
360 commits a felony of the third degree, punishable as provided in  
361 s. 775.082, s. 775.083, or s. 775.084.

362 b. The department shall provide written notice of the duty  
363 to register to the person by personal service, by sending notice  
364 by registered mail to the person's last known address, or by  
365 both personal service and mail.

366 (d)(e) In addition to the certificate of registration, the  
367 department shall provide to each newly registered dealer an  
368 initial resale certificate that will be valid for the remainder  
369 of the period of issuance. The department shall provide each  
370 active dealer with an annual resale certificate. For purposes of  
371 this section, the term "active dealer" means a person who is  
372 currently registered with the department and who is required to  
373 file at least once during each applicable reporting period.

374 (e)(d) The department may revoke a ~~any~~ dealer's certificate  
375 of registration if ~~when~~ the dealer fails to comply with this  
376 chapter. Before ~~Prior to~~ revocation of a dealer's certificate of  
377 registration, the department must schedule an informal

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378 conference at which the dealer may present evidence regarding  
379 the department's intended revocation or enter into a compliance  
380 agreement with the department. The department must notify the  
381 dealer of its intended action and the time, place, and date of  
382 the scheduled informal conference by written notification sent  
383 by United States mail to the dealer's last known address of  
384 record furnished by the dealer on a form prescribed by the  
385 department. The dealer is required to attend the informal  
386 conference and present evidence refuting the department's  
387 intended revocation or enter into a compliance agreement with  
388 the department which resolves the dealer's failure to comply  
389 with this chapter. The department shall issue an administrative  
390 complaint under s. 120.60 if the dealer fails to attend the  
391 department's informal conference, fails to enter into a  
392 compliance agreement with the department resolving the dealer's  
393 noncompliance with this chapter, or fails to comply with the  
394 executed compliance agreement.

395 (f)~~(e)~~ As used in this paragraph, the term "exhibitor"  
396 means a person who enters into an agreement authorizing the  
397 display of tangible personal property or services at a  
398 convention or a trade show. The following provisions apply to  
399 the registration of exhibitors as dealers under this chapter:

- 400 1. An exhibitor whose agreement prohibits the sale of  
401 tangible personal property or services subject to the tax  
402 imposed in this chapter is not required to register as a dealer.
- 403 2. An exhibitor whose agreement provides for the sale at  
404 wholesale only of tangible personal property or services subject  
405 to the tax imposed under ~~in~~ this chapter must obtain a resale  
406 certificate from the purchasing dealer but is not required to



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407 register as a dealer.

408 3. An exhibitor whose agreement authorizes the retail sale  
409 of tangible personal property or services subject to the tax  
410 imposed under ~~in~~ this chapter must register as a dealer and  
411 collect the tax ~~imposed under this chapter~~ on such sales.

412 4. An ~~Any~~ exhibitor who makes a mail order sale pursuant to  
413 s. 212.0596 must register as a dealer.

414

415 A ~~Any~~ person who conducts a convention or a trade show must make  
416 his or her ~~their~~ exhibitor's agreements available to the  
417 department for inspection and copying.

418 Section 6. Operating retroactively to July 1, 2010,  
419 subsection (5) of section 213.13, Florida Statutes, is amended  
420 to read:

421 213.13 Electronic remittance and distribution of funds  
422 collected by clerks of the court.—

423 (5) All court-related collections, including fees, fines,  
424 reimbursements, court costs, and other court-related funds that  
425 the clerks must remit to the state pursuant to law, must be  
426 transmitted electronically by the 10th ~~20th~~ day of the month  
427 immediately following the month in which the funds are  
428 collected.

429 Section 7. Paragraph (a) of subsection (2) of section  
430 213.21, Florida Statutes, is amended to read:

431 213.21 Informal conferences; compromises.—

432 (2)(a) The executive director of the department or his or  
433 her designee is authorized to enter into closing agreements with  
434 any taxpayer settling or compromising the taxpayer's liability  
435 for any tax, interest, or penalty assessed under any of the

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436 chapters specified in s. 72.011(1). Such agreements must ~~shall~~  
 437 be in writing if ~~when~~ the amount of tax, penalty, or interest  
 438 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the  
 439 department deems it appropriate or if ~~when~~ requested by the  
 440 taxpayer. When a written closing agreement has been approved by  
 441 the department and signed by the executive director or his or  
 442 her designee and the taxpayer, it shall be final and conclusive;  
 443 and, except upon a showing of fraud or misrepresentation of  
 444 material fact or except as to adjustments pursuant to ss. 198.16  
 445 and 220.23, no additional assessment may be made by the  
 446 department against the taxpayer for the tax, interest, or  
 447 penalty specified in the closing agreement for the time period  
 448 specified in the closing agreement, and the taxpayer is ~~shall~~  
 449 not ~~be~~ entitled to institute any judicial or administrative  
 450 proceeding to recover any tax, interest, or penalty paid  
 451 pursuant to the closing agreement. The department is authorized  
 452 to delegate to the executive director the authority to approve  
 453 any such closing agreement resulting in a tax reduction of  
 454 \$500,000 ~~\$250,000~~ or less.

455 Section 8. Section 213.295, Florida Statutes, is created to  
 456 read:

457 213.295 Automated sales suppression devices.—

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

459 (a) "Automated sales suppression device" or "zapper" means  
 460 a software program that falsifies the electronic records of  
 461 electronic cash registers or other point-of-sale systems,  
 462 including, but not limited to, transaction data and transaction  
 463 reports. The term includes the software program, any device that  
 464 carries the software program, or an Internet link to the

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465 software program.

466 (b) "Electronic cash register" means a device that keeps a  
467 register or supporting documents through the use of an  
468 electronic device or computer system designed to record  
469 transaction data for the purpose of computing, compiling, or  
470 processing retail sales transaction data in whatever manner.

471 (c) "Phantom-ware" means a hidden programming option  
472 embedded in the operating system of an electronic cash register  
473 or hardwired into the electronic cash register which may be used  
474 to create a second set of records or eliminate or manipulate  
475 transaction records, which may or may not be preserved in  
476 digital formats, to represent the true or manipulated record of  
477 transactions in the electronic cash register.

478 (d) "Transaction data" includes items purchased by a  
479 customer; the price for each item; a taxability determination  
480 for each item; a segregated tax amount for each of the taxed  
481 items; the amount of cash or credit tendered; the net amount  
482 returned to the customer in change; the date and time of the  
483 purchase; the name, address, and identification number of the  
484 vendor; and the receipt or invoice number of the transaction.

485 (e) "Transaction report" means a report that documents, but  
486 is not limited to documenting, the sales, taxes, or fees  
487 collected, media totals, and discount voids at an electronic  
488 cash register which is printed on a cash register tape at the  
489 end of a day or a shift, or a report that documents every action  
490 at an electronic cash register and which is stored  
491 electronically.

492 (2) A person may not knowingly sell, purchase, install,  
493 transfer, possess, use, or access any automated sales

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494 suppression device, zapper, or phantom-ware.

495 (3) A person who violates this section:

496 (a) Commits a felony of the third degree, punishable as  
497 provided in s. 775.082, s. 775.083, or s. 775.084.

498 (b) Is liable for all taxes, fees, penalties, and interest  
499 due the state as a result of the use of an automated sales  
500 suppression device, zapper, or phantom-ware and shall forfeit to  
501 the state as an additional penalty all profits associated with  
502 the sale or use of an automated sales suppression device,  
503 zapper, or phantom-ware.

504 (4) An automated sales suppression device, zapper, phantom-  
505 ware, or any device containing such device or software is a  
506 contraband article under ss. 932.701-932.706, the Florida  
507 Contraband Forfeiture Act.

508 Section 9. Effective July 1, 2013, subsection (4) of  
509 section 322.142, Florida Statutes, is amended to read:

510 322.142 Color photographic or digital imaged licenses.—

511 (4) The department may maintain a film negative or print  
512 file. The department shall maintain a record of the digital  
513 image and signature of the licensees, together with other data  
514 required by the department for identification and retrieval.  
515 Reproductions from the file or digital record are exempt from  
516 ~~the provisions of~~ s. 119.07(1) and shall be made and issued only  
517 for departmental administrative purposes; for the issuance of  
518 duplicate licenses; in response to law enforcement agency  
519 requests; to the Department of Business and Professional  
520 Regulation pursuant to an interagency agreement for the purpose  
521 of accessing digital images for reproduction of licenses issued  
522 by the Department of Business and Professional Regulation; to

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523 the Department of State pursuant to an interagency agreement to  
524 facilitate determinations of eligibility of voter registration  
525 applicants and registered voters in accordance with ss. 98.045  
526 and 98.075; to the Department of Revenue pursuant to an  
527 interagency agreement for use in establishing paternity and  
528 establishing, modifying, or enforcing support obligations in  
529 Title IV-D cases; to the Department of Revenue for use in  
530 establishing positive identification for tax administration  
531 purposes; to the Department of Children and Family Services  
532 pursuant to an interagency agreement to conduct protective  
533 investigations under part III of chapter 39 and chapter 415; to  
534 the Department of Children and Family Services pursuant to an  
535 interagency agreement specifying the number of employees in each  
536 of that department's regions to be granted access to the records  
537 for use as verification of identity to expedite the  
538 determination of eligibility for public assistance and for use  
539 in public assistance fraud investigations; to the Department of  
540 Financial Services pursuant to an interagency agreement to  
541 facilitate the location of owners of unclaimed property, the  
542 validation of unclaimed property claims, and the identification  
543 of fraudulent or false claims; or to District medical examiners  
544 pursuant to an interagency agreement for the purpose of  
545 identifying a deceased individual, determining cause of death,  
546 and notifying next of kin of any investigations, including  
547 autopsies and other laboratory examinations, authorized in s.  
548 406.11 ~~s. 406.011~~.

549 Section 10. Paragraph (h) of subsection (3) of section  
550 443.131, Florida Statutes, is amended to read:  
551 443.131 Contributions.—

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552 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT  
553 EXPERIENCE.—

554 (h) *Additional conditions for variation from the standard*  
555 *rate.*—An employer's contribution rate may not be reduced below  
556 the standard rate under this section unless:

557 1. All contributions, reimbursements, interest, and  
558 penalties incurred by the employer for wages paid by him or her  
559 in all previous calendar quarters, except the 4 calendar  
560 quarters immediately preceding the calendar quarter or calendar  
561 year for which the benefit ratio is computed, are paid; ~~and~~

562 2. The employer has produced for inspection and copying all  
563 work records in his or her possession, custody, or control which  
564 were requested by the Department of Economic Opportunity or its  
565 tax collection service provider pursuant to s. 443.171(5); and

566 3.2. The employer entitled to a rate reduction must have at  
567 least one annual payroll as defined in subparagraph (b)1. unless  
568 the employer is eligible for additional credit under the Federal  
569 Unemployment Tax Act. If the Federal Unemployment Tax Act is  
570 amended or repealed in a manner affecting credit under the  
571 federal act, this section applies only to the extent that  
572 additional credit is allowed against the payment of the tax  
573 imposed by the ~~Federal Unemployment Tax~~ act.

574  
575 The tax collection service provider shall assign an earned  
576 contribution rate to an employer for ~~under subparagraph 1.~~ the  
577 quarter immediately after the quarter in which all  
578 contributions, reimbursements, interest, and penalties are paid  
579 in full and all work records requested pursuant to s. 443.171(5)  
580 have been produced for inspection and copying to the Department

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581 of Economic Opportunity or the tax collection service provider.

582 Section 11. Effective January 1, 2014, paragraph (a) of  
583 subsection (1) of section 443.141, Florida Statutes, is amended  
584 to read:

585 443.141 Collection of contributions and reimbursements.—

586 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
587 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

588 (a) *Interest.*—Contributions or reimbursements unpaid on the  
589 date due bear interest at the rate of 1 percent per month  
590 through December 31, 2013. Beginning January 1, 2014, the  
591 interest rate shall be calculated in accordance with s. 213.235,  
592 except that the rate of interest may not exceed 1 percent per  
593 month from and after the ~~that~~ date due until payment plus  
594 accrued interest is received by the tax collection service  
595 provider, unless the service provider finds that the employing  
596 unit has good reason for failing to pay the contributions or  
597 reimbursements when due. Interest collected under this  
598 subsection must be paid into the Special Employment Security  
599 Administration Trust Fund.

600 Section 12. Except as otherwise expressly provided in this  
601 act, this act shall take effect upon becoming a law.

**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 Appropriations Subcommittee on Finance and Tax

BILL: Proposed Draft Legislation

INTRODUCER: Appropriations Subcommittee on Finance and Tax

SUBJECT: Tax Administration

DATE: March 7, 2013                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Diez-Arguelles	AFT	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill contains changes in tax administration that were recommended by the Department of Revenue and approved by the Governor and Cabinet. It deletes an unneeded estate tax filing requirement; clarifies provisions pertaining to criminal penalties for failing to collect a tax or fee, making a false or fraudulent return, or failing to register with the department; clearly establishes the department’s authority to require security for certain individuals seeking to register new businesses; increases the authority of the department’s Executive Director to compromise taxes, bans the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and phantom-ware, and provides criminal penalties for these actions; allows department staff to verify the identity of business owners by using driver’s license photos; provides an incentive for businesses to comply with requests for records for audit purposes; and reduces the interest rate imposed on reemployment tax deficiencies.

Several sections of this bill have a positive but indeterminate impact on state revenue. Section 11, which reduces the interest rate charged on delinquent reemployment taxes, will reduce revenue to the Special Employment Security Administration Trust Fund by \$0.6 million in FY 2013-14 and by \$1.3 million on a recurring basis.

This bill substantially amends the following sections of the Florida Statutes: 198.13, 212.07, 212.12, 212.14, 212.18, 213.13, 213.21, 213.925, 322.142, 443.131, and 443.141.

**II. Present Situation:**

The department is responsible for ensuring that the taxes it administers are carried out in a fair and equitable manner. Each year the Executive Director seeks approval of proposed legislative



concepts by the Governor and Cabinet, in their role as the head of the department. The department proposes changes in tax administration laws to reduce the burden on taxpayers and to ensure that Florida's tax laws are applied in a consistent, cost-effective, and equitable manner.

(See section-by-section analysis below.)

### III. Effect of Proposed Changes:

#### Section 1

**Present Situation:** Ch. 198, F.S., imposes a tax on estates for the privilege of transferring property at death. The tax is limited to the amount allowable as a credit against federal estate tax for state death taxes paid. As a result of changes in federal law that eliminated the credit for state taxes, the Florida estate tax has not been applicable since 2008. On January 1, 2013, the federal Growth and Tax Relief Reconciliation Act of 2001 sunset provisions would have restored the Florida estate tax, but the passage of the American Taxpayer Relief Act in January 2013 preempted that outcome. Section 198.13, F.S., requires the estates of person who die after January 1, 2013 to file certain documents with the department which are unnecessary because of American Taxpayer Relief Act.

**Proposed change:** Section 198.13, F.S., is amended to remove filing requirements for estates of people who die on or after January 1, 2013. This section applies retroactively to January 1, 2013.

#### Sections 2, 3 and 5

**Present situation:** Sections 212.07, 212.12, and 212.18, F.S., contain redundant and potentially confusing language concerning criminal penalties.

**Proposed change:** The bill amends these sections to clarify the criminal penalties imposed on a person who:

- Willfully fails to collect a tax or fee.
- Makes a false or fraudulent return with a willful intent to evade payment of taxes or fees.
- Willfully fails to register after the department provides notice of the duty to register.

The bill creates no new penalties; the language is intended to clarify existing statutory penalties. These sections take effect upon becoming a law.

#### Section 4

**Present situation:** Section 212.14(4), F.S., authorizes the department to require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a sales tax dealer's registration. Despite this requirement, delinquent sales tax dealers are able to close down businesses with tax liabilities and to reopen under a new name, because the current provision does not clearly apply to all of the individuals who were responsible for prior delinquent tax accounts when they seek to register new businesses.

**Proposed change:** The bill revises s. 212.14(4), F.S., to authorize the department to require security for individuals who are responsible for prior delinquent accounts when they seek to register new businesses. This section takes effect July 1, 2013.

**Section 6**

**Present situation:** Ch. 2010-162, L.O.F., changed the remittance date for funds state collected by the Clerks of the Court from the 20th day to the 10th day of the month immediately after the month in which the funds are collected. Section 213.13, F.S., which governs the electronic remittance and distribution of funds by the Clerks of the Court, was not amended to conform to the change.

**Proposed change:** Section 213.13, F.S., is amended to conform to changes made by ch. 2010-162, L.O.F. This section takes effect upon becoming a law.

**Section 7**

**Present situation:** Section 213.21, F.S., allows the department's Executive Director to enter into an agreement with a taxpayer that compromises the taxpayer's liability if there is a "doubt as to liability" or "doubt as to collectability" of the tax assessed. The statute limits this compromise authority to a reduction of \$250,000 or less.

**Proposed change:**

The bill increases the Executive Director's authority to compromise taxes to a reduction of \$500,000 or less.

**Section 8**

**Present situation:** Automated sales suppression devices or "zappers" are software programs that falsify the records of electronic cash registers and other point-of-sale systems. These devices alter sales records to reduce the value of sales that are reported for tax purposes in order to evade state and federal taxes. In the case of sales tax, the use of these devices results in the theft of taxes that have been collected from a business's customers. While evading state taxes is illegal under current law, the sale, purchase, installation, use, or possession of the devices themselves is not illegal *per se*.

**Proposed change:** The bill creates s. 213.295, F.S., which makes an automated sales suppression device a contraband article under ss. 932.701-932.706, F.S., and makes it unlawful to willfully and knowingly sell, purchase, install, transfer, or possess in this state any automated sales suppression device, zapper, or phantom-ware. Any person convicted of violating this law is guilty of a third degree felony and is liable for all taxes, fees, penalties and interest due the state as a result of the use of the device and must forfeit to the state as an additional penalty all profits associated with the sale or use of the device. The bill provides definitions for "automated sales suppression device," "zapper," "electronic cash register," "phantom-ware," "transaction data," and "transaction report." This section takes effect upon becoming a law.

**Section 9**

**Present situation:** The department's staff does not have a way to verify the identity of business owners prior to visiting businesses during audits and cannot be sure that the person with whom they are working during field visits is the business owner. Under s. 322.142, F.S., the Department of Highway Safety and Motor Vehicles maintains a file of the digital image and signatures of drivers' license holders. These records may be shared with the department for child support enforcement purposes but not for other purposes.

**Proposed change:** The bill amends s. 322.142, F.S., to allow the department to use drivers' license images to establish positive identification for tax administration purposes. This section takes effect July 1, 2013.

#### **Section 10**

**Present situation:** Florida law provides a standard reemployment tax rate, and allows many businesses to receive a lower rate if they meet certain criteria, including being in compliance with the law. Section 443.131, F.S., lists the criteria necessary for a business to be in compliance, but it does not explicitly state that a taxpayer must comply with records requests during audits to qualify for the reduced tax rate.

**Proposed change:** Section 443.131, F.S., is amended to create an additional condition for receiving a lower-than-standard reemployment tax rate. The condition is that the employer has produced records requested by the Department of Economic Opportunity or the department for audit purposes. This section takes effect upon the bill becoming a law.

#### **Section 11**

**Present situation:** Reemployment compensation tax contributions or reimbursements that are unpaid on the due date bear an interest rate of 1 percent per month, an effective annual rate of 12 percent. Other taxes that are administered by the department have an interest rate of prime plus 4 percent, not to exceed an effective rate of 1 percent per month. The interest rate is adjusted twice yearly.

**Proposed change:** Section 443.141, F.S. is amended to change the interest rate imposed on reemployment compensation tax deficiencies to prime plus 4 percent, not to exceed 1 percent per month, beginning January 1, 2014. This is the rate applied to other taxes administered by the department.

**Section 12** provides that except as otherwise expressly provided, this act shall take effect shall take effect upon becoming a law.

#### **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 department anticipates that the following provisions of this bill will improve enforcement and collection of state tax laws:

- Banning the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and phantom-ware, and providing criminal penalties for these actions, should improve the department's ability to collect and enforce the sales tax statutes.
- Improved compliance with reemployment tax reporting is expected to improve the department's audit capability.

The Revenue Estimating Conference has determined that decreasing the interest rate on unpaid reemployment taxes will reduce state trust fund revenue by \$0.6 million in 2013-14 and by \$1.3 million on a recurring basis. Other provisions of the bill are expected to have an indeterminate positive impact on state and local revenue.

**B. Private Sector Impact:**

This bill:

- Relieves estates of people who die on or after January 1, 2013 from filing estate tax documents with the department;
- Authorizes the department to require additional persons to provide a cash deposit, bond, or other security as a condition of obtaining or retaining a sales and use tax dealer's certificate of registration;
- Increases the Executive Director's authority to compromise taxes;
- Prohibits the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and phantom-ware, and specifies criminal penalties for these actions;
- Provides that an employer may not qualify for a reduced reemployment tax rate unless the employer has produced all records that were requested by the department or the Department of Economic Opportunity; and
- Reduces the interest rate imposed on reemployment tax deficiencies.

**C. Government Sector Impact:**

The bill is expected to improve tax administration by banning the sale, purchase, installation, transfer, or possession of automated sales suppression devices, zappers, and phantom-ware, and providing criminal penalties for these actions; by providing a means by which department staff can verify the identity of business owners prior to visiting the business during audits; and by improving compliance with requests for information from employers for reemployment tax purposes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

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

None.

**B. Amendments:**

None.

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

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specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.<sup>2</sup> Available exemptions include homestead exemptions and exemptions for property used for education, religious, or charitable purposes.<sup>3</sup>

### **Homestead Exemption**

Every person who maintains his or her permanent residence<sup>4</sup> on property to which he or she holds legal and equitable title is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies, including school districts.<sup>5</sup> An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.<sup>6</sup>

### **Homestead Assessment Limitation: Save Our Homes**

In 1992, Florida voters approved an amendment to s. 4, Art. VII of the State Constitution which is popularly known as the Save Our Homes amendment. This amendment limited the increase in assessment of homestead property to the change in the Consumer Price Index or 3 percent, whichever is lower.

### **Changes Affecting Save Our Homes**

After any change in ownership, as provided by general law, homestead property must be assessed at just value as of January 1 of the following year. Changes, additions, reductions, and improvements to homestead property are assessed as provided by general law, but after the initial assessment, these items are subject to the Save Our Homes assessment limitation. If the homestead use of the property is terminated, the property is assessed at just value.

### **Loss of Homestead through Rental**

Section 196.061, F.S., provides guidance on homestead status, rentals of the homestead and its abandonment as follows:

- Rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes constitutes abandonment of the dwelling as a homestead.<sup>7</sup>
- Abandonment continues until the dwelling is physically occupied by the owner.

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<sup>2</sup> See s. 196.031, F.S.

<sup>3</sup> Fla. Const. Art. VII, ss. 3 and 6.

<sup>4</sup> Pursuant to s. 196.012(18), F.S., “permanent residence” means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. Intention to establish a permanent residence in Florida is a factual determination to be made, in the first instance, by the property appraiser.

<sup>5</sup> Fla. Const. Art. VII, s. 6.

<sup>6</sup> *Ibid.*

<sup>7</sup> Ch. 2012-193, s. 18, Laws of Fla., introduced the “all or substantially all of a” dwelling language. Owners sometimes rented the majority of a dwelling but retained possession of a closet or similar limited space in an effort to retain a homestead exemption.

- The abandonment of the homestead after January 1 of any year shall not affect the homestead exemption for tax purposes for that particular year so long as the property is not rented in two consecutive years.
- The provisions of s. 196.061, F.S., do not apply to a member of the Armed Forces of the United States whose service in such forces is the result of a mandatory obligation imposed by the federal Selective Service Act, or who volunteers for service as a member of the Armed Forces of the United States.

Florida courts have traditionally emphasized that a determination of homestead abandonment is made on a case-by-case basis.<sup>8</sup> In particular, courts conduct a factual inquiry as to whether the owner's rental activity constituted abandonment of the homestead.<sup>9</sup>

A 2010 Florida Bar Journal article summarized many of the issues related to homesteads and rentals.<sup>10</sup> The authors trace the historical understanding that property owners who rent their entire dwelling for long periods of time forfeit the homestead tax exemption.

The underlying rationale for the termination of homestead due to long-term rentals is that the owner's long-term rental activity, coupled with his or her implied absence from the property, signifies the owner's intent to reside elsewhere. Therefore, the owner's departure and residence elsewhere, coupled with the conversion of his or her home into a commercially oriented use (a rental), reveals an "intent" to abandon the homestead.<sup>11</sup>

The Bar Journal article continues on to contemplate an alternative rental circumstance:

By contrast, there are occasions when property owners do not intend to abandon their residence through rental. For example, numerous Floridians rent out their homes for short periods of time and may even remain on the premises during the course of these rentals.<sup>12</sup>

Examples of these types of short term rentals include those associated with annual sporting events, arts festivals, college graduations, or business-related symposiums and conventions.

### **Tax Liens Imposed for Persons Improperly Claiming a Homestead Exemption**

If a property appraiser determines that a person who was not entitled to a homestead exemption was granted the exemption for any year within the prior 10 years, the property appraiser is

<sup>8</sup> Mark A. Rothberg and Kara L. Cannizzaro, *The Loss of Homestead Through Rental*, The Florida Bar (January, 2010, Volume 84, No.1) available at <http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/c0d731e03de9828d852574580042ae7a/bd15816cc01b9b018525769b00679e0a!OpenDocument>.

<sup>9</sup> See generally *Poppell v. Padrick*, 117 So. 2d 435 (Fla. 2d DCA 1959); *Jacksonville v. Bailey*, 30 So. 2d 529 (Fla. 1947).

<sup>10</sup> Mark A. Rothberg and Kara L. Cannizzaro, *The Loss of Homestead Through Rental*, The Florida Bar Journal (January, 2010, Volume 84, No.1) available at <http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/c0d731e03de9828d852574580042ae7a/bd15816cc01b9b018525769b00679e0a!OpenDocument>.

<sup>11</sup> *Ibid.* Section 196.012(13), F.S., defines "real estate used and owned as a homestead" to mean real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion used for commercial purposes. Property rented for more than 6 months is presumed to be used for commercial purposes.

<sup>12</sup> *Ibid.*



required to serve a notice of tax lien against property owned by the person.<sup>13</sup> The tax lien subjects the property to back taxes, a penalty of 50 percent of the unpaid taxes for each year, plus 15 percent interest per year. However, if the exemption was granted as the result of a clerical error, the person receiving the exemption is not assessed penalties or interest. Before a lien is filed, the owner is given 30 days to pay the taxes, penalties, and interest.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 196.061, F.S., to allow the rental of homestead property for up to 30 days per calendar year without the property being considered abandoned or affecting the homestead status of the property. If the property is rented for more than 30 days for two consecutive years, the property is considered abandoned as a homestead.

Section 1 also reaffirms that sales tax is due on the rental of the property.

**Section 2** provides an effective date of July 1, 2013.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The Legislature may not enact, amend, or repeal a general law if the anticipated effect of doing so would be to reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989, except by a two-thirds vote of the membership of each chamber.<sup>15</sup> However, laws that have an “insignificant fiscal impact,” which for fiscal year 2012-13 is \$1.9 million, do not need a two-thirds vote.<sup>16</sup>

The Revenue Estimating Conference estimates that this bill will reduce local government property tax revenues by at least \$0.11 million annually. Since the bill is expected to reduce local revenues by less than \$1.9 million, a two-thirds vote is not required.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>13</sup> Section 196.161(1)(b), F.S.

<sup>14</sup> See s. 196.161(1)(b), F.S.

<sup>15</sup> Fla. Const. Art. VII, s. 18(b)

<sup>16</sup> Fla. Const. Art. VII, s. 18(d)

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

None.

**B. Private Sector Impact:**

Property owners who have a homestead exemption will be able to rent their dwellings for up to 30 days a year and retain the homestead status of their property and any applicable Save our Homes assessment limitation. As a result, an indeterminate number of additional short-term rental opportunities may become available to homestead owners who decide to rent their properties up to 30 days.

**C. Government Sector Impact:**

The Revenue Estimating Conference estimates that this bill will reduce local government property tax revenues by at least \$0.11 million annually.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS by Appropriations Subcommittee on Finance and Tax on March 13, 2013:**

- The CS reaffirms that sales tax is due on the rental of homestead property. Amendments:

**B. None.**



189360

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/14/2013	.	
	.	
	.	
	.	

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Appropriations Subcommittee on Finance and Tax (Margolis)  
recommended the following:

**Senate Amendment**

Delete line 22  
and insert:  
consecutive years. Any such rental is subject to the state sales  
tax. ~~The provisions of~~

By Senator Thrasher

6-00301C-13

2013342\_\_

1 A bill to be entitled  
 2 An act relating to the rental of homestead property;  
 3 amending s. 196.061, F.S.; revising criteria under  
 4 which rental of such property is allowed for tax  
 5 exemption purposes and not considered abandoned;  
 6 providing an effective date.

7  
 8 Be It Enacted by the Legislature of the State of Florida:

9  
 10 Section 1. Section 196.061, Florida Statutes, is amended to  
 11 read:

12 196.061 Rental of homestead to constitute abandonment.-

13 (1) The rental of all or substantially all of a dwelling  
 14 previously claimed to be a homestead for tax purposes shall  
 15 constitute the abandonment of such dwelling as a homestead, and  
 16 the abandonment continues ~~shall continue~~ until the ~~such~~ dwelling  
 17 is physically occupied by the owner. However, such abandonment  
 18 of the ~~such~~ homestead after January 1 of any year does not  
 19 affect the homestead exemption for tax purposes for that  
 20 particular year unless the property is rented for more than 30  
 21 days per calendar year if this provision is not used for 2  
 22 consecutive years. ~~The provisions of~~

23 (2) This section does ~~de~~ not apply to a member of the Armed  
 24 Forces of the United States whose service ~~in such forces~~ is the  
 25 result of a mandatory obligation imposed by the federal  
 26 Selective Service Act or who volunteers for service as a member  
 27 of the Armed Forces of the United States. Moreover, valid  
 28 military orders transferring such member are sufficient to  
 29 maintain permanent residence, for the purpose of s. 196.015, for

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

6-00301C-13

2013342\_\_

30 the member and his or her spouse.

31 Section 2. This act shall take effect July 1, 2013.

Page 2 of 2

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

**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 Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 354

INTRODUCER: Senator Thrasher

SUBJECT: Ad Valorem Tax Exemptions

DATE: March 13, 2013 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Favorable</b>
2.	Spaulding	Ryon	MS	<b>Favorable</b>
3.	Babin	Diez-Arguelles	AFT	<b>Fav/CS</b>
4.			AP	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |                                         |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 354 revises and clarifies Florida’s ad valorem tax exemption for government-owned property to address federal lands leased pursuant to the U.S. Military Housing Privatization Initiative of 1996. The tax exemption for government-owned property is amended to clarify that it includes leases of – and improvements to – land owned by the United States, various branches of United States Armed Forces and agencies of the federal government. The term “improvements” includes, but is not limited to, actual housing units and related facilities.

The Revenue Estimating Conference estimates that this bill will have an insignificant fiscal impact on local government revenues.

The bill substantially amends section 196.199, Florida Statutes (F.S.).

## II. Present Situation:

### Military Housing Privatization Initiative

The U.S. Military Housing Privatization Initiative (MHPI) was enacted as part of the National Defense Authorization Act for fiscal year 1996 in an effort to address the poor condition of Department of Defense (DOD) housing and the shortage of affordable private sector housing for military families.<sup>1</sup> At the beginning of the program, the DOD owned approximately 257,000 family housing units worldwide both on and off-base; more than 50 percent of the units were deemed to be in need of renovation or replacement.<sup>2</sup> Under the MHPI, the DOD works with the private sector to revitalize military family housing by employing a variety of financial tools including: direct loans, loan guarantees, equity investments, and conveyance or leasing of property or facilities.<sup>3</sup>

In standard MHPI projects, a branch of the United States Armed Forces enters into a long-term (fifty years) ground lease of the land under the housing areas with a private developer. Title to the housing units is conveyed to the developer by quitclaim deed. Within a time schedule set by contract, the developer rehabilitates or constructs a target level of housing units and is responsible for the leasing, management and maintenance of the units. At the end of the long-term ground lease, the federal government negotiates an extension of the lease or elects to acquire the improvements from the developer or its successor at no charge.

There are currently MHPI developments at the following military installations in Florida:

- Tyndall Air Force Base,
- MacDill Air Force Base,
- Patrick Air Force Base,
- Navy Southeast: Duval,
- Navy Southeast: Monroe,
- Navy Southeast: Duval(2),
- Navy Southeast: Escambia, and
- Navy Southeast: Santa Rosa.

### Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.<sup>4</sup> However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.<sup>5</sup>

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<sup>1</sup> National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, § 2801, *et. seq.* (1996).

<sup>2</sup> The Office of the Deputy Undersecretary of Defense Installations and Environment, *Military Housing Privatization*, available at <http://www.acq.osd.mil/housing/overview.htm> (last visited March 07, 2013).

<sup>3</sup> *Id.*

<sup>4</sup> Fla. Const. Art. VII, s. 4.

<sup>5</sup> See s. 196.031, F.S.

## **Government Property Exemption in Florida**

Florida law generally exempts government property from ad valorem taxation.<sup>6</sup> Subject to certain conditions, property of the United States, State of Florida and political subdivisions and municipalities of the state are exempt from ad valorem taxation.

Governmental property is sometimes leased to private parties. When government property is leased to a private party, the resulting “governmental leasehold” is subject to tax as “intangible personal property.”<sup>7</sup>

## **Taxation of Federal Property**

Generally, the federal government and property owned by the federal government are immune from state and local taxation.<sup>8</sup> The federal government’s immunity from taxation extends to its agents and its instrumentalities.<sup>9</sup> Congress has the exclusive authority to determine whether and to what extent its instrumentalities are immune from state and local taxes.<sup>10</sup>

Congress has waived federal immunity for ad valorem taxation of some leasehold interests on federal lands.<sup>11</sup> However, the MHPI expressly provides that this waiver of immunity does not apply to MHPI leases or conveyances.<sup>12</sup>

## ***Southeast Housing LLC v. Borglum* in Monroe County**

The eight MHPI projects in Florida have not been subject to ad valorem tax until recently. In 2012, the Monroe County property appraiser determined that the project at Naval Air Station Key West was not immune or exempt from ad valorem taxation retroactive to 2008. Litigation is pending over that issue.<sup>13</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 196.199, F.S., to revise the definition of “property of the United States” for the purposes of an exemption from ad valorem taxation. The revised definition includes any leasehold interest of and improvements affixed to land owned by the United States, any branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States. The exemption applies if the leasehold interest and improvements are acquired or constructed and used to provide housing pursuant to the MHPI. “Improvements,” as used in the

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<sup>6</sup> See s. 196.199, F.S.

<sup>7</sup> See s. 196.199(2)(b), F.S. Section 192.001 (11)(b), F.S., defines “intangible personal property” as money, all evidences of debt owed to the taxpayer, all evidences of ownership in a corporation or other business organization having multiple owners, and all other forms of property where value is based upon that which the property represents rather than its own intrinsic value.

<sup>8</sup> *McCullough v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819).

<sup>9</sup> *Kern-Limerick, Inc. v. Scurlock*, 347 U.S. 110 (1954).

<sup>10</sup> *Maricopa County v. Valley Bank*, 318 U.S. 357 (1943).

<sup>11</sup> See Title 10 U.S.C. § 2667

<sup>12</sup> Title 10 U.S.C. § 2878(e)(1). In addition, sections 2781-2885 of the MHPI generally repealed prior Congressional consent to ad valorem state taxation.

<sup>13</sup> See *Southeast Housing LLC, v. Borglum*, No. 2012-CA-000831-K (Fla. 16th Cir. Ct. 2012).

exemption, include, but is not limited to, “actual housing units and any facilities that are directly related to such housing units, including any housing maintenance facilities, housing rental and management offices, parks and community centers, and recreational facilities.” Under the bill, any such leasehold interest or improvement is to be construed as owned by the United States without the necessity of an exemption application being filed or approved by the property appraiser.

The CS provides that the changes made by the bill do not apply to a transient public lodging establishment as that term is defined in s. 509.013, F.S. Transient public lodging establishments generally are places rented to guests more than 3 times per year for periods less than 30 days or held out to the public as a place regularly rented to guests.

**Section 2** provides for an effective date of upon becoming law and that applies retroactively to January 1, 2007.

#### **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:

None.

B. Private Sector Impact:

Private entities operating housing facilities pursuant to the MHPI will have certainty as to the ad valorem tax liabilities associated with United States property.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) has determined that this bill will have an insignificant fiscal impact on local government revenues.<sup>14</sup>

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<sup>14</sup> Revenue Estimating Conference, *Military Housing Ad Valorem Tax HB531/SB354* (Feb. 04, 2013) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page11-13.pdf>. According to the REC, the total amount in dispute in the Monroe County litigation is \$11.5 million including penalty and interest. The 2012 value of the property in question is \$167,851,781.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Revenue asserts that the federal government has equitable ownership of the improvements constructed pursuant to the MHPI, and therefore, such improvements are not taxable under the current law; however, no Florida court has ruled on the taxability of MHPI projects under this state law principle.<sup>15</sup>

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**Recommended CS by Appropriations Subcommittee on Finance and Tax on March 13, 2013:**

- The CS provides the changes made by the bill do not apply to transient public lodging establishments.

- B. **Amendments:**

None.

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

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<sup>15</sup> Florida Department of Revenue, Senate Bill 354 Analysis (Feb. 7, 2013) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=504> Also see *Leon County Education Facilities Authority v. Hartsfield*, 698 So.2d 526 (Fla. 1997); *First Union National Bank of Florida v. Ford*, 636 So.2d 523 (Fla. 5<sup>th</sup> DCA 1993).



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/14/2013	.	
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Appropriations Subcommittee on Finance and Tax (Gardiner)  
recommended the following:

**Senate Amendment**

Delete line 48  
and insert:  
filed or approved by the property appraiser. This subparagraph  
does not apply to a transient public lodging establishment as  
that term is defined in s. 509.013.

By Senator Thrasher

6-00543B-13

2013354

A bill to be entitled

An act relating to ad valorem tax exemptions; amending s. 196.199, F.S.; providing that certain leasehold interests and improvements to land owned by the United States, a branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States are exempt from ad valorem taxation under specified circumstances; providing that such leasehold interests and improvements are entitled to an exemption from ad valorem taxation without an application being filed for the exemption or the property appraiser approving the exemption; providing for retroactive application; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 196.199, Florida Statutes, is amended to read:

196.199 Government property exemption.—

(1) Property owned and used by the following governmental units shall be exempt from taxation under the following conditions:

(a) 1. All property of the United States ~~is shall be~~ exempt from ad valorem taxation, except such property as is subject to tax by this state or any political subdivision thereof or any municipality under any law of the United States.

2. Notwithstanding any other provision of law, for purposes of the exemption from ad valorem taxation provided in

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

6-00543B-13

2013354

subparagraph 1., property of the United States includes any leasehold interest of and improvements affixed to land owned by the United States, any branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States if the leasehold interest and improvements are acquired or constructed and used pursuant to the federal Military Housing Privatization Initiative of 1996, 10 U.S.C. ss. 2871 et seq. As used in this subparagraph, the term "improvements" includes, but is not limited to, actual housing units and any facilities that are directly related to such housing units, including any housing maintenance facilities, housing rental and management offices, parks and community centers, and recreational facilities. Any leasehold interest and improvements described in this subparagraph shall be construed as being owned by the United States, the applicable branch of the United States Armed Forces, or the applicable agency or quasi-governmental agency of the United States and are exempt from ad valorem taxation without the necessity of an application for exemption being filed or approved by the property appraiser.

Section 2. This act shall take effect upon becoming a law and shall apply retroactively to January 1, 2007.

Page 2 of 2

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

**APPROPRIATIONS SUBCOMMITTEE ON  
FINANCE AND TAX  
COMMITTEE MEETING  
MARCH 13, 2013**

**REVIEW OF SELECTED ECONOMIC DEVELOPMENT  
TAX INCENTIVES**

# REVIEW OF SELECTED ECONOMIC DEVELOPMENT TAX INCENTIVES

<b>1. INTERNATIONAL BANKING FACILITY INCOME DEDUCTION ADDITIONAL INFORMATION</b>	<b>PAGE 1</b>
<b>2. SINGLE SALES FACTOR APPORTIONMENT ADDITIONAL INFORMATION</b>	<b>PAGE 3</b>
<b>3. RESEARCH &amp; DEVELOPMENT TAX CREDIT</b>	<b>PAGE 5</b>
<b>4. CAPITAL INVESTMENT TAX CREDIT ADDITIONAL INFORMATION</b>	<b>PAGE 6</b>
<b>5. NEW MARKETS TAX CREDIT ADDITIONAL INFORMATION</b>	<b>PAGE 10</b>
<b>6. URBAN HIGH-CRIME AREA JOB TAX CREDIT ADDITIONAL INFORMATION</b>	<b>PAGE 13</b>
<b>7. RURAL JOB TAX CREDIT ADDITIONAL INFORMATION</b>	<b>PAGE 20</b>
<b>8. FLORIDA BROWNFIELDS REDEVELOPMENT ACT ADDITIONAL INFORMATION</b>	<b>PAGE 24</b>
<b>9. FLORIDA EMPLOYEES' SALARY INSURANCE PREMIUM TAX CREDIT ADDITIONAL INFORMATION</b>	<b>PAGE 32</b>
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<b>15. INCENTIVES FOR SPACE ACTIVITIES</b>	<b>PAGE 57</b>

# **INTERNATIONAL BANKING FACILITY INCOME DEDUCTION**

Section 220.63(5), F.S.

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## **INCENTIVE:**

- Income from international banking activities is not subject to Florida Corporate Income Tax.
- Although the statute is more detailed, qualifying income generally includes income derived from:
  - loans to foreign persons,
  - deposits with foreign banks or other international banking facilities; and
  - foreign exchange trading or hedging transactions.

## **PURPOSE:**

- To encourage banks that engage in international banking activities to locate their physical facilities in Florida.
- Note: At the time this deduction was adopted, federal banking laws were such that Florida's deduction was restricted to Florida banks that had international banking facilities. Because of changes to federal law, a bank paying tax in Florida can take advantage of the deduction even if the international banking facility is located in another state.

## **QUALIFYING REQUIREMENTS:**

- The deduction applies only to income from international banking activities. International banking accounts must be segregated from other banking organization accounts.

## **APPROVAL / OVERSIGHT / LIMITATIONS:**

- No prior approval necessary.
- DOR reviews deductions through its normal auditing procedures.

## **SIGNIFICANT HISTORY:**

- 1981 – Created.
- 1994 – Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 allowed interstate branch banking throughout the U.S., except in states that passed laws to prohibit it.

## **FISCAL IMPACT:**

- \$10.8 Million per year

**ADDITIONAL INFORMATION:**

- The international banking facility deduction was created during an expansion of U.S. banks into international banking, apparently pursuant to increased authority granted by the federal Edge Act of 1919. See 12 U.S.C. ss. 611-631.
- The initial intent of the federal authority was directed at U.S. banks being permitted to conduct more activities outside of the U.S.
- U.S. banks taking advantage of this authority had discretion in choosing the location of their facilities for managing these accounts. Florida's deduction was created in an apparent attempt to have these facilities located in Florida.

## **SINGLE SALES FACTOR APPORTIONMENT**

Sections 220.153, F.S.

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### **INCENTIVE:**

- Allows a multi-state corporation to use single sales factor apportionment to determine its Florida corporate taxable income.
- Typically, Florida uses a 3-factor formula to determine taxable income. The use of a single sales factor apportionment formula benefits corporations with a large percentage of sales to out-of-state customers.

### **PURPOSE:**

- To encourage capital investment in Florida.

### **SIGNIFICANT HISTORY:**

- 2011 – created.

### **QUALIFYING REQUIREMENTS:**

- The company must declare a 2-year period for measuring its capital investment in Florida, and then within that 2-year period invest at least \$250 million into Florida real property, fixtures, and equipment.
- Expenditures to acquire an existing business and expenditures in excess of \$125 million for land or buildings do not qualify.
- There is no requirement that the company demonstrate that the incentive caused it to make the investment in Florida.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- DEO reviews and approves the qualifying capital expenditures.
- DOR oversees the use of apportionment factors through its normal auditing procedures.
- The first year during which single sales factor appointment could be used is a taxable year beginning on or after January 1, 2013.

### **FISCAL IMPACT:**

- \$7.6 Million, beginning in 2013-2014, as originally estimated by the Revenue Estimating Conference in 2011.
- To date, 5 companies have filed notices of intent to begin their 2-year measurement period. One of the 5 companies has completed its \$250 million investment.



**ADDITIONAL INFORMATION:**

<b>Program Participants</b>	
<b>1</b>	CSX
<b>2</b>	Publix
<b>3</b>	NextEra Energy
<b>4</b>	Mosaic
<b>5</b>	(Confidential due to nature of project)

## **RESEARCH & DEVELOPMENT TAX CREDIT**

Section 220.196, F.S.

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### **INCENTIVE:**

- Provides a credit against Corporate Income Tax for increasing research and development expenses in Florida. The credit is equal to 10 percent of the annual increase. Florida's credit is based on a similar federal credit.

### **PURPOSE:**

- To encourage research and development activities within Florida.

### **QUALIFYING REQUIREMENTS:**

- Companies must increase their qualifying research expenses in Florida over their average qualifying research expenses in Florida during the 4 immediately preceding years.
- The company must qualify for and receive the federal research and development credit.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- No prior approval necessary.
- Department of Revenue oversees through its normal auditing procedures.
- For companies that have not existed for 4 years, the credit amount is reduced 25 percent for each year that the business did not exist.
- Total credits may not exceed \$9 million per calendar year.

### **SIGNIFICANT HISTORY:**

- 2011 – created.

### **FISCAL IMPACT:**

- \$9 Million per year, as originally estimated by the Revenue Estimating Conference in 2011.

## **CAPITAL INVESTMENT TAX CREDIT**

Section 220.191, F.S.

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### **INCENTIVE:**

- Corporate Income Tax credits and/or Insurance Premium Tax credits are provided to high-impact sector and qualified target industry companies, as well as corporate headquarters, if they invest significant capital (\$25 million or more) within Florida.
  
- High-impact sectors have evolved over time, but currently include:
  - Transportation Equipment (Aviation/Aerospace),
  - Silicon Technology,
  - Information Technology,
  - Life Sciences,
  - Financial Services,
  - Corporate Headquarters, and
  - Clean Energy.
  
- Qualified Target Industry business sectors include:
  - All High-impact sectors, and
  - Homeland Security and Defense.

### **PURPOSE:**

- To encourage qualifying companies to locate or expand physical facilities in Florida.

**QUALIFYING REQUIREMENTS:**

<b>CURRENT CAPITAL INVESTMENT TAX CREDIT QUALIFYING PROJECT TYPES</b>					
	<b>High-Impact Tier 1</b>	<b>High-Impact Tier 2</b>	<b>High-Impact Tier 3</b>	<b>Target Industry</b>	<b>Headquarters</b>
<b>Investment Required</b>	\$25 Million	\$50 Million	\$100 Million	\$100 Million	\$250 Million
<b>Taxes that the Credit can be Applied Against</b>	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax
<b>Jobs Requirement</b>	100 New Jobs	100 New Jobs	100 New Jobs	100 New, 900 New or Retained	1,500 New
<b>Annual Credit Amount</b>	5% of Eligible Costs	5% of Eligible Costs	5% of Eligible Costs	50% of increased tax liability arising out of the project	Lesser of \$15 million or 5% of Eligible Costs
<b>Annual Credit Limit</b>	50% of tax arising out of project	75% of tax arising out of project	100% of tax arising out of project	50% of increased tax liability arising out of project	\$15 million per year
<b>Credit Period</b>	20 years	20 Years	20 Years	5 years	20 years
<b>Credit Carryover</b>	None	None	Amounts not used within the 20-yr period can be taken between years 21 and 30	None	Annual unused amounts can be carried forward within the 20-yr period
<b>Disproportionately Affected County Waiver</b>	Between 7/1/11 and 6/30/14, the high impact sector requirement is waived for any business that relocates all or a portion of its out-of-state business to Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton or Wakulla County.			N/A	N/A
<b>Taxpayer Permitted to Transfer Credit?</b>	Generally no. However, if a project establishes a new solar panel manufacturing facility and generates at least 400 jobs within 6 months of commencing operations and pays those jobs at least \$50,000 average annual salary, it may transfer its permissible credit to another business.				

**APPROVAL / OVERSIGHT / LIMITATIONS:**

- Businesses must apply and have their projects pre-approved through DEO.
- After credit is awarded, DEO reviews businesses annually to ensure continuing requirements are satisfied.
- DOR oversees credit use through DOR's normal auditing procedures.
- Taxpayer is only permitted to offset the income generated from the qualifying project.
- Taxpayer can only offset a set percentage of its income from the qualifying project.
- Except for certain projects, unused credits expire at the end of each year.

**SIGNIFICANT HISTORY:**

- 1998 – Capital Investment Tax Credit (CITC) was created for high-impact sectors. High-impact sectors included Aviation/Aerospace, Automotive, and Silicon Technology. The credit only applied against Florida's Corporate Income Tax.
- 1999 – CITC was amended to allow the credit to apply to insurance premium tax.
- 1999 – DEO expanded high-impact sectors to include Information Technology.
- 2002 – DEO expanded high-impact sectors to include Life Sciences.
- 2003 – CITC was amended to temporarily allow financial services businesses to qualify for the CITC through June 30, 2004.
- 2004 – DEO expanded high-impact sectors to include Financial Services.
- 2005 – CITC was expanded to allow target industry businesses to qualify.
- 2006 – CITC was expanded to allow corporate headquarters to qualify.
- 2006 – DEO expanded high-impact sectors to include corporate headquarters.
- 2008 – CITC was amended to allow certain solar projects to transfer the credits.
- 2008 – DEO expanded high-impact sectors to include clean energy.
- 2011 – CITC was amended to allow certain tax credits to be used outside of the normal 20-year period following commencement of operations.
- 2011 – High-impact sector requirement was temporarily waived from 7/1/2011 through 6/30/2014, for Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, and Wakulla counties, due to the significant impacts from the Deepwater Horizon oil spill.

**FISCAL IMPACT:**

The following information is valid as of December 2012:

Number of Applicants recommended from Enterprise Florida, Inc.	24
Number of Applicants Certified by DEO to Participate	23
Amount of Credit Initially Certified	\$2.6 billion
Number of Projects Completed and Audited	5
Number of Completed Projects Taking Credit	5
Amount of Credit Taken	\$90.2 million
Amount of Credit Taken in 2011	\$5.6 million

**ADDITIONAL INFORMATION:**

<b>Active CITC Participants (as of March 3, 2013)</b>			
	<b>Company</b>	<b>Investment</b>	<b>Location</b>
<b>1</b>	Bellsouth Telecommunications, Inc.	\$127m	Statewide
<b>2</b>	Chase (dba Pricing, Billing & Commerce Solutions)	\$82.8m	Hillsborough
<b>3</b>	Chico's FAS, Inc.	unconfirmed	Lee
<b>4</b>	Chromalloy Castings	unconfirmed	Hillsborough
<b>5</b>	Cox Target Media	unconfirmed	Pinellas
<b>6</b>	Darden Restaurants, Inc.	\$150.1m	Orange
<b>7</b>	Embraer Aircraft Holdings	unconfirmed	Brevard
<b>8</b>	Harris Corporation.	unconfirmed	Brevard
<b>9</b>	Jabil Circuit, Inc.	unconfirmed	Pinellas
<b>10</b>	Lockheed Martin Astronautics	\$356m	Brevard
<b>11</b>	Lockheed Martin Missiles and Fire Control	unconfirmed	Orange
<b>12</b>	Nabi Biopharmaceuticals	unconfirmed	Broward
<b>13</b>	Nipro Diagnostics, Inc.	\$38.9m	Broward
<b>14</b>	Planar Energy Devices, Inc.	unconfirmed	Alachua
<b>15</b>	SAFT Industrial Battery Group	unconfirmed	Duval
<b>16</b>	T. Rowe Price Associates, Inc.	unconfirmed	Pasco
<b>17</b>	The Boeing Company	unconfirmed	Brevard
<b>18</b>	The Depository Trust & Clearing Corporation	\$35.7m	Hillsborough
<b>19</b>	UBS AG	unconfirmed	Dade
<b>20</b>	Verizon Corporate Resources Group, LLC	unconfirmed	Seminole

## **NEW MARKETS TAX CREDIT**

Sections 288.9916, F.S.

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### **INCENTIVE:**

- Corporate Income Tax credits or Insurance Premium Tax credits equal to 39 percent of qualified investments in Community Development Entities (CDEs). The CDEs use qualified investments to fund projects in low-income communities. Florida's program is related to a similar federal government program.

### **PURPOSE:**

- To encourage capital investment in low-income communities.

### **QUALIFYING REQUIREMENTS:**

- The investor must make a qualifying investment in a CDE.
- The CDE must be certified under the federal New Markets Tax Program.
- CDEs must use these funds to invest in qualifying businesses in low-income communities. These investments are typically made in the form of loans.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- DEO reviews projects and approves credit allocations.
- DOR reviews credit use through its normal auditing procedures.
- The 39 percent credit must be taken in portions spread over 5 taxable years.
- A qualifying business may not receive more than \$10 million in qualifying investments under the entire program.
- The total amount of annual credits that may be awarded to CDEs is \$33.6 million per state fiscal year, and the total amount of credits that may be awarded for all years of the program is \$163.8 million.
- The New Markets Development Program expires December 31, 2022.

### **SIGNIFICANT HISTORY:**

- 2000 -- The federal New Markets Tax Program was created by the Community Renewal Tax Relief Act.
- 2009 -- Florida created its New Markets Development Program, with an annual cap on credits of \$20 million, and a total program credit limit of \$97.5 million.
- 2012 -- The credit limits were raised to \$33.6 million per year and \$163.8 million for the life of the program, and some clarifying amendments were made.

**FISCAL IMPACT:**

- \$33.6 million per year; \$163.8 million over the life of the program.
- To date, \$163.8 million has been allocated.

**ADDITIONAL INFORMATION:**

<b>PARTICIPATING COMMUNITY DEVELOPMENT ENTITIES</b>	
<b>1</b>	Whitney New Market Fund, LLC
<b>2</b>	Urban Development Fund, LLC
<b>3</b>	Stonehenge Community Development, LLC
<b>4</b>	USBCDE Sub-CDE LXV, LLC
<b>5</b>	Enhanced Community Development, LLC
<b>6</b>	Advantage-BizCapital BIDCO I, LLC
<b>7</b>	Advantage- Southeast Community Development Fund V, LLC

<b>QUALIFIED LOW-INCOME COMMUNITY BUSINESSES RECEIVING INVESTMENTS</b>			
	<b>BUSINESS</b>	<b>LOCATION</b>	<b>USE OF INVESTMENT</b>
<b>1</b>	Cocoa Expo Sports	Cocoa	Construct Facility
<b>2</b>	Agri-Source Fuels, LLC	Dade City	Facility Expansion & Working Capital
<b>3</b>			
<b>4</b>			
<b>5</b>	Halifax Media Holdings & Halifax Media Acquisition	Daytona Beach	Media Acquisitions & Working Capital
<b>6</b>			
<b>7</b>	Contego Services Group, LLC	Fort Lauderdale	Working Capital
<b>8</b>	Patriot Risk Management	Fort Lauderdale	Employees
<b>9</b>	Harlem Heights	Fort Myers	Construct a Community Arts & Education Center
<b>10</b>	Coppert Art, LLC & Tropical Imports by Damar, LLC	Fort Pierce	Refinance & Working Capital
<b>11</b>	Prioria Robotics, Inc.	Gainesville	Working Capital for Contracts to provide UAVs
<b>12</b>			
<b>13</b>	Second Campbell Associates, LLC	Homestead	Create a Training Facility for a Restaurant Chain
<b>14</b>	Basic Products, LLC (Jerome Brown BBQ)	Jacksonville	Facility Renovations, New Equipment, Inventory & Working Capital
<b>15</b>	Litmark, Inc.	Jacksonville	Purchase Realty
<b>16</b>			
<b>17</b>	Lake Montessori by Weston, Inc.	Leesburg	Purchase Business & Working Capital
<b>18</b>	Advanced Footcare, Inc.	Miami	Purchase & Improve Realty
<b>19</b>	Sunburst Farms, Inc.	Miami	Corporate Headquarters & Warehouse Facilities



20	Summit Aerospace Holdings, LLC	Miami	Employees & Inventory
21	Aspira of Florida	Miami	Purchase & Renovate a Middle School
22	International Cruise Food and Hotel Supplies Inc.	Miami	Improve Operations
23			
24	Atlas Paper Mills, LLC	Miami	Refinance / Working Capital
25	University Plaza Properties, LLC	Miami	Construct Nursing Facility & Working Capital
26	Florida Trading Import & Export, Inc. (American Spice Trading Co., Inc.)	Miami	Refinance, New Equipment, Inventory & Working Capital
27	DCR Engineering Services, Inc.	Mulberry	Business Expansion & New Employees
28	ABC's of Learning and Growing, Inc.	North Lauderdale	Improve Operations
29			
30			
31	Okeechobee Funeral Home	Okeechobee	Purchase Realty
32	Orlando Telephone Company	Orlando	Operating Facility Investment
33	Harvill's Produce Company, Inc.	Orlando	Refinance and Improve Realty
34			
35	Orlando Historic Aloft Hotel	Orlando	Construct Facility
36	ESP Management of Florida, Inc.	Orlando	Refinance
37	Community Maritime Park Associates, Inc.	Pensacola	Construct Facility
38	BN Bio-Fuels, LLC	Riviera Beach	Construct a Bio-Fuel Facility
39	SunnyLand Solar, Inc.	Tallahassee	Construct Manufacturing Facility
40	Solar Distributors of America	Tallahassee	Construct commercial solar array, establish Headquarters & Working Capital
41	SolarSink, LLC	Tallahassee	Establish Manufacturing Facility
42	Manna Pro Products Florida	Tampa	Refinance & Working Capital
43	Glazer Children's Museum	Tampa	Finance Facility & Working Capital
44	Tampa Bay History Center	Tampa	Working Capital & Facility Improvements
45	Tampa Bay Arena, L.P.	Tampa	Facility Renovation
46	Drug Abuse Comprehensive Coordinating Office Properties, Inc.	Tampa	Construct Facility

## **URBAN HIGH-CRIME AREA JOB TAX CREDIT**

Sections 212.097 and 220.1895, F.S.

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### **INCENTIVE:**

- Provides a credit of \$500 to \$2,000 per qualified job against either Sales Tax or Corporate Income Tax for creating new jobs within designated urban areas nominated by local governments and qualified by the Department of Economic Opportunity as high-crime areas.

### **PURPOSE:**

- To encourage the creation of jobs in urban areas of Florida.<sup>1</sup>

### **QUALIFYING REQUIREMENTS:**

- “Qualified high-crime areas” were nominated by local governments and ranked by DEO based on:
  - Arrest rates for violent crimes and other crimes such as drug sales, drug possession, prostitution, vandalism, and civil disturbances
  - Reported crime volume and rate of specific property crimes
  - Percentage of reported index crimes that are violent in nature
  - Overall index crime volume for the area, and
  - Overall index crime rate for the geographic area
- Rankings are based on comparisons to other nominated areas, not to the community as a whole.
- Qualified high-crime areas are designated in 3 tiers, with tier one containing the highest crime areas. Available credits per job created are higher in higher-crime tiers.
- An area that has been designated as a federal Empowerment Zone is also considered a qualified high-crime area.
- Eligible businesses include sole proprietorships, firms, partnerships, and corporations predominantly engaged in:
  - Agriculture, forestry and fishing
  - Manufacturing
  - Retail
  - Public warehousing and storage
  - Hotels and other lodging places
  - Research and development
  - Motion picture production and allied services

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<sup>1</sup> *State of Florida Job Creation Plan*, pg. 34.

- Public golf courses
- Amusement parks
- Targeted industries eligible for the targeted industry business tax refund
- Call centers or similar customer service operations that service a multistate or international market
- A qualified employee must work for an eligible business at least 36 hours per week for at least 3 months.
- A new business with at least 10 employees in a tier one area is eligible for tax credits; tiers two and three require 20 and 30 new employees, respectively.
- An existing business within a tier one area must add at least 5 employees; existing businesses in tiers two and three must add 10 and 15 more employees, respectively.
- To be eligible for this credit, an existing business's number of eligible employees as of one year before the application date must be at least as great as the number of qualified employees on January 1, 2009, or on the application date on which a credit was based for any previous application.
- A new or existing business will receive an additional \$500 credit for any qualified employee who is a welfare transition program participant.

**APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Economic Opportunity must approve all applications for this credit.
- The maximum credit amount that may be approved during any calendar year is \$5 million, and \$1 million is reserved for tier-one areas.
- Up to 15 high-crime areas are authorized by Florida Statutes but only 13 applications were submitted by local governments. These areas have not changed since the program's original application period in 1998.
- A municipality, or a county and one or more municipalities together, may not nominate more than one high-crime area. This limitation does not apply to Miami-Dade County.
- The size of a designated area is limited to 20 square miles in a community having more than 150,000 persons, and in smaller communities the allowable size is smaller. The designated area may consist of up to 3 noncontiguous parcels.

**SIGNIFICANT HISTORY:**

- Created in 1997.
- In 2001 qualified target industry businesses and motion picture production and allied services were added to the list of eligible businesses.
- In 2012, dates for the reference period number of employees for existing businesses applying for the credit for a second time or more were changed so that when a business is applying for the second time or more, the number of qualified employees the business has at the time must be no lower than the number of qualified employees that the employer had on January 1, 2009, or on the date of its previous application for this credit. The change also allowed a business to reapply for credits that had been disallowed under the law as it existed at the time of application, but would have been allowed under the law as amended.

**FISCAL IMPACT:**

- 13 Urban High-Crime Areas have been designated by DEO based on nominations by local governments.
- \$2.5 m in credits were approved in 2012.
- \$21.9 m in credits have been approved since the program's inception.

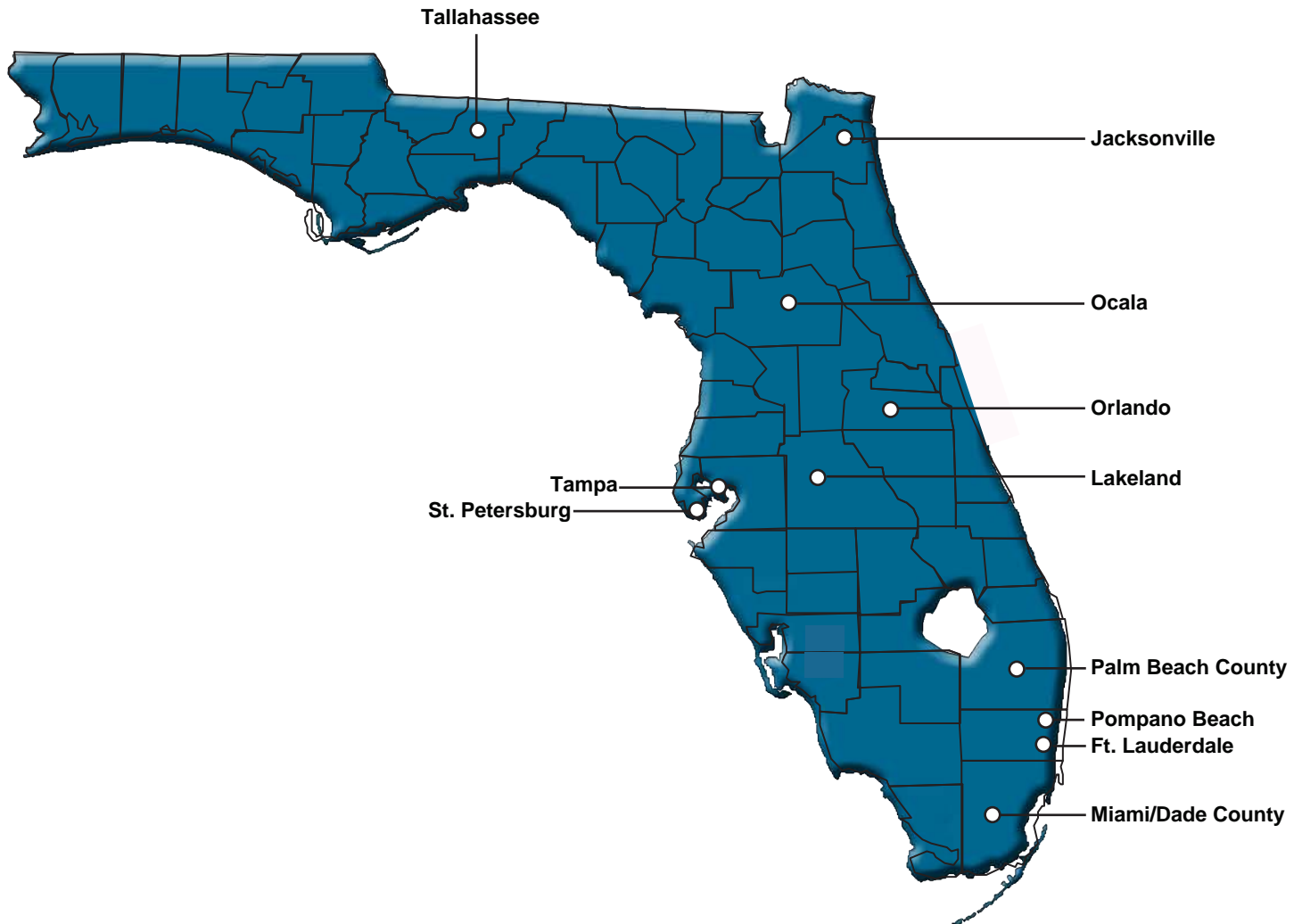
**ADDITIONAL INFORMATION:**

- Under this program the credit is based on the creation of new jobs; there is no ongoing obligation for the state to provide credits in the future. Job creation is measured over a 12-month period, and any change to the program could be crafted to allow any eligible business to receive credits for jobs created during its current 12-month measurement period.
- 46 percent (\$10.1 million) of the credits approved under this program have gone to hotel projects, and 2 companies—Universal City Development Partners, Ltd., and UCF Hotel Venture—have received 80 percent of those credits.
- Retail or distribution projects have received \$6.2 million in credits, and a handful of large businesses—Wal-Mart, Home Depot, Winn Dixie, Publix, Target, Lowes, and IKEA—account for \$5.6 million.
- Mail order fulfillment centers have received credits worth \$2.5 million.
- Auto dealers have received \$1 million in credits.
- Credits have been received by projects located in 11 Urban High Crime Areas, but 91 percent of credits have gone to 4 areas, namely, Orlando (48 percent), Miami-Dade (20 percent), Palm Beach (13 percent), and Jacksonville (11 percent).

- 76 percent of credits approved have gone to businesses that serve a predominantly local or regional market (retail and auto dealers) or could not easily locate elsewhere (hotels).

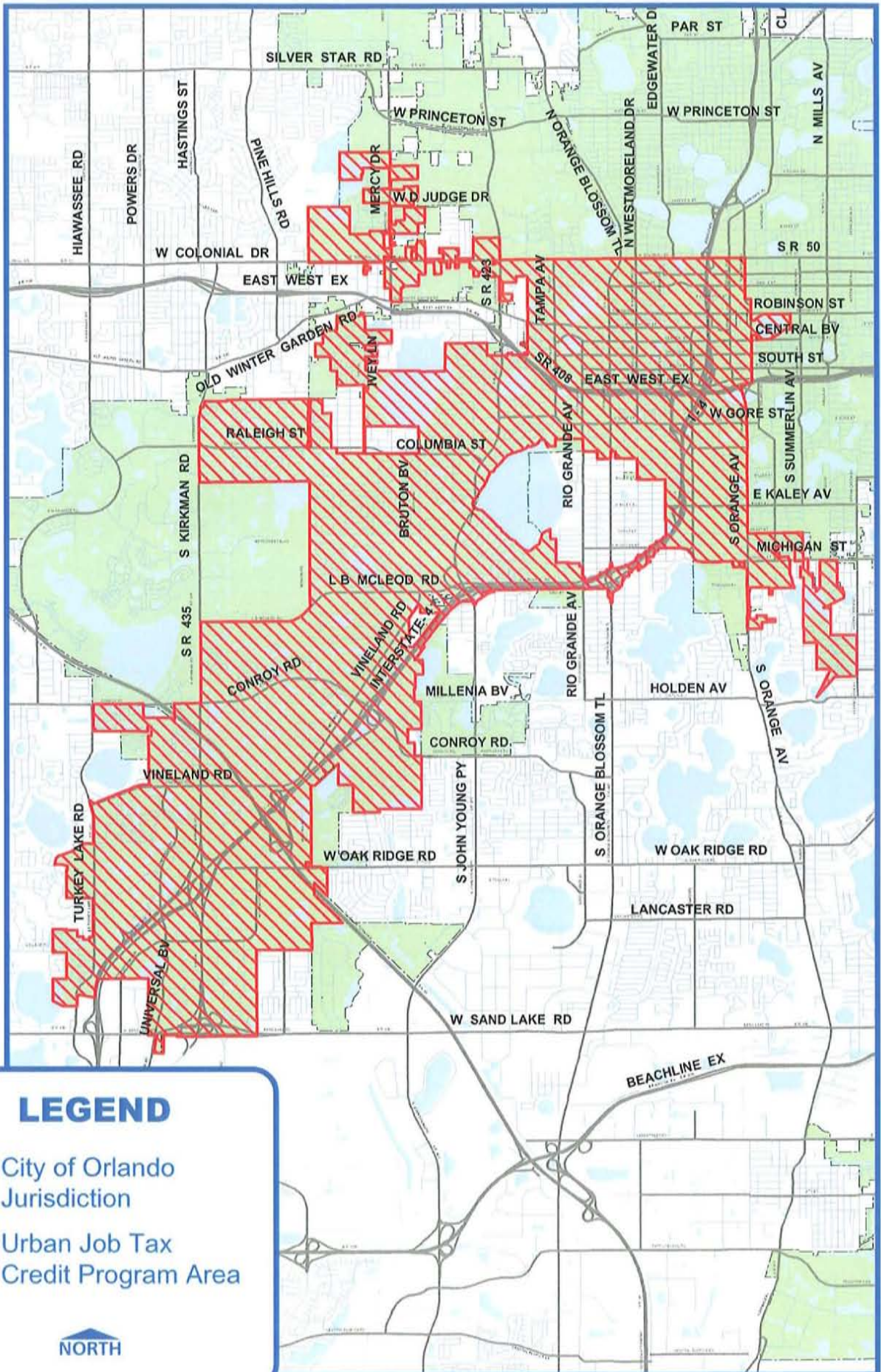
# FLORIDA URBAN JOB TAX CREDIT PROGRAM

Effective January 2013



**Florida Department of Economic Opportunity  
Division of Community Development  
107 East Madison Street; MSC 160  
Tallahassee, Florida 32399**

# Urban Job Tax Credit Program Area



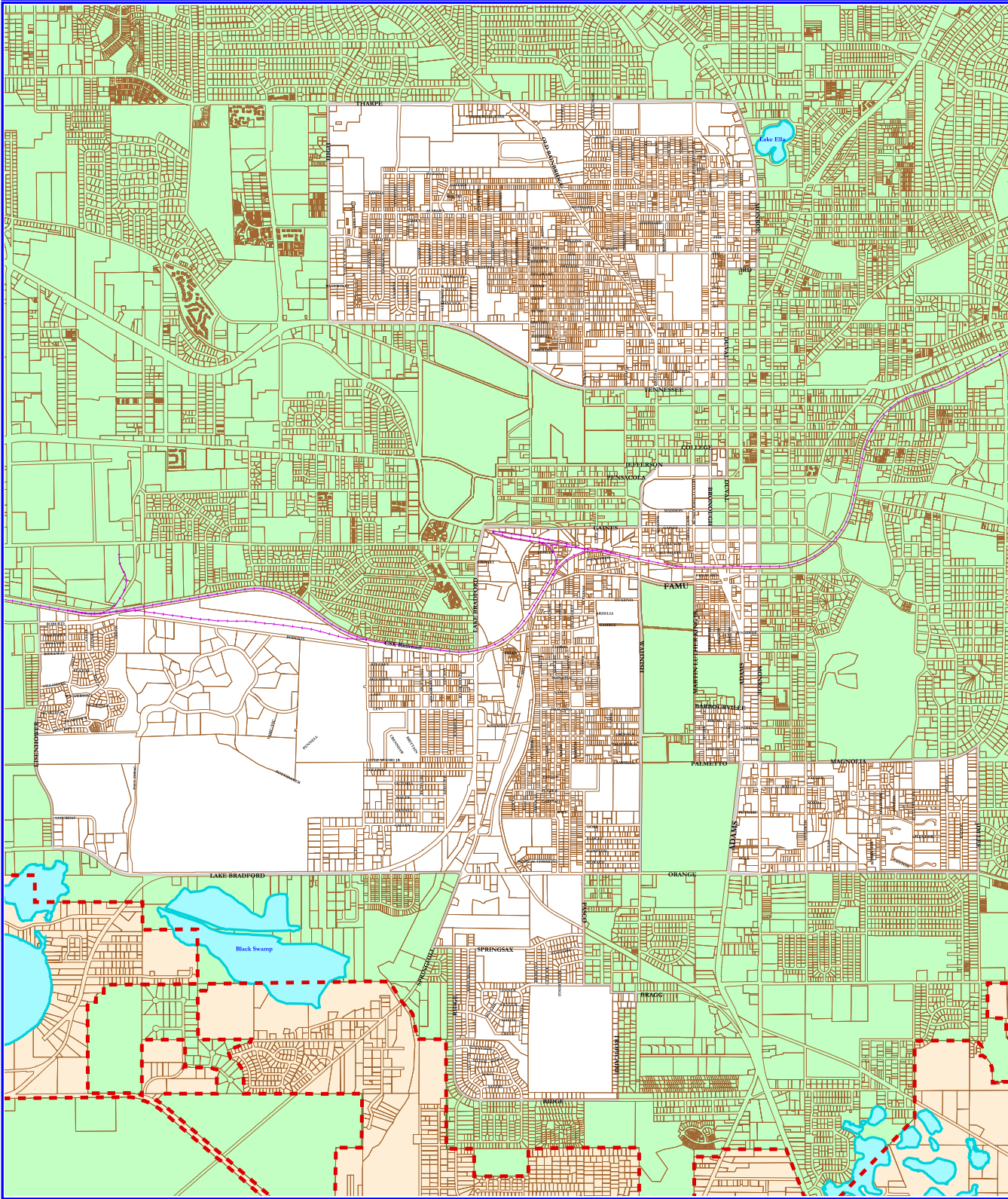
## LEGEND

-  City of Orlando Jurisdiction
-  Urban Job Tax Credit Program Area



# City of Tallahassee

## Urban Job Tax Credit Program Area



	City Limits
	Lakes
	Railroad
	Parcels
	UJTCP Area
	Tallahassee
	Leon County

1 0 1 2 Miles

1 0 1 2 3 Kilometers

19  
Map produced by Tallahassee-Leon County Planning Department - March 11, 2003



## **RURAL JOB TAX CREDIT**

Sections 212.098 and 220.1895, F.S.

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### **INCENTIVE:**

- Provides a credit of \$1,000 to \$1,500 per qualified job against either Sales Tax or Corporate Income Tax for creating new jobs in rural counties.

### **PURPOSE:**

- To encourage meaningful employment opportunities that will improve the quality of life of those employed and to encourage economic expansion of new and existing businesses in rural areas of Florida.<sup>2</sup>

### **QUALIFYING REQUIREMENTS:**

- A “Qualified Rural Area” is any area that is:
  - Within a Rural Area of Critical Economic concern;
  - A county with a population of fewer than 75,000; or
  - A county with a population of 125,000 or fewer that is contiguous to a county with a population of fewer than 75,000.
- Eligible businesses include sole proprietorships, firms, partnerships, and corporations predominantly engaged in:
  - Agriculture, forestry and fishing
  - Manufacturing
  - Public warehousing and storage
  - Hotels and other lodging places
  - Motion picture production and allied services
  - Public golf courses
  - Amusement parks
  - Targeted industries eligible for the targeted industry business tax refund
  - Call centers or similar customer service operations that service a multistate or international market
- A qualified employee must work for an eligible business at least 36 hours per week for at least 3 months.
- A new business with at least 10 employees is eligible for tax credits.
- An existing business with fewer than 50 employees must increase employment by at least 20 percent; and existing business with more than 50 employees must add at least 10 employees.

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<sup>2</sup> *State of Florida Job Creation Plan*, pg. 36.

- For existing businesses, the number of qualified employees required for the credit is measured against the number of qualified employees the business had one year prior to application for the credit.
- A new or existing business will receive an addition \$500 credit for any qualified employee who is a welfare transition program participant.

**APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Economic Opportunity must approve all applications for this credit.
- The maximum credit amount available to any one business in a single year is \$500,000.
- The maximum credit amount that may be approved during any calendar year is \$5 million.

**SIGNIFICANT HISTORY:**

- Created in 1997.
- In 2001 qualified target industry businesses and motion picture production and allied services were added to the list of eligible businesses, and total tax credits available to a business in any one calendar year were limited to \$500,000.

**FISCAL IMPACT:**

- 32 rural counties, 3 cities, and one rural area qualify for the program.
- \$0.2 m in credits were approved in 2012.
- \$4.5 m in credits have been approved since the program's inception.

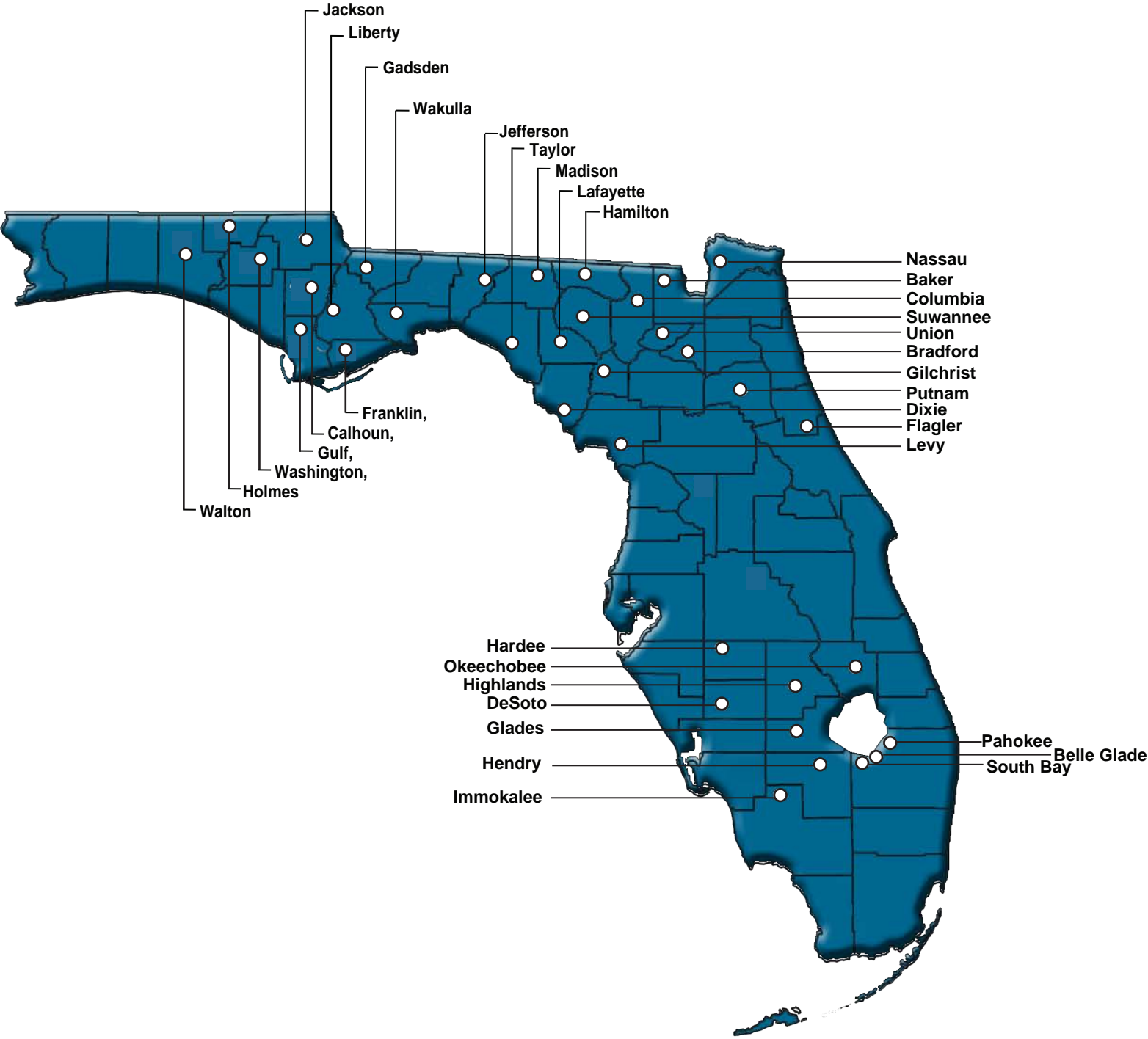
**ADDITIONAL INFORMATION:**

- Under this program the credit is based on the creation of new jobs; there is no ongoing obligation for the state to provide credits in the future. Job creation is measured over a 12 month period, and any change to the program could be crafted to allow any eligible business to receive credits for jobs created during its current 12-month measurement period.
- 64 applicants, representing 4,714 jobs, have been funded by this program since its inception.
- The largest single industry by number of projects is hospitality, with 24 projects and 915 jobs.
- The greatest number of credited jobs—1,490—was created in distribution centers for major retailers.
- Other industries that have received credits under this program are:
  - Food processing (980 jobs),
  - Manufacturing (420 jobs),

- Transportation and related services (332 jobs),
- Construction and construction materials (271 jobs),
- Business services (256 jobs), and
- Real estate development (31 jobs).
- Projects located in 20 counties have received credits under this program.

# FLORIDA RURAL JOB TAX CREDIT PROGRAM

Effective January 2013



**Florida Department of Economic Opportunity  
Division of Community Development  
107 East Madison Street; MSC 160  
Tallahassee, Florida 32399**

## FLORIDA BROWNFIELDS REDEVELOPMENT ACT

Sections 220.1845, 212.08(5)(o), 288.107, and 376.77-376.85, F.S.

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### INCENTIVE:

- Florida’s Brownfields Redevelopment Program offers 3 incentives for cleaning up and developing brownfield areas.
- **Voluntary Cleanup Tax Credits** are transferable corporate income tax credits for 50% of the cost of site rehabilitation, with an additional 25% credit when cleanup is complete. These credits are available to projects that are executed under a Brownfield Site Rehabilitation agreement with DEP, and are limited to \$500,000 per project per year and \$5 million annually.
- **Building Materials Sales Tax Refunds** are available in brownfield areas for construction of housing projects that set aside at least 20% of the units for low-income and moderate income persons, or mixed-use projects that set aside at least 20% of the square footage for housing reserved for low-income and moderate-income persons.
- **Brownfield Redevelopment Bonus Refund**, a tax refund of up to \$2,500 for each new job created by a pre-approved business in a brownfield area. The business must create at least 10 new jobs and satisfy other criteria, and the total amount of money available for refunds for a given year is subject to appropriation.

### PURPOSE:

- To encourage cleanup and development of sites that are “abandoned, idled, or underused properties where expansion or redevelopment is complicated by actual or perceived environmental contamination.”<sup>3</sup>
- The program provides incentives to rehabilitate contaminated sites, and develop “brownfield areas” which are contiguous areas of one or more brownfield sites, **some of which may not be contaminated**. A brownfield site is real property, the expansion, redevelopment, or reuse of which may be complicated by actual **or perceived** environmental contamination. There are no objective criteria for designating brownfield sites or brownfield areas.

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<sup>3</sup> Office of Program Policy Analysis and Government Accountability Report No. 11-15, “Over 600 Brownfield Acres Cleaned Up; Businesses Tax Advantage of Program Incentives,” p. 1.

**QUALIFYING REQUIREMENTS:**

- A local government may designate a brownfield area by resolution.
- Voluntary Cleanup Tax Credits are 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation in the previous year. An additional 25 percent of total cleanup costs is available in the final year of cleanup. This credit is also available for cleanup of a drycleaning-solvent contaminated site.
- Building materials sales tax refunds are available for housing projects and mixed use projects in brownfield areas if at least 20 percent of the project is set aside for low-income and moderate-income persons.
- Brownfield Redevelopment Bonus Refund, a tax refund of up to \$2,500 for each new job created by a pre-approved business in a brownfield area, is limited to a qualified target industry business, or a business that provides benefits to its employees and that can demonstrate a fixed capital investment of at least \$2 million in mixed-use business activities or at least \$500,000 in brownfield areas that do not require site cleanup. At least 10 new full-time permanent jobs must be created, and the actual amount of the refund is 20 percent of the average annual wage for the jobs created.

**APPROVAL / OVERSIGHT / LIMITATIONS:**

- Voluntary Cleanup Tax Credits require a Site Rehabilitation Agreement between the responsible party and either the Department of Environmental Protection (DEP) or a county with authorized program authority and DEP must authorize the credits.
- Voluntary Cleanup Tax Credits for any project are limited to \$500,000 per year, and the total amount of tax credits that may be granted under this program is limited to \$5 million annually. As of June 30, 2012, there was a backlog for unissued credits of \$13.6 million.
- The Department of Revenue also oversees these tax credits and building materials sales tax refunds through its normal auditing procedures.
- Brownfield Redevelopment Bonus Refunds require a recommendation by resolution of the governing board of the county or municipality that certain types of businesses be approved by the Department of Economic Opportunity.
- The total amount of bonus refunds approved in any fiscal year is limited by the amount appropriated to the Economic Development Incentives Account for this purpose.

**SIGNIFICANT HISTORY:**

- Created in 1997 as a voluntary program in which a local government may designate a brownfield area by resolution.

- In 2000 additional types of businesses were made eligible for the Brownfield Redevelopment Bonus Refund, and in 2009 the minimum investment required to qualify for the bonus refund was reduced for investments in brownfield areas that do not require site cleanup.
- In 2011 the annual authorization for the Voluntary Cleanup Tax Credit was increased from \$2 million to \$5 million.

#### **FISCAL IMPACT:**

- As of June 30, 2012, brownfield areas have been designated in 43 counties. There are 312 designated areas covering 226,948 acres.
- The extent of property subject to cleanup is much smaller--167 brownfield site rehabilitation agreements have been executed covering 3,642 acres. This equals 1.6% of total brownfield areas.
- Rehabilitation has been completed on 54 sites, totaling 812 acres, or 22% of the area covered by rehabilitation agreements.
- Voluntary Cleanup Tax Credits--\$5 million annually, \$20.5 million credits issued since program began through FY 2011-12. As of June 30, 2012, there was a backlog for unissued credits of \$13.6 million.
- Building Materials Sales Tax Refunds— \$1.2 m in FY 2011-12, \$7.0 m since FY 2005-06.
- Brownfield Redevelopment Bonus Refund--\$8.0 m through FY 2011-12.

#### **ADDITIONAL INFORMATION:**

- Maps of all brownfield sites and areas can be viewed on the DEP website: <http://ca.dep.state.fl.us/mapdirect/?focus=brnfls>
- Some local governments have designated brownfield areas that are far larger than actual brownfield sites; others have limited the brownfield area designations.
- There are advantages to expansive brownfield areas because it is easier to initiate a site rehabilitation agreement for voluntary cleanup in a designated brownfield area.
- The Legislature could limit Brownfield Redevelopment Bonus Refunds and building materials sales tax refunds to actual brownfield sites and locations within a limited distance of these sites.
- The attached maps show where brownfield areas are located in the state and details of brownfield areas and sites in parts of Miami-Dade County and the cities of Orlando and Tampa.

- 42 projects have been **approved** for Brownfield Redevelopment Bonus incentive payments worth \$12.8 million (\$1 million was for a project that was subsequently terminated).<sup>4</sup>
- 15 projects have **received** Brownfield Redevelopment Bonus incentive payments of \$2.2 million.
- The single largest business type to receive bonus incentives is retail, with 16 projects. Other recipients include manufacturing (10 projects), wholesale distributors (4 projects), restaurants (3 projects), hotels and call centers (2 projects each), and recycling and smelting (1 project each).

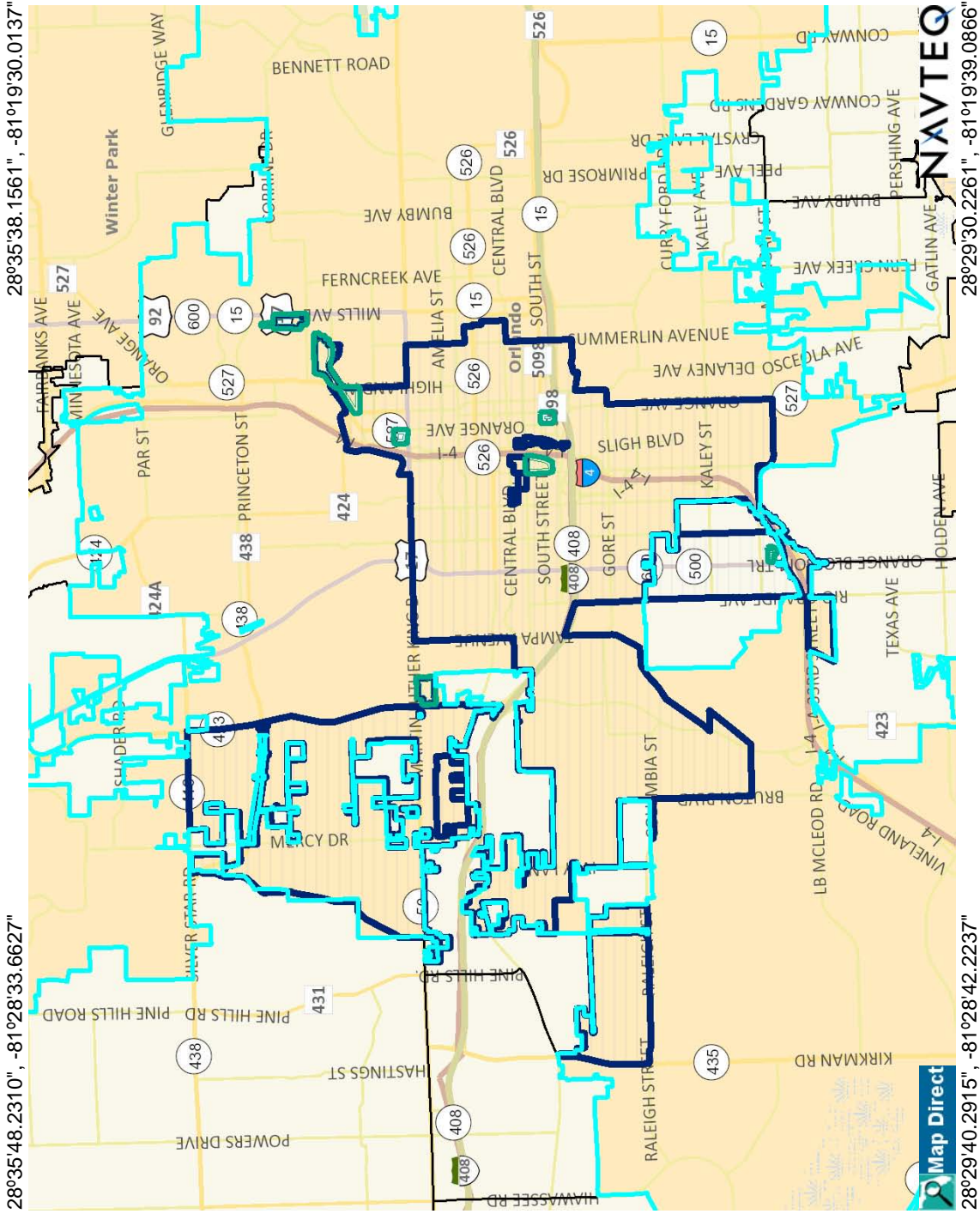
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<sup>4</sup> Department of Economic Opportunity Economic Development Incentives Portal, Report Generated on 03/03/13





# Map Direct: Brownfields



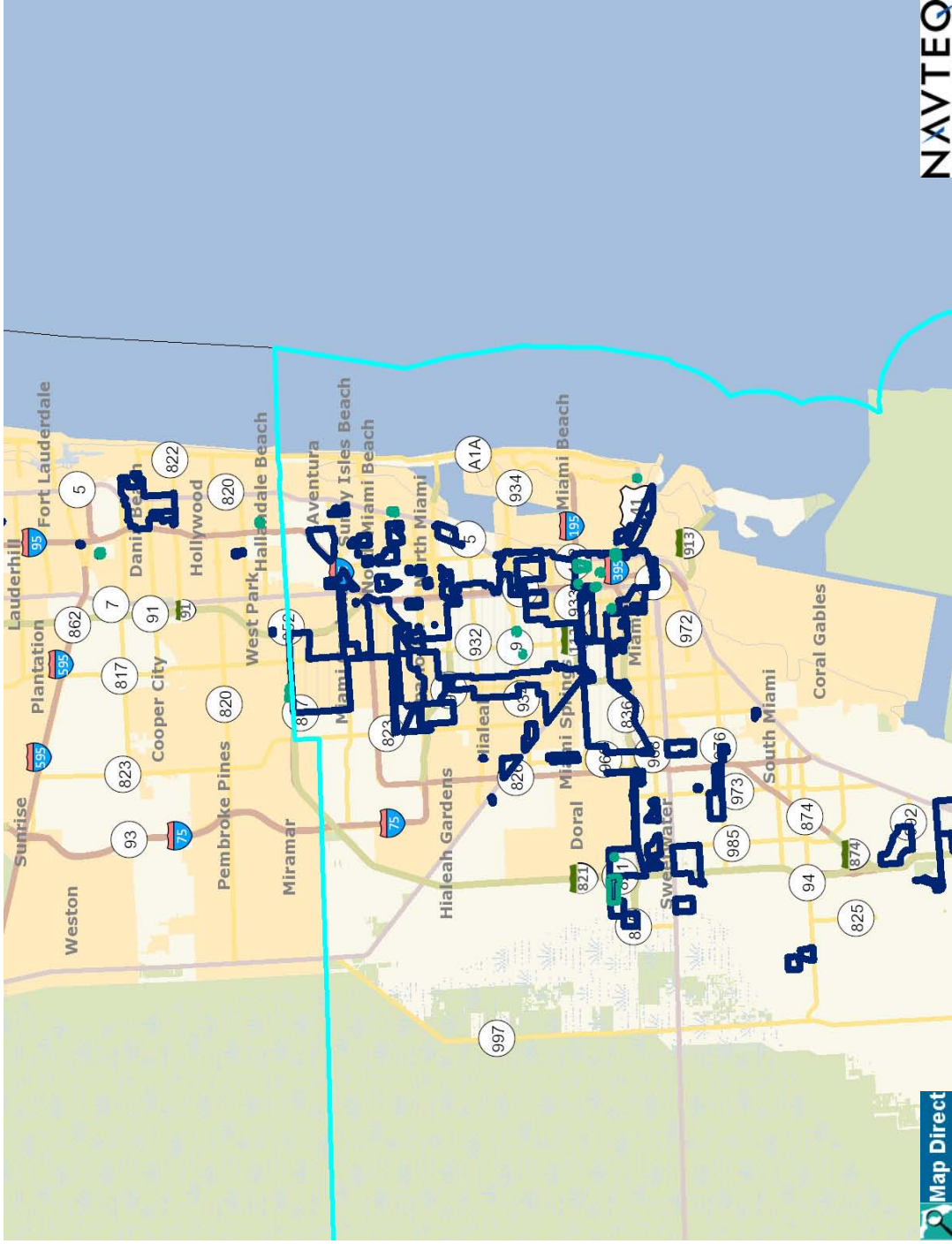
Florida Department of Environmental Protection Disclaimer: This map created in Map Direct on Mon, 4 Mar 2013 15:10:37 UTC is intended for display purposes only. It was created using data from different sources collected at different scales, with different levels of accuracy, and for differing purposes. The user is responsible for determining the accuracy and suitability of any data for their intended use. Map Direct does not warrant the accuracy, reliability, or completeness of the data for any purpose, satisfactory quality and non-infringement. YOU SHOULD THEREFORE VERIFY ANY INFORMATION OBTAINED FROM THIS SITE BEFORE ACTING ON IT.

# Map Direct: Brownfields



26°8'27.9585", -80°36'0.6570"

26°7'11.5231", -79°49'52.7811"

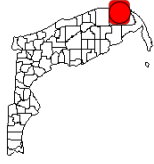


25°36'30.2758", -80°36'59.1585"

25°35'14.1766", -79°51'4.4944"



NAVTEQ



Scale 1:413,855

Aerial Imagery 2004-2009

Counties



Aerial Imagery Flight Dates  
2004-2009



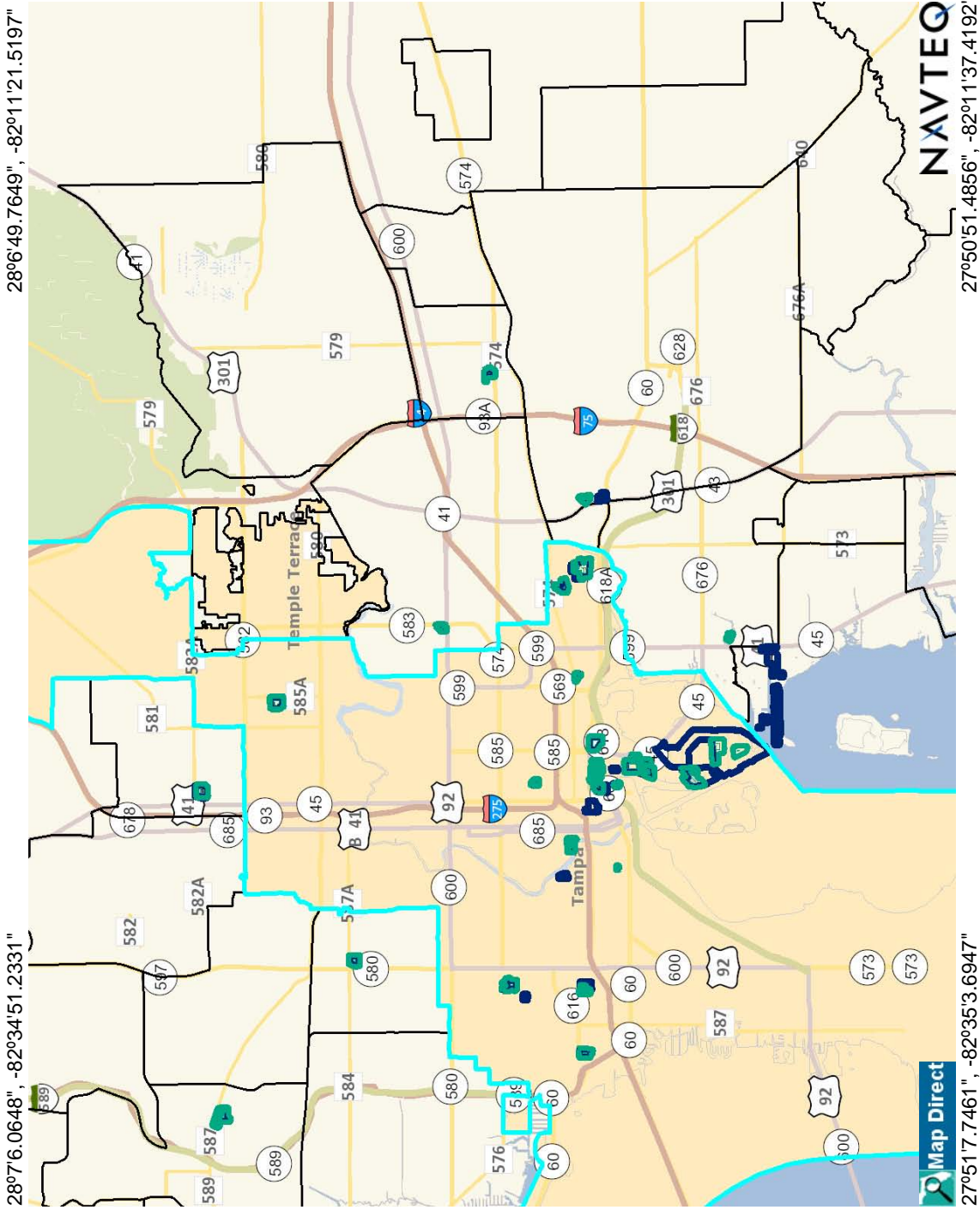
Brownfield Sites



Brownfield Areas

Florida Department of Environmental Protection Disclaimer: This map created in Map Direct on Mon, 4 Mar 2013 14:55:19 UTC is intended for display purposes only. It was created using data from different sources collected at different scales, with different intended uses. Accuracy or positioning information may vary. The road data is provided as a service to the user and does not constitute a warranty of any kind. The accuracy of the information is not guaranteed. The user should verify the information for their own use. The user should verify the information for their own use. THE SITE BEFORE ACTING ON IT.

# Map Direct: Brownfields



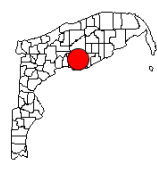
28°06'49.7649", -82°01'21.5197"

28°07'6.0648", -82°34'51.2331"

27°50'51.4856", -82°01'37.4192"

27°51'7.7461", -82°35'3.6947"

Scale 1:206,928



- Aerial Imagery 2004-2009
- TIGER 2010 Places
- Counties
- Aerial Imagery Flight Dates 2004-2009
- Brownfield Sites
- Brownfield Areas

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# **FLORIDA EMPLOYEES' SALARY INSURANCE PREMIUM TAX CREDIT**

Section 624.509(5), F.S.

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## **INCENTIVE:**

- This statute provides a credit against the insurance premium tax equal to 15 percent of the amount paid by an insurer in salaries to employees located or based within Florida.

## **PURPOSE:**

- To encourage insurance companies to locate employees in Florida.

## **QUALIFYING REQUIREMENTS:**

- Employees of the insurance company, or employees of an affiliated group of corporations who perform insurance-related activities, must be located or based within Florida to qualify for the credit.

## **APPROVAL / OVERSIGHT / LIMITATIONS:**

- "Salaries" does not include amounts paid as commissions, and "employees" does not include independent contractors or persons required to hold a license under the Florida Insurance Code (including insurance agents), except for adjusters, managing general agents, and service representatives.
- The sum of the salary credit and the credit for Florida corporate income taxes paid cannot exceed 65 percent of the premium tax due after deducting the taxes paid under s. 175.101 and s. 185.08, F.S., (Municipal Firefighters' Pension Fund and Municipal Police Retirement Fund Credits) and any assessments under s. 440.51, F.S.(Workers Compensation Assessments Credits).

## **SIGNIFICANT HISTORY:**

- In 1949, the Legislature provided an insurance premium tax exemption for insurers that maintained their home offices in Florida.
- In 1953 it reduced premium taxes of a foreign insurance company incorporated under the laws of another state or foreign country, if the company owned and substantially occupied any building in the state as a regional home office.

- In 1985, the U.S. Supreme Court ruled in *Metropolitan Life Insurance Company v. Ward* that a domestic preference provision in Alabama's insurance tax law similar to the preference provision in Florida at the time violated the Equal Protection Clause.
- Florida and other states looked for ways to provide tax breaks to their domestic insurance companies that would pass constitutional muster, and in 1987 the Florida Legislature responded by repealing its own domestic preference provision and replacing it with a Florida Employees' Salary Credit.
- Chapter 87- 99, L.O.F, provided a credit against the net insurance premium tax equal to 10 percent of the amount paid by an insurer in salaries to employees located or based within Florida.
- The salary credit was increased to 15 percent by ch. 88-206, L.O.F, which also increased the amount of credit granted for corporate income taxes and Florida employees' salaries.

**FISCAL IMPACT:**

- In 2011, \$219.8 m in Florida employees' salary credit was taken against the insurance premium tax.

**ADDITIONAL INFORMATION:**

- Since 2006, the actual salary credits **taken** have ranged from \$202 million in 2006 to \$234.4 million in 2010.
- Total salary credits **available** have ranged from \$312.3 million in 2007 to \$399.1 million in 2008. Some credits are unused because the total amount of combined salary and corporate income tax credits that can be taken is capped at 65 percent of premium tax due after deductions.
- According to research done by NCSL, Arkansas is the only other state that provides an across-the-board salary credit against insurance premium tax. Several states allow premium tax credits for creating new jobs under programs meant to encourage job creation.
- Citizens Insurance is subject to the insurance premium tax laws, including the credit for employees' salaries. This credit is available to any insurance company with employees located in Florida, up to 65 percent of its net premium tax.

## FLORIDA ENTERPRISE ZONE PROGRAM

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### **PURPOSE:**

- The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment.

**INCENTIVES:** The Florida Enterprise Zone Program includes a variety of tax incentives available to qualified businesses.

- **Enterprise Zone Jobs Tax Credit – Sales and Use Tax (s. 212.096, F.S.) or Corporate Income Tax (s. 220.181, F.S.)**  
Businesses located in an enterprise zone can receive sales tax or corporate income tax credits for wages paid to new employees who have been employed for at least three months and are residents of a Florida enterprise zone. The amount of the credit is limited to 20% of monthly wages, or 30% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. For rural enterprise zones, the credit is limited to 30% of monthly wages, or 45% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 24 months.
- **Enterprise Zone Property Tax Credit - Corporate Income Tax (s. 220.182, F.S.)**  
New or expanded businesses located in an enterprise zone can receive corporate income tax credits for property taxes paid in Florida. To qualify, a business must hire 5 or more additional full-time employees. The amount of the credit is limited to \$25,000 per business, or \$50,000 if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 5 years.
- **Sales Tax Refund for Building Materials Used in an Enterprise Zone (s. 212.08(5)(g), F.S.)**  
A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in an enterprise zone. The amount of the refund is limited to \$5,000 per parcel of property, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents. The refund is limited to one per parcel of property.

- **Sales Tax Refund for Business Machinery and Equipment Used in an Enterprise Zone (s. 212.08(5)(h), F.S.)**

A refund is available for sales taxes paid on the purchase of certain business property, (e.g., tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment). The minimum purchase price of equipment is \$5,000 per unit. The amount of the refund is limited to \$5,000, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents.

- **Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone (s.212.08(15), F.S.)**

Qualified businesses located in an enterprise zone are eligible for a sales tax exemption on their electricity purchases if the municipality in which they are located has enacted an ordinance providing an exemption from municipal utility tax. The sales tax exemption is 50 percent or 100 percent if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the exemption for up to 5 years.

#### **QUALIFYING REQUIREMENTS:**

- Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local governed body must determine that an area:
  - Has pervasive poverty, unemployment, physical deterioration, and economic disinvestment;
  - Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
  - Can be revitalized through the inducement of the private sector.
- An enterprise zone is subject to the following mileage limitations:
  - Up to 20 square miles for a rural enterprise zone or for communities with a population of 150,000 or more.
  - Up to 10 square miles for communities with a population between 50,000 and 150,000.
  - Up to 5 square miles for communities with a population between 20,000 and 50,000.
  - Up to 3 square miles for communities with a population less than 20,000.



**APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Economic Opportunity is responsible for approving applications for enterprise zones, and also approves changes to the boundaries of an enterprise zone. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located is also responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

**SIGNIFICANT HISTORY:**

- Created in 1982 and revised several times since.
- There are currently 65 enterprise zones.
- The Florida Enterprise Zone Program is repealed December 31, 2015.

**FISCAL IMPACT:****Enterprise zone incentives (\$ claimed)**

<b>Category</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>
Jobs Credit - Sales Tax	6,777,250	6,087,843	5,732,605	5,227,245	5,683,252	757,739	865,560
Jobs Credit – Corporate Tax	4,253,621	5,919,236	5,507,311	5,072,555	4,348,031	4,956,598	4,455,624
Property Tax Credits	1,267,999	2,291,961	2,184,036	1,910,708	1,384,668	1,994,562	1,022,199
Building Materials Refunds	7,415,711	18,855,129	25,665,025	30,994,860	54,012,915	13,590,376	2,462,136
Business Equipment Refunds	2,940,864	1,771,396	1,269,955	1,139,066	1,035,562	679,440	1,228,479
Electric Energy Exemption	778,090	793,179	606	1,007,007	1,138,054	972,185	900,476
<b>Total all zones</b>	<b>23,433,535</b>	<b>35,718,744</b>	<b>40,359,538</b>	<b>45,351,441</b>	<b>67,602,482</b>	<b>22,950,900</b>	<b>10,934,474</b>

**ADDITIONAL INFORMATION:****OPPAGA Report No. 11-01 (January 2011)**

- Other states' enterprise zone programs are similar to Florida's.
- Research in Florida and other states has found mixed results regarding program effectiveness.
- Low program participation limited progress towards meeting major legislative goals.
- EZ coordinators rated program performance and incentives as moderately effective.
- EZ coordinators suggested program improvements (e.g., reducing incentive thresholds).

The Legislature could consider several options to modify the Enterprise Zone Program:

- Modify program eligibility requirements to encourage participation.
- Target program incentives to encourage job creation.
- Implement a one-year program moratorium.
- Abolish the program.
- Allow the program to sunset on December 31, 2015.

A copy of the OPPAGA report can be found here:

[www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf](http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf)

**Florida Enterprise Zone Program Annual Reports**

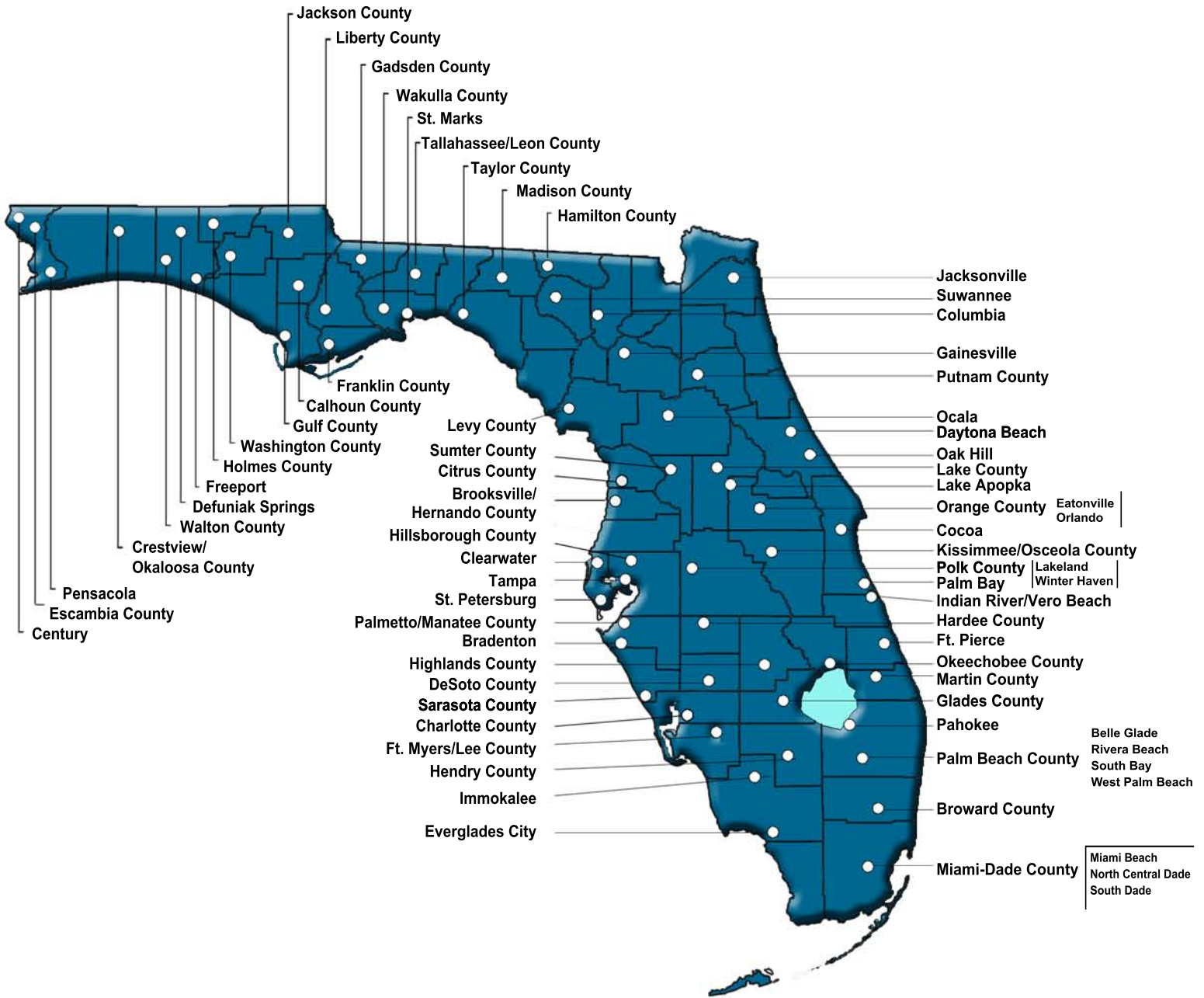
By March 1<sup>st</sup> of each year, the Department of Economic Opportunity submits a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Each year’s annual report is based on information provided by the local Enterprise Zone Development Agencies and the Florida Department of Revenue. The purpose of the reports is to examine the impact of the program and monitor the use of state and local incentives.

**Summary: FY 05-06 to FY 11-12**

<b>Category</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>Total</b>
Businesses Moved into or Created	3,324	4,976	2,719	3,104	7,559	4,103	4,500	30,285
Jobs Created	12,490	11,456	9,600	9,073	6,784	11,559	11,602	72,564
State Incentives Claimed	\$23.43m	\$35.72m	\$40.36m	\$45.35m	\$67.60m	\$22.95m	\$10.93m	\$246.34m
Number of Zones	55	56	56	56	59	59	63	

# FLORIDA ENTERPRISE ZONES

EFFECTIVE JANUARY 1, 2013



Florida Department of Economic Opportunity  
 Division of Community Development  
 107 East Madison Street; MSC 160  
 Tallahassee, Florida 32399  
[www.floridaenterprisezone.com](http://www.floridaenterprisezone.com)

## **ENTERTAINMENT INDUSTRY FINANCIAL INCENTIVE PROGRAM**

Sections 288.1254, F.S.

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### **INCENTIVE:**

- Transferable Corporate Income Tax credits and/or Sales and Use Tax credits are provided to companies that produce films, commercials, music videos, television shows, video games, etc. within Florida.

### **PURPOSE:**

- To encourage the use of Florida as a site for filming, for the digital production of films, and to sustain the workforce and infrastructure for film, digital media, and entertainment production.

### **QUALIFYING REQUIREMENTS:**

- Productions that qualify include motion pictures, television programs, digital effects and animation sequences, commercials, music videos, industrial/educational films, telenovelas, game shows, and digital media projects (video games, animations, interactive websites, etc.)
- 60 percent of the production cast and certain crew positions must be filled by Florida residents (75 percent for digital media projects).
- The project cannot include obscene content.
- The credit is calculated based upon qualifying expenditures. Qualifying expenditures include:
  - Goods and services, purchased or leased from a supplier in Florida, and
  - Salary or wage payments to Florida residents (\$400,000 per person limit).

<b>Entertainment Industry Financial Incentive Program</b>			
<b>FY 2010/11 – 2015/16</b>	<b>\$296 million</b>		
<b>Queue</b>	<b>General Production</b>	<b>Commercials and Music Videos</b>	<b>Independent and Emerging Media</b>
<b>Credit Allocation</b>	94% \$284 million	3% \$8.9 million	3% \$8.9 million
<b>Required Expenses</b>	\$625,000	\$500,000	\$100,000
<b>Credit Calculation</b>	20% of Expenses	20% of Expenses	20% of Expenses
<b>Bonus Credits</b>	15% Film Students 5% Qual. Prod. Facility 5% Off-season 5% Underutilized region 5% Family-friendly	None	5% family-friendly 5% Off-Season
<b>Maximum Credit</b>	30% \$8 million per project	20% \$500,000 per project	30% \$125,000 per project
<b>Internal Allocation Limit</b>	No greater than 45% of credits awarded after 4/1/2012 can go to high-impact television	None	None
<b>Credit Carryforwards</b>	5 years	5 years	5 years
<b>Credit Transfers</b>	Transferable	Transferable	Transferable

**APPROVAL / OVERSIGHT / LIMITATIONS:**

- Applicants must apply to DEO to determine if their project qualifies.
- DEO certifies credit amount after production is completed.
- DOR oversees credit use through DOR's normal auditing procedures.
- Anecdotal evidence suggests that credits are sold at 85-98% of their value.

**SIGNIFICANT HISTORY:**

- 2003 – Florida created the Entertainment Industry Financial Incentive Program. Initially, the program was structured as a reimbursement program, rather than a tax credit program. Qualifying projects could earn payments based on expenses.
- 2005 – The program was expanded to cover more types of projects and to remove time restraints (prior to 2005, certain projects had to have minimum airtimes).
- 2007 – The program was substantially reworded and amended to bring it up to date to industry practices.
- 2009 – The program was amended to increase the queue allocation for independent Florida filmmakers and to allow excess amounts to flow to digital media projects.
- 2010 – The program was substantially rewritten and changed into a tax credit program. Tax credits were allocated for FY 2010-11 through FY 2014-15, totaling \$242 million.
- 2011 – The program was amended to limit the allocation of credits to television series, provide additional credits for certain activities, and permit limited transfers of credits. An additional \$12 million of credit was added for FYs 2012-13, 2013-14, and 2014-15, raising the total credit under the program to \$254 million.
- 2012 – The program was amended to add an additional year of allocations of \$42 million (FY 2015-16), and to delay the television series limitations that were passed in 2011.

**FISCAL IMPACT:**

<b>FISCAL YEAR</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
<b>ANNUAL</b>	\$53.5m	\$74.5m	\$42m	\$42m	\$42m	\$42m
<b>TOTAL</b>	\$296 million					

<b>TOP 5 CREDIT ALLOCATION CATEGORIES AND PERCENT OF TOTAL CREDIT ALLOCATIONS</b>		
<b>HIGH-IMPACT TELEVISION SERIES</b>	\$118.6m	40.6%
<b>VIDEO GAMES</b>	\$56.8m	19.4%
<b>MOTION PICTURES</b>	\$47.5m	16.3%
<b>TELENOVELA TELEVISION SERIES</b>	\$26.4m	9.0%
<b>OTHER (INCLUDES 13 CATEGORIES, EACH CLAIMING LESS THAN 3.4% OF TOTAL CREDIT)</b>	\$43.0m	14.7%

## **QUALIFIED PRODUCTION COMPANY SALES TAX EXEMPTION**

Sections 288.1258, 212.031(1)(a)9. and 212.08(5)(f), F.S.

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### **INCENTIVES:**

- A purchase or lease of motion picture and sound recording equipment is exempt from sales tax. The exemption may include a building and its structural components when they are closely related to the motion picture or sound recording equipment.
- A lease of property that is used as an integral part of a motion picture is exempt from the sales tax on commercial rentals.

### **PURPOSE:**

- To encourage commercial filming and recording activities in Florida

### **QUALIFYING REQUIREMENTS:**

- The exemption is for companies that produce motion pictures, television programs, commercials, music videos and sound recordings.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- Production companies apply to DOR for a certificate of exemption.
- DEO ultimately approves the applicants.

### **SIGNIFICANT HISTORY:**

- 1983 – Created sales tax exemption, which would be obtained by a refund through the Department of Revenue.
- 2000 – Restructured the program to create oversight of production companies by the Office of Film and Entertainment.

### **FISCAL IMPACT:**

- \$30.1 million

## INTERCOMPANY TRANSACTIONS

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### **1. A Corporation's State Income Tax Liability**

#### *a. Tax Rate*

Forty-seven states and the District of Columbia impose a corporate income tax. The rates vary between 1 and 12 percent. The states that do not impose a tax are Nevada, South Dakota, Washington, and Wyoming. Texas and Ohio could be said not to have income taxes, but they do have similar tax burdens that are not measured on income.

#### *b. Type of Income*

Some states have a unique definition of "income." For instance, Delaware does not impose tax on income from intangible assets.

#### *c. Consolidated Filing / Separate Return Filing*

Many modern businesses are not made up of a single corporation doing business one state, but rather consist of many commonly-owned corporations doing business in many states. Some states permit separate filing by each individual corporation. However, as of 2010, twenty-two states required all related corporations to join in a single return (often referred to as a "combined report"). These combined reporting states then determine what their share of the total "corporate family" income is through their apportionment formula.

All southeastern states are "separate return" states. Additionally, some states throughout the Midwest and Northeast remain separate return states.

Separate return states are especially susceptible to the techniques described below.

### **2. Use of Intercompany Transactions**

#### *a. Basics*

When a business transaction crosses state lines, it has the potential to "shift" income from one state to the other. For example, if a business in Florida buys a product from a business in Alabama, the Alabama business will have an item of income, while the Florida company will have a business expense (less income).



Some businesses use this “shifting” feature of multi-state transactions to move income to a no-tax or lower-tax state. By creating a subsidiary in a no-tax or lower-tax state and having that subsidiary conduct business with related corporations, a business can “shift” income to the no-tax or lower-tax state.

*b. Leases*

*i. Intangible Holding Companies*

Intangible Holding Companies are probably the most well-known method for using intercompany transactions to lower taxes. The basic structure is to create a holding company in a state that either does not have a tax or does not tax income from intangible assets. The main business then transfers its intangible assets (usually a trademark) to the holding company. The holding company then charges its related companies in other states a fee for the use of the intangible asset in the other state. In paying for the use of the intangible, the companies that are located in states that impose taxes (in-state companies) are creating business expenses.

This technique was involved in the recent case reported in Florida.

*ii. Real Estate Investment Trusts*

Real Estate Investment Trusts use the same type of structure, but rather than lease payments for an intangible asset, the in-state companies pay rent for the use of realty. The rental payments are made to a Real Estate Investment Trust that then pays out dividends to a company located in a no-tax state. By doing this, the in-state companies create a rental expense.

This technique is not effective in Florida due to Florida’s sales tax on commercial rents.

*c. Transfer Pricing Issues*

Related companies can also be used to reduce income through the use of inflated pricing. When a company calculates its income from the sale of a product, the income generally is the sales price of the item minus all of the costs of producing it.

The purchaser of a product can insert a related company between itself and a supplier in an effort to inflate the price it pays for supplies. For instance, a Florida company purchasing supplies could have the supplier sell the product to a related company in a low-tax or no-tax state. The related company could then inflate the price of the product when selling it to the Florida company. By doing so, the Florida company reduces its income because of the higher cost of goods.

*d. Loans*

Related companies can be established in no-tax states to make loans. In paying the interest on the loan, the in-state company creates an interest deduction.

*e. Management Fees*

Related companies can be established to provide management services. In paying for the management services, the in-state company creates a regular business expense.

**3. Methods to Impose Tax**

*a. Add-Back Statute*

A legislative approach to address these techniques is to require the Florida company to disregard or “add-back” the business expense for the payment to the related subsidiary.

In 2009, the Senate Committee on Finance and Taxation considered and passed a bill that contained an add-back provision. It addressed payments to related companies for intangible assets, interest, and management fees.

*b. Impose Tax on “Out-of-State” Company*

*i. Nexus*

A state could attempt address these related-company issues by attempting to subject the no-tax state subsidiary to tax. The primary obstacle to overcome is the Commerce Clause requirements of the federal Constitution. The U.S. Supreme Court has interpreted the Commerce Clause to require that a company must have a sufficient presence within the taxing state to support taxation. The Court has not provided a lot of guidance on what presence is sufficient in the context of income taxes. Oftentimes, these related companies will not have employees or a location within the state.

*ii. Litigation Has Mixed Results*

States that have attempted to impose tax have had varying results:

Toys-R-Us.....Taxable. South Carolina (1993)  
SYL, Inc.....Not Taxable. Maryland (1999)  
Lane Bryant.....Not Taxable. New Jersey (2003)  
Autozone.....Not Taxable. Louisiana (2004)  
KFC.....Taxable. Iowa (2010)  
Conagra Brands, Inc.....Not Taxable. West Virginia (2012)

*c. Consolidated Reporting (“Combined Reporting”)*

The approach taken by 22 states is to require all related companies to join in a single return. With this approach, all of the income of every related corporation is included; the state just uses its apportionment factor to determine the portion of the combined income that is subject to tax.

## **SELECTED SALES TAX EXEMPTIONS FOR INDUSTRIAL MACHINERY AND EQUIPMENT**

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Generally, the sale at retail of tangible personal property, including industrial machinery and equipment, is subject to sales tax. Currently, there are several sales tax exemptions for machinery and equipment available to eligible businesses under specified conditions. These exemptions generally apply to manufacturing, defense and space activities.

### **PURPOSE:**

- To encourage manufacturing, defense, and space activities within Florida.

### **INCENTIVES:**

- Industrial Machinery and Equipment for New and Expanding Businesses or for Spaceports (s. 212.08(5)(b), F.S.)
- Industrial Machinery and Equipment Used in Semiconductor, Defense or Space Technology Production (s. 212.08(5)(j), F.S.)
- Research and Development Costs (ss. 212.052 and 212.08(18), F.S.)
- Repair Parts, Materials and Labor Charges for Industrial Machinery and Equipment (s. 212.08(7)(xx), F.S.)

## INDUSTRIAL MACHINERY AND EQUIPMENT FOR NEW AND EXPANDING BUSINESSES OR FOR SPACEPORTS

Section 212.08(5)(b), F.S.

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### INCENTIVE:

- Industrial machinery and equipment purchased for exclusive use by a **new** business in spaceport activities or for use in a new business that manufactures, processes, compounds, or produces for sales items of tangible personal property at a fixed location in this state are exempt from sales and use tax.
- Industrial machinery and equipment purchased for exclusive use by an **expanding** facility engaged in spaceport activities or used in an expanding manufacturing facility that manufactures, processes, compounds, or produces for sales items of tangible personal property at a fixed location in this state are exempt from sales and use tax if the items are used to increase the productive output of a facility by at least 5%.

### PURPOSE:

- To encourage manufacturing and spaceport activities within Florida.

### QUALIFYING REQUIREMENTS:

- To qualify, the business must be new or increase production at the facility by at least 5% over the previous 12 month period.
- “Industrial machinery and equipment” is defined as tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the **manufacturing, processing, compounding, or production** of tangible personal property for sale or is exclusively used in spaceport activities.
- This exemption does not apply to machinery and equipment purchased by electric utilities, communications companies, oil or gas exploration or production, publishing firms that do not export at least 50% of their finished product out of state, or hotels and restaurants.
- “Spaceport activities” means activities directed or sponsored by Space Florida on spaceport territory.

### APPROVAL / OVERSIGHT / LIMITATIONS:

- To receive these exemptions, a qualifying business must apply to the Department of Revenue for a temporary tax exemption permit.

**SIGNIFICANT HISTORY:**

- Created in 1978 and amended several times since.
- When the exemption was enacted in 1978, it applied to sales tax in excess of \$100,000. This threshold was reduced to \$50,000 in 1996. In 1999, the exemption was extended to included machinery and equipment used for phosphate and other solid mineral severance. In 2006, the \$50,000 tax threshold for expanding manufacturing businesses was eliminated. In 2012, the productive output requirement for expanding businesses was lowered from 10% to 5%.

**FISCAL IMPACT:**

\$41.7m per state fiscal year

# INDUSTRIAL MACHINERY AND EQUIPMENT USED IN SEMICONDUCTOR, DEFENSE OR SPACE TECHNOLOGY PRODUCTION

Section 212.08(5)(j), F.S.

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## INCENTIVE:

- Industrial machinery and equipment used in **semiconductor** facilities to manufacture, process, compound or produce semiconductor products for sale or for use by these facilities is exempt from sales and use tax.
- Industrial machinery and equipment used in **defense or space technology** facilities to *design*, manufacture, *assemble*, process, compound or produce defense or space technology products for sale or for use by these facilities is exempt from sales and use tax.

## PURPOSE:

- To encourage the development of defense and space technology facilities within Florida.

## QUALIFYING REQUIREMENTS:

- The facilities must be certified by the Department of Economic Opportunity and the certification is valid for 2 years. A business may renew the certification biennially.

## APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity is responsible for processing applications and certifying businesses.

## SIGNIFICANT HISTORY:

- Created in 2000 to provide a full exemption for industrial M&E used in semiconductor facilities and a 25% exemption for industrial M&E used in defense or space technology facilities. A business using the exemption was required to apply for certification each year.
- In 2006, the exemption for industrial M&E used in defense or space technology facilities was increased to 100% and the certification was extended to 2 years. The definition of “space technology products” was expanded to include space flight vehicles and components of space technology products. The exemption was also extended to include M&E used to “design” or “assemble” defense or space technology products.

**FISCAL IMPACT:**

\$4.5m per state fiscal year



## **RESEARCH AND DEVELOPMENT COSTS**

Sections 212.052 and 212.08(18), F.S.

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### **INCENTIVE:**

- Tangible personal property manufactured, produced, compounded, processed or fabricated for use directly or solely in research or development, and machinery and equipment used predominately for research and development is exempt from sales and use tax.

### **PURPOSE:**

- To encourage research and development activities within Florida.

### **QUALIFYING REQUIREMENTS:**

- “Machinery and equipment” includes, but is not limited to, molds, dies, machine tooling, other appurtenances or accessories to machinery and equipment, testing and measuring equipment, test beds, computers, and software.
- Must use machinery and equipment for research and development purposes at least 50% of the time, however, there is no requirement that machinery and equipment have a depreciable life of 3 years or more.
- Purchasers must provide an affidavit to seller stating the machinery and equipment will be used for research and development.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Revenue oversees through its normal auditing procedures.

### **SIGNIFICANT HISTORY:**

- Enacted in 2006.

### **FISCAL IMPACT:**

\$46.8m per state fiscal year

## **REPAIR PARTS, MATERIALS AND LABOR CHARGES FOR INDUSTRIAL MACHINERY AND EQUIPMENT**

Section 212.08(7)(xx), F.S.

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### **INCENTIVE:**

- Parts, materials and labor charges for the repair of industrial machinery and equipment are exempt from sales and use tax.

### **PURPOSE:**

- To encourage manufacturing activities within Florida.

### **QUALIFYING REQUIREMENTS:**

- The exemption is available to those industries classified under specified Standard Industrial Classification (SIC) Industry Major Group Numbers provided in statute. These classifications generally include mining, construction, and manufacturing industries.
- Purchasers must provide an exemption certificate to the seller stating that the repair parts, materials and labor charges will be used for the repair of machinery and equipment.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Revenue oversees through its normal auditing procedures.

### **SIGNIFICANT HISTORY:**

- Enacted in 1999. This exemption was phased in over a 4-year period. Starting July 1, 1999, only 25% of the charges for repair parts and labor were exempt. The exemption increased by 25% on July 1 of each year until it reached 100% on July 1, 2002.

### **FISCAL IMPACT:**

\$10.3m per state fiscal year

## ENERGY ECONOMIC ZONE PILOT PROGRAM

Section 377.809, F.S.

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### PURPOSE:

- The Florida Energy Economic Zone Pilot Program was created in 2009 to help communities cultivate green economic development, encourage renewable electric energy generation, and promote product manufacturing that contributes to energy conservation and green jobs.

**INCENTIVES:** All incentives and benefits provided for enterprise zones are available to the energy economic zones. However, the total amount of incentives is limited to \$300,000 annually for each zone.

- **Enterprise Zone Jobs Tax Credit – Sales and Use Tax (s. 212.096, F.S.) or Corporate Income Tax (s. 220.181, F.S.)**

Businesses located in an enterprise zone can receive sales tax or corporate income tax credits for wages paid to new employees who have been employed for at least three months and are residents of a Florida enterprise zone. The amount of the credit is limited to 20% of monthly wages, or 30% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. For rural enterprise zones, the credit is limited to 30% of monthly wages, or 45% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 24 months.

- **Enterprise Zone Property Tax Credit - Corporate Income Tax (s. 220.182, F.S.)**

New or expanded businesses located in an enterprise zone can receive corporate income tax credits for property taxes paid in Florida. To qualify, a business must hire 5 or more additional full-time employees. The amount of the credit is limited to \$25,000 per business, or \$50,000 if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 5 years.

- **Sales Tax Refund for Building Materials Used in an Enterprise Zone (s. 212.08(5)(g), F.S.)**

A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in an enterprise zone. The amount of the refund is limited to \$5,000 per parcel of property, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents. The refund is limited to one per parcel of property.

- **Sales Tax Refund for Business Machinery and Equipment Used in an Enterprise Zone (s. 212.08(5)(h), F.S.)**

A refund is available for sales taxes paid on the purchase of certain business property, (e.g., tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment). The minimum purchase price of equipment is \$5,000 per unit. The amount of the refund is limited to \$5,000, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents.

- **Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone (s.212.08(15), F.S.)**

Qualified businesses located in an enterprise zone are eligible for a sales tax exemption on their electricity purchases if the municipality in which they are located has enacted an ordinance providing an exemption from municipal utility tax. The sales tax exemption is 50 percent or 100 percent if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the exemption for up to 5 years.

- **Sales Tax Exemption for Machinery and Equipment used in the Production of Renewable Energy (s. 212.08(5)(c), F.S.)**

The purchase of machinery and equipment used in the production of renewable energy is exempt from sales and use tax.

#### **QUALIFYING REQUIREMENTS:**

- The incentives and benefits are available to energy economic zones designated before July 1, 2010.
- By March 1, 2012, each local governing body with jurisdiction over an energy economic zone, must by local ordinance, establish the boundary of the energy economic zones, specify applicable energy-efficiency standards and determine the eligibility criteria for the application of state and local incentives and benefits.

**APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Economic Opportunity, Department of Transportation and the Department of Agriculture and Consumer Services provide technical assistance to designated communities.
- The governing body of an energy economic zone is responsible for allocating the incentives and verifying that businesses are eligible.
- The Department of Economic Opportunity must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 15, 2015, evaluating whether the pilot program has demonstrated success.

**SIGNIFICANT HISTORY:**

- Created in 2009 and revised in 2011 to include tax incentives.
- There are currently two designated Energy Economic Zone Pilot Program Communities located in the City of Miami Beach and Sarasota County.

**FISCAL IMPACT:**

\$300,000 per energy economic zone in any state fiscal year

## INCENTIVES SPECIFIC TO SPACEFLIGHT ACTIVITY

Since the creation of Spaceport Florida in 1989, the state has pursued space-related businesses as part of its economic development policy.

- The Spaceport Florida Authority Act included tax exemptions for rocket fuel as well as orbital space facilities, space propulsion systems, space vehicles, satellites, space stations, and tangible personal property placed or used on any of these devices.
- In 2000, an exemption was created for renting or leasing property used or occupied predominantly for space flight business purposes.
- In 2011, spaceflight business tax credits were created to attract launch, payload, research and development, and other space business to Florida. For a spaceflight business meeting job creation and other criteria, nontransferable corporate income tax credits can be used to offset up to 50 percent of the business's corporate income tax liability and transferable credits may be sold in an amount equal to the business's net operating loss.
  - The credits in this program are limited to tax returns filed on or after October 1, 2015, and no credit may be approved after October 1, 2017.
  - The maximum amount of nontransferable credit that may be approved under this program is \$3 million, and the maximum amount of transferable credit is \$7 million.
- Spaceflight activity is also eligible for many other tax incentives relating to machinery and equipment purchases.

## **SPACEPORT TAX EXEMPTIONS**

Sections 206.42 and 212.08(16), F.S.

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### **INCENTIVE:**

- Provides tax exemptions for:
  - Rocket fuel, defined as fuel being produced for and sold and exclusively used for space flight, from sales tax and the tax on aviation fuel;
  - Any orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components thereof; and
  - Tangible personal property placed on or used aboard any orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, irrespective of whether such tangible personal property is returned to this state for subsequent use, storage, or consumption in any manner.

### **PURPOSE:**

- These exemptions were enacted as part of the Spaceport Florida Authority Act, and the purpose of that act was to:
  - (P)rovide a unified direction for space-related economic growth and educational development, to ensure a stable and dynamic economic climate, to attract and maintain space-related businesses suitable to the state, and to further the coordination and development of Florida's economy.<sup>5</sup>

### **QUALIFYING REQUIREMENTS:**

- In order to qualify for any of these exemptions, a transaction must meet the statutory criteria, as cited above.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Revenue's normal oversight of tax exemption claims applies to these exemptions.

### **SIGNIFICANT HISTORY:**

- Created in 1989.

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<sup>5</sup> Chapter 89-300, L.O.F., sec. 2.

**FISCAL IMPACT:**

- The Florida Tax Handbook reports that the exemption for satellites or other space vehicles reduces sales tax revenue by \$70.6 million annually,<sup>6</sup> but this estimate has not been examined closely in recent years.

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<sup>6</sup>2012 Florida Tax Handbook, p. 159.



## **SALES TAX EXEMPTION FOR SPACEFLIGHT COMMERCIAL LEASES**

Section 212.031(1)(a)12., F.S.

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### **INCENTIVE:**

- Provides a sales tax exemption for renting or leasing property used or occupied predominantly for space flight business purposes.

### **PURPOSE:**

- Is consistent with other tax preferences provided to the space industry to attract and maintain space-related businesses suitable to the state.

### **QUALIFYING REQUIREMENTS:**

- To qualify for this exemption, property must be used or occupied predominantly for “space flight business” purposes, which means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, or components thereof, and also means the following activities supporting spaceflight:
  - Vehicle launch activities,
  - Flight operations,
  - Ground control or ground support, and
  - All administrative activities related thereto.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- Possession by a landlord of a signed written statement from the tenant claiming the exemption relieves the landlord from the responsibility of collecting the tax.
- The Department of Revenue looks solely to the tenant for recovery of the tax if it determines that the exemption was not applicable.

### **SIGNIFICANT HISTORY:**

- Created in 2000.

### **FISCAL IMPACT:**

- This exemption is estimated to reduce state revenue by \$600,000 annually.

## **SPACEFLIGHT BUSINESS TAX CREDITS**

Sections 220.194, F.S.

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### **INCENTIVE:**

- Provides nontransferable corporate income tax credits for up to 50 percent of the business's corporate income tax liability; and
- Provides transferable tax credits equal to the amount of a certified spaceflight business's Florida net operating loss, if the activity that gave rise to the net operating loss occurred after July 1, 2011.

### **PURPOSE:**

- To create incentives to attract launch, payload, research and development, and other space business to this state.<sup>7</sup>

### **QUALIFYING REQUIREMENTS:**

- The applicant must be a spaceflight business with a physical address in Florida.
- The applicant must have engaged in a qualifying spaceflight project before taking or transferring a credit.
- The applicant must have created 35 new fulltime jobs in this state directly associated with spaceflight projects during its immediately preceding 3 taxable years, and these jobs must pay at least 115 percent of the statewide or countywide average annual private sector wage for the preceding 3 taxable years.
- The applicant must have invested a total of at least \$15 million in this state on a spaceflight project during its immediately preceding 3 taxable years.

### **APPROVAL / OVERSIGHT / LIMITATIONS:**

- The Department of Economic Opportunity must approve all applications for this credit, as well as the transfer of transferable credits.
- A certified spaceflight business may be approved for nontransferable credits only once and for transferable credits only once, and may not be approved for both types of credits in a single year.
- Credits must be based upon tax liabilities directly related to spaceflight projects as verified by an audit or examination by a certified public accountant and verified by DEO.

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<sup>7</sup> Section 220.194, F.S.

- Previously claimed tax credits may be forfeited if DOR determines that the taxpayer was not entitled to the credits.
- DEO may revoke or modify a certificate granting eligibility for tax credits if it finds that the certified spaceflight business made a false statement or representation on its application or other document filed in an attempt to receive these tax credits.
- This program is limited to returns filed for any tax period beginning October 1, 2015, and no credit may be approved after October 1, 2017.
- The maximum nontransferable credit amount available to any one business in a single year is \$1 million, and the total amount of nontransferable credits that may be approved during the life of the program is \$3 million.
- The maximum transferable credit amount available to any one business in a single year is \$2.5 million, and the total amount of transferable credits that may be approved during the life of the program is \$7 million.

**SIGNIFICANT HISTORY:**

- Created in 2011.<sup>8</sup>

**FISCAL IMPACT:**

- \$10 million in FY 2015-16 through 2017-18.

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<sup>8</sup> Chapter 2011-76, L.O.F.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on Finance and Tax, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Commerce and Tourism  
Communications, Energy, and Public Utilities  
Community Affairs  
Governmental Oversight and Accountability

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversight

**SENATOR DOROTHY L. HUKILL**

8th District

March 13, 2013

President Don Gaetz  
409, The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear President Gaetz:

Due to a death in the family, I respectfully request that I be excused from attending the Finance and Tax Subcommittee on Wednesday, March 13, 2013 at 2:00 p.m.

Pursuant to Rule 2.25, I hereby appoint Senator Gardiner to Chair the Finance and Tax Subcommittee in my absence.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy L. Hukill".

Cc: Senator Andy Gardiner  
Jose Diez-Arguelles, Staff Director

**REPLY TO:**

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- Ocala City Hall, 110 SE Wauwia Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

Room: LL 37

Case:

Caption: Senate Appropriations Subcommittee on Finance and Tax

Type:

Judge:

Started: 3/13/2013 2:07:22 PM

Ends: 3/13/2013 3:35:56 PM

Length: 01:28:35

2:07:27 PM Sen. Gardiner calls the meeting to order  
2:07:41 PM Roll call  
2:07:59 PM Sen. Gardiner  
2:09:00 PM Sen. Thrasher - presents SB 342 - Rental Homestead Property  
2:10:05 PM Sen. Gardiner  
2:10:13 PM Sen. Simmons  
2:10:17 PM Sen. Thrasher  
2:10:22 PM Sen. Simmons  
2:10:29 PM Sen. Gardiner  
2:10:30 PM Sen. Evers  
2:10:36 PM Sen. Thrasher  
2:10:50 PM Sen. Gardiner  
2:10:56 PM Sen. Altman  
2:11:05 PM Sen. Thrasher  
2:11:18 PM Sen. Gardiner - late filed Amendment 189360 introduced  
2:11:29 PM Sen. Margolis - presents late-filed Amendment 189360  
2:11:50 PM Sen. Thrasher  
2:11:52 PM Sen. Gardiner  
2:12:03 PM Sen. Evers  
2:12:28 PM Sen. Margolis  
2:12:57 PM Sen. Gardiner  
2:13:01 PM Sen. Altman  
2:13:06 PM Sen. Margolis  
2:13:11 PM Sen. Altman  
2:13:13 PM Sen. Margolis  
2:13:40 PM Sen. Gardiner  
2:13:43 PM Sen. Sachs  
2:13:56 PM Sen. Gardiner  
2:13:57 PM Sen. Thrasher  
2:14:04 PM Sen. Sachs  
2:14:05 PM Sen. Thrasher  
2:14:11 PM Sen. Gardiner  
2:14:13 PM Sen. Sachs  
2:14:14 PM Sen. Gardiner - late-filed Amendment 189360 adopted  
2:14:25 PM Sen. Altman  
2:14:51 PM Sen. Gardiner  
2:14:53 PM Roll call on SB 342  
2:15:13 PM Sen. Gardiner - SB 342 reported favorably  
2:15:35 PM Sen. Gardiner  
2:15:40 PM Sen. Gardiner - SB 342 recommended as CS  
2:15:48 PM Sen. Gardiner - SB 354 - Ad Valorem Tax Exemptions  
2:15:50 PM Sen. Thrasher - presents SB 354 - Ad Valorem Tax Exemptions  
2:16:51 PM Sen. Gardiner  
2:16:54 PM Sen. Clemens  
2:16:59 PM Sen. Thrasher  
2:17:15 PM Sen. Gardiner  
2:17:16 PM Sen. Clemens  
2:17:19 PM Sen. Thrasher  
2:17:21 PM Sen. Gardiner - late-filed Amendment 181644 introduced  
2:17:40 PM Sen. Thrasher - presents late-filed Amendment 181644  
2:17:56 PM Sen. Gardiner - late-filed Amendment 181644 adopted  
2:18:07 PM Sen. Thrasher

2:18:09 PM Sen. Gardiner - SB 354 recommended as CS  
2:18:25 PM Roll call on CS/SB 354  
2:18:46 PM Sen. Gardiner - CS/SB 354 reported favorably  
2:18:49 PM Sen. Thrasher  
2:18:52 PM Sen. Gardiner - Begin presentations by Senate Approp. Subcom. on Finance and Tax staff  
2:19:06 PM Ellen Fournier Legislative Analyst, Senate Approp. Subcom. on Fin. & Tax - presentation on proposed  
Draft Legislation on Tax Administration  
2:21:05 PM Sen. Gardiner  
2:21:36 PM Roll call on proposed draft legislation on Tax Administration  
2:21:59 PM Sen. Gardiner - draft legislation on Tax Administration reported favorably  
2:22:06 PM Sen. Gardiner - introduces presentations  
2:23:39 PM Robert Babin, Attorney, Senate Approp. Subcom. on Finance and Tax - Film and Entertainment  
Incentives  
2:26:48 PM Sen. Gardiner  
2:26:52 PM Sen. Margolis  
2:27:10 PM Robert Babin  
2:27:15 PM Sen. Gardiner  
2:27:37 PM Robert Babin  
2:28:38 PM Sen. Gardiner  
2:28:42 PM Sen. Sachs  
2:28:54 PM Robert Babin  
2:29:10 PM Sen. Sachs  
2:29:55 PM Sen. Gardiner  
2:29:56 PM Sen. Brandes  
2:30:00 PM Robert Babin  
2:30:32 PM Sen. Gardiner  
2:30:37 PM Sen. Clemens  
2:30:52 PM Robert Babin  
2:31:01 PM Sen. Clemens  
2:31:06 PM Robert Babin  
2:31:14 PM Sen. Clemens  
2:31:22 PM Sen. Gardiner  
2:31:23 PM Sen. Margolis  
2:33:35 PM Sen. Gardiner  
2:33:40 PM Robert Babin - Corporate Tax Intercompany Transactions  
2:38:27 PM Sen. Clemens  
2:38:44 PM Robert Babin  
2:43:04 PM Sen. Gardiner  
2:43:07 PM Sen. Margolis  
2:43:29 PM Robert Babin  
2:43:38 PM Sen. Margolis  
2:43:54 PM Sen. Gardiner  
2:43:57 PM Sen. Altman  
2:45:15 PM Robert Babin  
2:45:51 PM Sen. Simmons  
2:46:19 PM Robert Babin  
2:46:27 PM Sen. Simmons  
2:46:30 PM Sen. Gardiner  
2:46:34 PM Sen. Altman  
2:46:44 PM Sen. Gardiner  
2:46:51 PM Sen. Altman  
2:46:59 PM Sen. Simmons  
2:47:30 PM Sen. Altman  
2:47:47 PM Robert Babin  
2:47:57 PM Sen. Altman  
2:48:05 PM Sen. Gardiner  
2:48:09 PM Robert Babin  
2:48:13 PM Sen. Gardiner  
2:48:17 PM Sen. Simmons  
2:48:30 PM Robert Babin  
2:48:51 PM Sen. Simmons  
2:48:54 PM Sen. Gardiner

2:48:56 PM Sen. Sachs  
2:49:55 PM Sen. Gardiner  
2:49:58 PM Sen. Clemens  
2:50:08 PM Sen. Gardiner  
2:50:20 PM Sen. Clemens  
2:50:22 PM Sen. Gardiner  
2:50:24 PM Sen. Clemens  
2:50:37 PM Robert Babin  
2:51:10 PM Sen. Gardiner  
2:51:12 PM Sen. Margolis  
2:51:41 PM Robert Babin  
2:53:07 PM Sen. Margolis  
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2:56:48 PM Sen. Margolis  
2:57:04 PM Robert Babin  
2:57:57 PM Sen. Margolis  
2:58:49 PM Sen. Altman  
2:59:23 PM Sen. Margolis  
3:00:33 PM Ashley Cote, Leg. Analyst, Senate Approp. Subcom. on Finance and Tax - Machinery & Equip. Sales Tax Exemptions  
3:03:39 PM Sen. Margolis  
3:03:45 PM Sen. Clemens  
3:04:10 PM Sen. Margolis  
3:04:11 PM Ashley Cote  
3:04:23 PM Sen. Margolis  
3:04:25 PM Ashley Cote  
3:04:38 PM Sen. Clemens  
3:05:28 PM Sen. Gardiner  
3:05:31 PM Jose Diez Arguelles, Staff Director, Senate Approp. Subcom. on Finance and Tax  
3:06:00 PM Sen. Clemens  
3:06:36 PM Sen. Gardiner  
3:06:44 PM Ashley Cote  
3:10:04 PM Sen. Gardiner  
3:10:06 PM Sen. Margolis  
3:10:35 PM Ashley Cote  
3:11:00 PM Sen. Margolis  
3:11:22 PM Sen. Gardiner  
3:11:24 PM Sen. Altman  
3:13:02 PM Sen. Gardiner  
3:13:13 PM Ashley Cote - Energy Economic Zones  
3:14:48 PM Sen. Gardiner  
3:15:28 PM Mr. Alex Sanchez, President and CEO, Florida Bankers Association  
3:17:31 PM Sen. Gardiner  
3:17:58 PM Mr. Sanchez  
3:20:29 PM Sen. Gardiner  
3:20:39 PM Sen. Altman  
3:21:43 PM Mr. Sanchez  
3:22:20 PM Sen. Gardiner  
3:22:23 PM Sen. Margolis  
3:25:38 PM Sen. Gardiner  
3:28:24 PM Mr. Sanchez  
3:29:05 PM Sen. Gardiner  
3:29:16 PM Mr. Sanchez  
3:29:19 PM Sen. Gardiner  
3:29:20 PM Sen. Ring  
3:32:38 PM Sen. Gardiner

**3:32:42 PM** Sen. Simmons  
**3:34:40 PM** Mr. Sanchez  
**3:34:44 PM** Sen. Gardiner  
**3:34:53 PM** Mr. Sanchez  
**3:34:56 PM** Sen. Gardiner  
**3:35:00 PM** Sen. Sachs  
**3:35:50 PM** Sen. Gardiner - meeting adjourned



THE FLORIDA SENATE

APPEARANCE RECORD

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

March 13 - 2013

Meeting Date

Topic

FITL Bank

Bill Number

(if applicable)

Name

Alex Sanchez

Amendment Barcode

(if applicable)

Job Title

President & CEO

Address

1001 Thomasville Road

Phone

850-224-2265

Street

Tallahassee FL 32303

E-mail

ASanchez@FloridaBankers.com

City

State

Zip

Speaking:

For

Against

Information

Representing

Florida Bankers

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 (10/20/11)