

Tab 1	SB 502 by Stargel; (Compare to H 07093) Corporate Income Tax						
848256	A	S	RCS	AFT, Stargel	btw L.29 - 30:	02/20 10:51 AM	

Tab 2	CS/SB 730 by CA, Perry; (Similar to CS/H 00607) Housing Finance Authorities						
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Tab 3	SB 926 by Broxson; (Identical to H 00647) Natural Gas Fuel Taxes						
793458	A	S	RCS	AFT, Broxson	Delete L.45 - 63:	02/20 10:57 AM	

Tab 4	CS/SB 1504 by CA, Rouson (CO-INTRODUCERS) Rader; (Similar to CS/CS/H 01383) Tax Deed Sales						
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Tab 5	CS/SB 1608 by TR, Grimsley; (Compare to CS/2ND ENG/H 07087) Agricultural Recovery						
178362	A	S	RCS	AFT, Grimsley	Delete L.281 - 403:	02/20 11:01 AM	
465682	AA	S	RCS	AFT, Grimsley	Delete L.69 - 79:	02/20 11:01 AM	

Tab 6	HJR 7001 by WMC, Leek (CO-INTRODUCERS) Avila, Eagle, Fischer, Ingoglia, Metz; (Compare to S 01742) Supermajority Vote for State Taxes or Fees						
813842	D	S	FAV	AFT, Stargel	Delete everything after	02/20 10:37 AM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND
TAX
Senator Stargel, Chair
Senator Garcia, Vice Chair

MEETING DATE: Tuesday, February 20, 2018

TIME: 9:00—10:30 a.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Stargel, Chair; Senator Garcia, Vice Chair; Senators Campbell, Perry, Rodriguez, and Steube

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 502 Stargel	Corporate Income Tax; Adopting the 2018 version of the Internal Revenue Code; providing retroactive operation, etc. AFT 02/20/2018 Fav/CS AP	Fav/CS Yeas 6 Nays 0
2	CS/SB 730 Community Affairs / Perry (Similar CS/H 607, Compare H 7087)	Housing Finance Authorities; Exempting from taxation certain notes and mortgages that are part of a loan made by or on behalf of a housing financing authority; providing an exception to the exemptions granted by this section, etc. CA 01/16/2018 Fav/CS AFT 02/20/2018 Favorable AP	Favorable Yeas 6 Nays 0
3	SB 926 Broxson (Identical H 647)	Natural Gas Fuel Taxes; Delaying the effective date of certain taxes on natural gas fuel, etc. TR 01/18/2018 Favorable AFT 02/20/2018 Fav/CS AP	Fav/CS Yeas 6 Nays 0
4	CS/SB 1504 Community Affairs / Rouson (Similar CS/H 1383)	Tax Deed Sales; Requiring a tax certificateholder to pay specified costs required to bring the property on which taxes are delinquent to sale; authorizing a clerk to rely on addresses provided by the tax collector for specified purposes; providing procedures to be used by clerks in determining disbursement of surplus funds, etc. CA 02/13/2018 Fav/CS AFT 02/20/2018 Favorable AP	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Finance and Tax
Tuesday, February 20, 2018, 9:00—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 1608 Transportation / Grimsley (Compare H 7087)	Agricultural Recovery; Citing this act as the "Farmers and Ranchers Matter Act"; requiring the Florida Comprehensive Emergency Management Plan to allow the Department of Agriculture and Consumer Services to create the State Agricultural Response Team; authorizing the Department of Transportation to waive certain weight load restrictions and permit verifications for the transport of agricultural products from fields or packinghouses to public transportation facilities after certain natural disasters; requiring the Department of Transportation to create and administer a program to install directional signs to assist visitors in locating certain agritourism facilities, etc. TR 02/06/2018 Fav/CS AFT 02/20/2018 Fav/CS AP	Fav/CS Yeas 6 Nays 0
6	HJR 7001 Ways and Means Committee / Leek (Compare SJR 1742)	Supermajority Vote for State Taxes or Fees; Proposes amendment to State Constitution to prohibit a state tax or fee from being imposed or raised except through legislation approved by two-thirds of each house of legislature; requires a state tax or fee imposed or raised to be contained in separate bill that contains no other subject. AFT 02/20/2018 Fav/1 Amendment AP	Fav/1 Amendment (Yeas 4 Nays 2

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: PCS/SB 502 (383058)

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Stargel

SUBJECT: Corporate Income Tax

DATE: February 20, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Babin	Diez-Arguelles	AFT	Recommend: Fav/CS
2.			AP	

I. Summary:

PCS/SB 502 updates Florida's corporate income tax by adopting the federal Internal Revenue Code in effect on January 1, 2018. By adopting the updated code, Florida recognizes the changes made to the code. A number of the changes made to the federal code will affect Florida's corporate tax collections.

The bill does not adopt the increased first-year depreciation (bonus depreciation) provisions included in the Tax Cuts and Jobs Act of 2017. Florida corporations must add back those deductions for Florida purposes and then spread the deduction over a seven-year period.

The bill requires the Department of Revenue to establish a workgroup to analyze the effects of the recent federal legislation on the Florida Corporate Income Tax. The workgroup is required to file a report with the Legislature by February 1, 2019.

The bill takes effect upon becoming law and operates retroactively to January 1, 2018.

The Revenue Estimating Conference has not determined the fiscal impact of the bill.

II. Present Situation:

Annual Adoption of the Internal Revenue Code

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.¹ A corporation calculates its taxable income for Florida tax purposes by starting with its taxable income determined for federal tax purposes.² Additional adjustments are then made to determine the corporation's Florida taxable income. By starting with federal taxable income, Florida eases the administrative burden on Florida taxpayers.

¹ Sections 220.11(2) and 220.63(2), F.S.

² See generally s. 220.13(2), F.S.

Florida maintains its relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

Because Florida relies on federal taxable income to determine Florida taxable income, changes to the calculation of federal taxable income will affect the calculation of Florida taxable income and may increase or decrease Florida tax receipts if Florida adopts the most recent federal Internal Revenue Code. In some instances, Florida has adopted the new federal Internal Revenue Code, but excluded some changes.

The Tax Cuts and Jobs Act of 2017

On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act of 2017 (TCJA).³ The TCJA made significant changes to federal income tax provisions related to individuals, corporations, and the treatment of foreign income.

Individual Tax Reforms

The TCJA's changes to the taxation of individual income do not affect Florida tax revenues, as Florida does not have an individual income tax.

Business Tax Reforms

The TCJA's changes to corporate taxes generally:

- Reduce the federal income tax rate on corporate income.⁴
- Significantly increase the first-year deductions related to equipment purchases (bonus depreciation).
- Limit or require amortization of certain business expenses.
- Repeal or curtail certain tax credits and deductions.

The TCJA provides 100 percent bonus depreciation through 2023 and then phases down the percentage to 80 percent, 60 percent, 40 percent, and 20 percent, for the next four years, respectively. No bonus depreciation is granted after 2027.⁵

Bonus depreciation merely affects the timing of depreciation deductions. Under a normal depreciation schedule, deductions are spread over a given time period. Bonus depreciation increases the first-year depreciation amount and thereby decreases out-year depreciation amounts. With 100 percent bonus depreciation, all of the years' depreciation deductions are accelerated into the first year.

³ Pub. Law No. 115-97 (December 22, 2017)

⁴ Changes to the federal income tax rate do not directly affect Florida corporate income tax receipts.

⁵ TCJA, s. 13201

International Tax Reforms

The U.S. has historically deferred taxation of foreign-source income until the income was repatriated to the U.S.⁶ The TCJA aims to largely eliminate this deferral for corporations.

The TCJA's foreign income changes generally:

- Require taxation of foreign-source income.
- Provide deductions for certain dividends from foreign corporations.
- Provide temporary, partial credits for certain foreign income to reduce the near-term taxation of that income.

Bipartisan Budget Act of 2018

On February 9, 2018, President Trump signed into law the Bipartisan Budget Act of 2018 (the BBA).⁷ Included within the BBA, Congress reauthorized for a limited time several tax provisions.⁸ These provisions have come to be known as “tax extenders” because Congress has been regularly extending them for brief periods of 1 or 2 years.

The major changes affecting corporate taxes will:

- Accelerate the depreciation of certain assets.
- Increase the first-year expensing of certain film and television production expenses.
- Increase deductions for corporations with manufacturing activities in Puerto Rico.
- Increase deductions for energy efficient commercial building expenses.
- Delay recognition of certain income related to dispositions of utility property.

III. Effect of Proposed Changes:

PCS/SB 502 updates Florida's corporate income tax by adopting the federal Internal Revenue Code in effect on January 1, 2018. By adopting the updated code, Florida recognizes the changes made to the code. A number of the changes made to the federal code will affect Florida's corporate tax collections.

The Tax Cuts and Jobs Act of 2017

Business Tax Reforms

Many of the TCJA's changes to the taxation of corporate income directly affect Florida corporate income tax receipts to the extent that Florida does not “decouple”⁹ from the changes. The effect

⁶Tax Policy Center, *Briefing Book, Key Elements of the U.S. Tax System*, available at <http://www.taxpolicycenter.org/briefing-book/how-does-current-system-international-taxation-work> (last visited Feb. 17, 2018).

⁷ Pub. Law No. 115-123 (February 9, 2018)

⁸ See BBA, ss. 40101 - 40501

⁹ “Decoupling” is the term used to describe a situation when the state adopts the Internal Revenue Code, but does not adopt certain, specific changes to the code. In doing so, the state is said to have “decoupled” from those specific changes. Florida has decoupled from several changes over the past decade, most often with extraordinary first-year depreciation deductions granted at the federal level. The relevant acts were: the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization,

of each change made by the TCJA varies – some decrease tax receipts, while others increase tax receipts; however, the extent that each change will affect Florida corporate income tax receipts depends upon the specific change and the nature of the corporations involved. For instance, changes that affect manufacturing corporations may not affect Florida as much as states with significant manufacturing activities

The bill decouples from the bonus depreciation provisions included in the TCJA. Florida corporations that claim bonus depreciation on their federal returns must add back that deduction for Florida purposes and then spread the deduction over a seven-year period. This treatment has been used for similar federal provisions over the past several years.¹⁰

International Tax Reforms

The TCJA's changes related to the taxation of corporations' foreign income will likely affect Florida corporate income tax receipts, but the magnitude of the impact on tax receipts cannot be determined at this time. Like most states, Florida excludes (subtracts) certain types of foreign income from its corporate taxable income. At this time, it is unclear if the "new" taxable foreign income and related deductions will be included within those subtractions. Over the coming months, many of those decisions are expected to be made by the Internal Revenue Service.

Bipartisan Budget Act of 2018

Some of the tax extender provisions affect federal taxable income, and thus, these provisions will likely affect the Florida taxable income of affected Florida corporations.

Workgroup to Review the Effects of the Federal Legislation on Florida Corporate Income Tax

The bill provides that the Legislature recognizes that the TCJA will have significant effects on the Florida's corporate income tax and finds that it is necessary to establish a workgroup to better understand the effects. The bill requires the Department of Revenue to establish a workgroup to examine how the implementation for the TCJA will affect state corporate income tax.

The workgroup consists of department employees who have expertise in state and federal corporate income tax. The workgroup must consult with the Revenue Estimating Conference and also must seek and consider comments from the private sector.

By February 1, 2019, the workgroup must submit a report to the Governor, President of the Senate, Speaker of the House of Representatives, and the respective chairs of the appropriate legislative committees. The report must include: a comprehensive discussion of issues having an effect on the state corporate tax structure and corporate tax revenues; options for changes to state tax law needed to integrate state law with federal law; the fiscal impact of each option; and whether the workgroup should be extended.

and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, the Tax Increase Prevention Act of 2014, and The Consolidated Appropriations Act, 2016.

¹⁰ See chapters 2009-192, 2011-229, 2013-46, 2015-35, and s. 14, 2016-220, Laws of Fla.

The workgroup is required to submit status reports to the chairs of the appropriate legislative committees on May 15, 2018, July 15, 2018, September 15, 2018, and November 15, 2018. The status reports must include a brief description of the workgroup's activities and any relevant guidance issued by the Internal Revenue Service.

The bill applies retroactively to January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not determined the fiscal impact of the bill.

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides consistent tax treatment for Florida corporate taxpayers. The effect on an individual corporation will depend on many factors, including the type of activity it conducts. As a group, corporations will likely pay less taxes in Fiscal Years 2017-2018 and 2018-2019 and more taxes in Fiscal Year 2020-2021 and thereafter.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 220.03 of the Florida Statutes.

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

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

Recommended CS by Appropriations Subcommittee on Finance and Tax on February 20, 2018:

The committee substitute:

- Requires Florida taxpayers to add back amounts taken as bonus depreciation and spread the deduction over a seven-year period.
- Requires the Department of Revenue to establish a workgroup to analyze the effects of the TCJA on state corporate income tax.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 29 and 30

insert:

Section 2. Paragraph (e) of subsection (1) of section
220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount
equal to the taxpayer's taxable income as defined in subsection
(2), or such taxable income of more than one taxpayer as



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11 provided in s. 220.131, for the taxable year, adjusted as
12 follows:

13 (e) *Adjustments related to federal acts.*—Taxpayers shall be
14 required to make the adjustments prescribed in this paragraph
15 for Florida tax purposes with respect to certain tax benefits
16 received pursuant to the Economic Stimulus Act of 2008, the
17 American Recovery and Reinvestment Act of 2009, the Small
18 Business Jobs Act of 2010, the Tax Relief, Unemployment
19 Insurance Reauthorization, and Job Creation Act of 2010, the
20 American Taxpayer Relief Act of 2012, the Tax Increase
21 Prevention Act of 2014, ~~and~~ the Consolidated Appropriations Act,
22 2016, and the Tax Cuts and Jobs Act of 2017.

23 1. There shall be added to such taxable income an amount
24 equal to 100 percent of any amount deducted for federal income
25 tax purposes as bonus depreciation for the taxable year pursuant
26 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
27 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
28 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
29 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.
30 113-295, ~~and~~ s. 143 of Division Q of Pub. L. No. 114-113, and s.
31 13201 of Pub. L. No. 115-97, for property placed in service
32 after December 31, 2007, and before January 1, 2027 ~~2021~~. For
33 the taxable year and for each of the 6 subsequent taxable years,
34 there shall be subtracted from such taxable income an amount
35 equal to one-seventh of the amount by which taxable income was
36 increased pursuant to this subparagraph, notwithstanding any
37 sale or other disposition of the property that is the subject of
38 the adjustments and regardless of whether such property remains
39 in service in the hands of the taxpayer.



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40 2. There shall be added to such taxable income an amount
41 equal to 100 percent of any amount in excess of \$128,000
42 deducted for federal income tax purposes for the taxable year
43 pursuant to s. 179 of the Internal Revenue Code of 1986, as
44 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
45 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
46 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
47 No. 113-295, for taxable years beginning after December 31,
48 2007, and before January 1, 2015. For the taxable year and for
49 each of the 6 subsequent taxable years, there shall be
50 subtracted from such taxable income one-seventh of the amount by
51 which taxable income was increased pursuant to this
52 subparagraph, notwithstanding any sale or other disposition of
53 the property that is the subject of the adjustments and
54 regardless of whether such property remains in service in the
55 hands of the taxpayer.

56 3. There shall be added to such taxable income an amount
57 equal to the amount of deferred income not included in such
58 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
59 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
60 shall be subtracted from such taxable income an amount equal to
61 the amount of deferred income included in such taxable income
62 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
63 as amended by s. 1231 of Pub. L. No. 111-5.

64 4. Subtractions available under this paragraph may be
65 transferred to the surviving or acquiring entity following a
66 merger or acquisition and used in the same manner and with the
67 same limitations as specified by this paragraph.

68 5. The additions and subtractions specified in this



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69 paragraph are intended to adjust taxable income for Florida tax
70 purposes, and, notwithstanding any other provision of this code,
71 such additions and subtractions shall be permitted to change a
72 taxpayer's net operating loss for Florida tax purposes.

73 Section 3. The Legislature recognizes that the Tax Cuts and
74 Jobs Act of 2017 will have significant effects on the state
75 corporate income tax and on corporate taxpayers when it is fully
76 implemented. To better understand these effects, the Legislature
77 finds the following actions are necessary:

78 (1) The Department of Revenue shall establish a workgroup
79 to examine how the implementation of the Tax Cuts and Jobs Act
80 of 2017 will affect the state corporate income tax.

81 (2) The workgroup must consist of employees of the
82 department who have expertise in state and federal corporate
83 income tax and other employees who may assist the workgroup. In
84 performing its duties, the workgroup shall consult with the
85 Revenue Estimating Conference. The workgroup must seek and
86 consider comments from the private sector.

87 (3) By February 1, 2019, the workgroup shall submit a
88 report to the Governor, the President of the Senate, the Speaker
89 of the House, and the chairs of appropriate legislative
90 committees. At a minimum, the report must address the following:

91 (a) A comprehensive discussion of any issues the workgroup
92 determines will have an effect on the state corporate tax
93 structure and on corporate tax revenues.

94 (b) Options for changes to state tax law which may be
95 needed to integrate state law with federal law.

96 (c) The potential fiscal impact of each option on the state
97 and on taxpayers.



98 (d) Whether the workgroup should be extended.

99 (e) Any other information the workgroup determines will
100 assist the Legislature.

101 (4) The workgroup shall submit status reports to the chairs
102 of appropriate legislative committees on May 15, 2018, July 15,
103 2018, September 15, 2018, and November 15, 2018. At a minimum,
104 the status reports must include a brief description of the
105 workgroup's activities and any guidance issued by the Internal
106 Revenue Service relevant to the workgroup's duties.

107
108 ===== T I T L E A M E N D M E N T =====

109 And the title is amended as follows:

110 Delete line 4

111 and insert:

112 Internal Revenue Code; amending s. 220.13, F.S.;

113 revising the definition of the term "adjusted federal

114 income" relating to adjustments related to federal

115 acts; providing legislative findings; requiring the

116 Department of Revenue to establish a workgroup for

117 certain purposes; specifying the composition of the

118 workgroup; requiring the workgroup to consult with the

119 Revenue Estimating Conference and seek and consider

120 comments from the private sector; requiring the

121 workgroup to submit a specified report to the Governor

122 and Legislature by a specified date; requiring the

123 workgroup to submit status reports to appropriate

124 legislative committees on specified dates; providing

125 retroactive

By Senator Stargel

22-00750-18

2018502__

1 A bill to be entitled
 2 An act relating to the corporate income tax; amending
 3 s. 220.03, F.S.; adopting the 2018 version of the
 4 Internal Revenue Code; providing retroactive
 5 operation; providing an effective date.
 6
 7 Be It Enacted by the Legislature of the State of Florida:
 8
 9 Section 1. Paragraph (n) of subsection (1) and paragraph
 10 (c) of subsection (2) of section 220.03, Florida Statutes, are
 11 amended to read:
 12 220.03 Definitions.—
 13 (1) SPECIFIC TERMS.—When used in this code, and when not
 14 otherwise distinctly expressed or manifestly incompatible with
 15 the intent thereof, the following terms shall have the following
 16 meanings:
 17 (n) "Internal Revenue Code" means the United States
 18 Internal Revenue Code of 1986, as amended and in effect on
 19 January 1, 2018 ~~2017~~, except as provided in subsection (3).
 20 (2) DEFINITIONAL RULES.—When used in this code and neither
 21 otherwise distinctly expressed nor manifestly incompatible with
 22 the intent thereof:
 23 (c) Any term used in this code has the same meaning as when
 24 used in a comparable context in the Internal Revenue Code and
 25 other statutes of the United States relating to federal income
 26 taxes, as such code and statutes are in effect on January 1,
 27 2018 ~~2017~~. However, if subsection (3) is implemented, the
 28 meaning of a term shall be taken at the time the term is applied
 29 under this code.

Page 1 of 2

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

22-00750-18

2018502__

30 Section 2. This act shall take effect upon becoming a law
 31 and operate retroactively to January 1, 2018.

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 730

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Housing Finance Authorities

DATE: February 19, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 730 exempts from excise taxes any note or mortgage given in connection with a loan made by or on behalf of a housing finance authority. In order to be eligible for the exemption, the housing finance authority must submit documentation that affirms that the loan was made by or on behalf of the housing finance authority at the time the note or mortgage is recorded.

The Revenue Estimating Conference has estimated this bill reduces revenues deposited into the General Revenue Fund by \$0.2 million and into state trust funds by \$0.3 million in Fiscal Year 2018-19 and thereafter.¹

II. Present Situation:

Housing Finance Authorities

Each county in Florida may create a housing finance authority by ordinance.² A housing finance authority may not transact any business or exercise any powers until the governing body of the

¹ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Housing Authority Obligations*, SB 730, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page470-474.pdf Feb. 14, 2018.

² Section 159.604(1), F.S.

county for which the housing finance authority is created passes a resolution declaring the need to alleviate a shortage of housing and capital for investment in housing in its area of operation.³

A housing finance authority is composed of no fewer than five uncompensated members appointed by the governing body of the county.⁴ The powers of a housing finance authority are vested in the members and include the power to loan funds to persons purchasing homes and to developers engaged in qualifying housing developments.⁵ Housing finance authorities may also issue revenue bonds and refunding bonds in order to finance activities allowed under statute.⁶ Persons are eligible for loans if their annual income does not exceed 80 percent of the median income for the county.⁷ The sale price on new or existing single-family homes must not exceed 90 percent of the median area purchase price in the area.⁸

Section 159.621, F.S., provides that the following are exempt from all taxation:

- Bonds issued by a housing finance authority pursuant to Part IV of Chapter 159, F.S.;
- All notes, mortgages, security agreements, letters of credit, or other instruments that arise out of, or are given to secure, the repayment of bonds issued in connection with the financing of any housing development under this part; and
- Interest thereon and the income therefrom.

However, the exemption is not applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

There is currently no exemption for documentary stamp tax on notes and mortgages given in connection with a loan made by local housing authorities.

III. Effect of Proposed Changes:

The bill provides that any note or mortgage given in connection with a loan made by or on behalf of a housing finance authority under s. 159.608(8), F.S., is exempt from excise taxes on documents under chapter 201, F.S., if:

- At the time the note or mortgage is recorded, the housing finance authority submits documentation that affirms that the loan was made by or on behalf of the housing finance authority.

The exemption does not apply to any tax imposed by chapter 220, F.S., on interest, income, or profits on debt obligations owned by corporations or to a deed for property financed by a housing finance authority.

The bill takes effect July 1, 2018.

³ *Id.*

⁴ Section 159.605, F.S.

⁵ *Id.*

⁶ Section 159.612, F.S.

⁷ Section 159.608, F.S.

⁸ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has estimated this bill reduces revenues deposited into the General Revenue Fund by \$0.2 million and into state trust funds by \$0.3 million in Fiscal Year 2018-19 and thereafter.⁹

B. Private Sector Impact:

A reduction in the collection of excise taxes will reduce the cost of borrowing for housing authorities and should result in making these properties more available.

C. Government Sector Impact:

If the bill passes, housing finance authorities will not have to pay excise taxes related to a note or mortgage given in connection with a loan made by or on behalf of the housing finance authority.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 159.621 of the Florida Statutes.

⁹ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Housing Authority Obligations*, SB 730, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page470-474.pdf Feb. 14, 2018.

IX. Additional Information:

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

CS by Community Affairs Committee on January 16, 2018:

- Removes the exemption for the interest and income on a note or mortgage given in connection with a loan or made by or on behalf of a housing finance authority and provides that the exemption is for excise taxes on documents under chapter 201, F.S., rather than all taxes.

- B. **Amendments:**

None.

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

By the Committee on Community Affairs; and Senator Perry

578-02146-18

2018730c1

1 A bill to be entitled
 2 An act relating to housing finance authorities;
 3 amending s. 159.621, F.S.; exempting from taxation
 4 certain notes and mortgages that are part of a loan
 5 made by or on behalf of a housing financing authority;
 6 providing requirements for exemption; providing an
 7 exception to the exemptions granted by this section;
 8 providing an effective date.

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

12 Section 1. Section 159.621, Florida Statutes, is amended to
 13 read:

14 159.621 Housing bonds exempted from taxation; notes and
 15 mortgages exempt from taxation.-

16 (1) The bonds of a housing finance authority issued under
 17 this act, together with all notes, mortgages, security
 18 agreements, letters of credit, or other instruments which arise
 19 out of or are given to secure the repayment of bonds issued in
 20 connection with the financing of any housing development under
 21 this part, as well as the interest thereon and income therefrom,
 22 shall be exempt from all taxes.

23 (2) Any note or mortgage given in connection with a loan
 24 made by or on behalf of a housing finance authority under s.
 25 159.608(8) is exempt from excise taxes on documents under
 26 chapter 201 if, at the time the note or mortgage is recorded,
 27 the housing finance authority submits documentation that affirms
 28 that the loan was made by or on behalf of the housing finance
 29 authority.

Page 1 of 2

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

578-02146-18

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30
 31 The ~~exemptions exemption~~ granted by this section do not apply
 32 ~~shall not be applicable~~ to any tax imposed by chapter 220 on
 33 interest, income, or profits on debt obligations owned by
 34 corporations or to a deed for property financed by a housing
 35 finance authority.

36 Section 2. This act shall take effect July 1, 2018.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

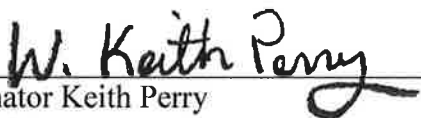
To: Senator Kelli Stargel, Chair
Appropriations Subcommittee on Finance and Tax

Subject: Committee Agenda Request

Date: January 16, 2018

I respectfully request that **Senate Bill #730**, relating to Housing Finance Authorities , be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



Senator Keith Perry
Florida Senate, District 8

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: PCS/SB 926 (697076)

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Broxson

SUBJECT: Natural Gas Fuel Taxes

DATE: February 20, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Favorable
2.	Gross	Diez-Arguelles	AFT	Recommend: Fav/CS
3.			AP	

I. Summary:

PCS/SB 926 delays the imposition of the tax on natural gas fuel used in motor vehicles from January 1, 2019, to January 1, 2024.

The bill also:

- Delays the expiration of a \$200 penalty for each month a person acts as a natural gas retailer without a valid natural gas fuel retailer license from December 31, 2018, to December 31, 2023.
- Delays the effective date of the penalty of 25 percent of the tax that is assessed on the total purchases made during the person’s unlicensed period until January 1, 2024.
- Delays the date on which natural gas fuel retailers are required to begin filing related monthly reports with the DOR from February 2019 to February 2024.

The Revenue Estimating Conference estimates that this bill will reduce General Revenue Fund receipts by an insignificant amount in Fiscal Year 2018-2019 and \$100,000 each year thereafter; reduce the State Transportation Trust Fund by \$100,000 in Fiscal Year 2018-2019 and \$400,000 each year thereafter; reduce local government’s tax receipts by \$100,000 in Fiscal Year 2018-19 and \$200,000 each year thereafter.

The bill takes effect July 1, 2018.

II. Present Situation:

Due to increased domestic exploration and production, the supply of natural gas¹ in the U.S. and in Florida is expanding. While Florida consumes less natural gas than some other states,

¹ Section 206.9951(2), F.S., currently defines “natural gas fuel” to mean “any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23). This term includes, but is not

consumption has grown significantly. Florida ranks 15th in the nation in natural gas consumption.² According to a recent report discussing a survey conducted by the Office of Program Policy Analysis & Government Accountability, “suppliers and consumers indicated that they expect their businesses to continue to grow, both in the total number of vehicles served and in gallons of natural gas fuel sold.”

Because of the benefits of natural gas (e.g., lower fuel costs, environmental benefits, and lower maintenance costs),³ some states have undertaken efforts to incentivize the use of natural gas fuel. One such effort in Florida exempts from tax natural gas fuel until January 1, 2019.

Taxation of Natural Gas Fuel

Pre-2014

Before 2014, natural gas used as a motor fuel was defined and regulated in Florida law as an “alternative fuel.” Section 206.877, F.S., required owners or operators of motor vehicles licensed in this state and powered by alternative fuels to pay an annual decal fee on each such motor vehicle in accordance with a specified rate schedule, which were in lieu of the diesel fuel taxes imposed by s. 206.87(1)(a)-(d), F.S.⁴ In addition, the sale of alternative fuel was subject to sales tax imposed under ch. 212, F.S.⁵

Section 206.89, F.S., prohibited a person, with certain exceptions, from acting as a retailer of alternative fuel unless that person held a valid retailer-of-alternative-fuel license issued by DOR, and any person acting as such who did not hold a license was subject to a penalty of 25 percent of the tax that is assessed on total purchases during the unlicensed period. Every person who operated as a retailer of alternative fuel, with certain exceptions, was required to report monthly to DOR and pay tax on all fuel purchases.

The revenues from the state alternative fuel fees imposed by s. 206.877, F.S., were deposited into the State Alternative Fuel User Fee Clearing Trust Fund. After deducting a specified service charge, the proceeds from state alternative fuel fees were distributed as follows:

- One-half of the proceeds to the State Transportation Trust Fund (STTF).
- 50 percent of the remainder to the State Board of Administration for distribution in accordance with the Florida Constitution.
- 25 percent of the remainder to the Revenue Sharing Trust Fund for Municipalities.

limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. The term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.” Section 206.9951(4), F.S., currently defines “natural gasoline” to mean “a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.”

² Office of Program Policy Analysis & Government Accountability, Florida Legislature, *Use of Natural Gas Fuels to Operate Motor Vehicles Is Increasing in Florida*, Report No. 17-10, 5, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1710rpt.pdf> (last visited Feb. 14, 2018).

³ For more details on the benefits of natural gas fuel, see the final bill analysis for CS/CS/HB 579 (2013), available at <http://www.flsenate.gov/Session/Bill/2013/579/Analyses/h0579f.RAC.PDF> (last visited Feb. 14, 2018).

⁴ See *supra* note 2, at 4. The cost for the annual decals ranged between \$199.10 and \$380.10 per motor vehicle, depending on the size and weight of the vehicle.

⁵ Section 212.08(4), F.S.

- 25 percent of the remainder to the counties for specified public transportation purposes, distributed in accordance with s. 206.60(1), F.S.

Current Law

In 2013, CS/CS/HB 579 established a fuel tax rate structure for motor vehicles powered by natural gas and repealed the decal fee imposed on “alternative fuel” vehicles.⁶ The bill also provided an exemption from the new rate structure until December 31, 2018. This legislation also exempted from the sales and use tax natural gas and natural gas fuel when placed into the fuel system of a motor vehicle.⁷

Beginning January 1, 2019, the following taxes are imposed on natural gas fuel:

- An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon⁸ of natural gas fuel, which is designated as the “ninth-cent fuel tax.”
- An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the “local option fuel tax.”
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the “State Comprehensive Enhanced Transportation System (SCETS) Tax,” at a rate determined by statute.⁹
- An additional tax is imposed on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel,” designated as the “fuel sales tax,” at a rate determined by statute.¹⁰

Section 206.997, F.S., provides that revenues from the natural gas fuel tax will be deposited into the State Alternative Fuel User Fee Clearing Trust Fund to be distributed as follows:

- The revenues from the SCETS tax and fuel sales tax will be transferred to the STTF.
- The revenues from the excise tax will be distributed as follows:
 - 50 percent shall be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
 - 25 percent shall be transferred to the Revenue Sharing Trust Fund for Municipalities.
 - 25 percent shall be distributed to the counties for specified public transportation purposes, in accordance with s. 206.60(1), F.S.

⁶ The bill created a new Part V of Ch. 206, F.S., consisting of ss. 206.9951 – 206.998, entitled ‘NATURAL GAS FUEL.’ It repealed various provisions, including ss. 206.877 and 206.89, F.S.; and it amended and relocated various provisions to the new Part V. *See supra* note 4 for a detailed analysis of the bill.

⁷ *See* s. 212.08(4)(a)2., F.S.

⁸ “Motor fuel equivalent gallon” is defined in s. 206.9951(1), F.S., to mean the volume of natural gas fuel it takes to equal the energy content of one gallon of motor fuel. Section 206.9955, F.S., currently defines the motor fuel equivalent gallon for compressed natural gas, liquefied natural gas, and liquefied petroleum gas.

⁹ Paragraph (d) of s. 206.9955(2), F.S., currently requires the DOR, each calendar year, to determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established rate of **5.8 cents per gallon** by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

¹⁰ Paragraph (e) of s. 206.9955(2), F.S., currently requires the DOR, each calendar year, to determine the tax rate applicable to the sale of natural gas fuel, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The tax rate is to be calculated by adjusting the initially established tax rate of **9.2 cents per gallon** by the percentage change in the average of the Consumer Price Index for the most recent 12-month period ending September 30.

- The revenues from the ninth-cent fuel tax and the local option sales tax will be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund and returned monthly to the appropriate counties.

In addition, among other provisions relating to natural gas fuel, current law:

- Provides that *until December 31, 2018*, any person acting as a natural gas retailer without such a license must pay a penalty of \$200 for each month of operation during the unlicensed period.¹¹
- Imposes the penalty of 25 percent of the tax that is assessed on total purchases during an unlicensed period *beginning January 1, 2019*.¹²
- Requires natural gas fuel retailers to submit an electronic, monthly report to DOR, *beginning with February 2019* and monthly thereafter, showing information on inventory, purchases, nontaxable disposals, table uses, and taxable sales in gallons of natural gas fuel for the preceding month, with certain exceptions and a specified deduction for services rendered and expenses incurred in complying with the reporting requirements.¹³

III. Effect of Proposed Changes:

Section 1 amends s. 206.9952(3), F.S., to:

- Delay the date of expiration of the \$200 penalty for each month a person acts as a natural gas retailer without a valid natural gas fuel retailer license from December 31, 2018, to December 31, 2023.
- Delay the effective date of the penalty of 25 percent of the tax that is assessed on the total purchases made during the person's unlicensed period until January 1, 2024.

Section 2 amends s. 206.9955, F.S., to delay the effective date of the imposition of the tax on natural gas fuel from January 1, 2019, to January 1, 2024, thereby providing the exemption for natural gas fuel used in a motor vehicle for an additional five years.

In addition, the bill amends the formula used to adjust the tax rates. The bill sets the 12-month period ending September 30, 2013, as the base year in the formula.

Section 3 amends s. 206.996, F.S., to delay the date on which natural gas fuel retailers are required to begin filing related monthly reports with the DOR from February 2019 to February 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

¹¹ Section 206.9952(3)(a), F.S.

¹² Section 206.9952(3)(b), F.S.

¹³ Section 206.996, F.S.

Subsection (b) of s. 18, Art. VII, Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,¹⁴ which for Fiscal Year 2017-2018, is \$2.05 million or less.¹⁵

The Revenue Estimating Conference estimates the reduction to local government's tax receipts is \$100,000 in Fiscal Year 2018-19. Therefore this bill has an insignificant fiscal impact and may not require a two-thirds vote of the membership in each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that this bill will reduce General Revenue Fund receipts by an insignificant amount in Fiscal Year 2018-2019 and \$100,000 each year thereafter; reduce the State Transportation Trust Fund by \$100,000 in Fiscal Year 2018-2019 and \$400,000 each year thereafter; reduce local government's tax receipts by \$100,000 in Fiscal Year 2018-19 and \$200,000 each year thereafter.

B. Private Sector Impact:

The imposition of the specified natural gas fuel taxes is delayed until January 1, 2024, resulting in an indeterminate positive fiscal impact to owners or operators of natural gas fueled vehicles who would otherwise be subject to the taxes beginning January 1, 2019.

C. Government Sector Impact:

The imposition of the specified natural gas fuel taxes is delayed until January 1, 2024, resulting in delayed collection of revenues from the taxes in an indeterminate amount. Under current law, these revenues would have been distributed to the STTF, the State Board of Administration, and local governments beginning in 2019.

¹⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>. (Last visited February 7, 2018.)

¹⁵ Based on the Demographic Estimating Conference's population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>. (Last visited February 7, 2018.)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 206.9952, 206.9955, and 206.996.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on Finance and Tax on February 20, 2018:

The committee substitute:

Sets the 12-month period ending September 30, 2013, as the base year in the formula.

B. Amendments:

None.



793458

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 45 - 63

and insert:

determined pursuant to this paragraph. Before January 1, 2024,
and each year thereafter ~~Each calendar year~~, the department
shall determine the tax rate applicable to the sale of natural
gas fuel for the following 12-month period beginning January 1,
rounded to the nearest tenth of a cent, by adjusting the
~~initially established~~ tax rate of 5.8 cents per gallon by the



793458

11 percentage change in the average of the Consumer Price Index
12 issued by the United States Department of Labor for the most
13 recent 12-month period ending September 30, compared to the base
14 year average, which is the average for the 12-month period
15 ending September 30, 2013.

16 (e)1. An additional tax is imposed on each motor fuel
17 equivalent gallon of natural gas fuel for the privilege of
18 selling natural gas fuel. Before January 1, 2024, and each year
19 thereafter ~~Each calendar year~~, the department shall determine
20 the tax rate applicable to the sale of natural gas fuel, rounded
21 to the nearest tenth of a cent, for the following 12-month
22 period beginning January 1, ~~The tax rate is calculated by~~
23 adjusting the ~~initially established~~ tax rate of 9.2 cents per
24 gallon by the percentage change in the average of the Consumer
25 Price Index issued by the United States Department of Labor for
26 the most recent 12-month period ending September 30, compared to
27 the base year average, which is the average for the 12-month
28 period ending September 30, 2013.

29
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

32 Between lines 5 and 6

33 insert:

34 revising the calculation of certain taxes by the
35 Department of Revenue;

By Senator Broxson

1-00735-18

2018926__

A bill to be entitled

An act relating to natural gas fuel taxes; amending s. 206.9952, F.S.; conforming provisions to changes made by the act; amending s. 206.9955, F.S.; delaying the effective date of certain taxes on natural gas fuel; amending s. 206.996, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsections (3) and (8) of section 206.9952, Florida Statutes, are amended to read:

206.9952 Application for license as a natural gas fuel retailer.—

(3)(a) Any person who acts as a natural gas retailer and does not hold a valid natural gas fuel retailer license shall pay a penalty of \$200 for each month of operation without a license. This paragraph expires December 31, 2023 ~~2018~~.

(b) Effective January 1, 2024 ~~2019~~, any person who acts as a natural gas fuel retailer and does not hold a valid natural gas fuel retailer license shall pay a penalty of 25 percent of the tax assessed on the total purchases made during the unlicensed period.

(8) With the exception of a state or federal agency or a political subdivision licensed under this chapter, each person, as defined in this part, who operates as a natural gas fuel retailer shall report monthly to the department and pay a tax on all natural gas fuel purchases beginning January 1, 2024 ~~2019~~.

Section 2. Subsection (2) of section 206.9955, Florida

Page 1 of 4

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

1-00735-18

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Statutes, is amended to read:

206.9955 Levy of natural gas fuel tax.—

(2) Effective January 1, 2024 ~~2019~~, the following taxes shall be imposed:

(a) An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.

(b) An additional tax of 1 cent upon each motor fuel equivalent gallon of natural gas fuel, which is designated as the "ninth-cent fuel tax."

(c) An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the "local option fuel tax."

(d) An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the "State Comprehensive Enhanced Transportation System Tax," at a rate determined pursuant to this paragraph. Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established tax rate of 5.8 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

(e)1. An additional tax is imposed on each motor fuel equivalent gallon of natural gas fuel for the privilege of selling natural gas fuel. Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The tax rate is

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59 calculated by adjusting the initially established tax rate of
 60 9.2 cents per gallon by the percentage change in the average of
 61 the Consumer Price Index issued by the United States Department
 62 of Labor for the most recent 12-month period ending September
 63 30.

64 2. The department is authorized to adopt rules and publish
 65 forms to administer this paragraph.

66 Section 3. Subsection (1) of section 206.996, Florida
 67 Statutes, is amended to read:

68 206.996 Monthly reports by natural gas fuel retailers;
 69 deductions.—

70 (1) For the purpose of determining the amount of taxes
 71 imposed by s. 206.9955, each natural gas fuel retailer shall
 72 file beginning with February 2024 ~~2019~~, and each month
 73 thereafter, no later than the 20th day of each month, monthly
 74 reports electronically with the department showing information
 75 on inventory, purchases, nontaxable disposals, taxable uses, and
 76 taxable sales in gallons of natural gas fuel for the preceding
 77 month. However, if the 20th day of the month falls on a
 78 Saturday, Sunday, or federal or state legal holiday, a return
 79 must be accepted if it is electronically filed on the next
 80 succeeding business day. The reports must include, or be
 81 verified by, a written declaration stating that such report is
 82 made under the penalties of perjury. The natural gas fuel
 83 retailer shall deduct from the amount of taxes shown by the
 84 report to be payable an amount equivalent to 0.67 percent of the
 85 taxes on natural gas fuel imposed by s. 206.9955(2)(a) and (e),
 86 which deduction is allowed to the natural gas fuel retailer to
 87 compensate it for services rendered and expenses incurred in

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88 complying with the requirements of this part. This allowance is
 89 not deductible unless payment of applicable taxes is made on or
 90 before the 20th day of the month. This subsection may not be
 91 construed as authorizing a deduction from the constitutional
 92 fuel tax or the fuel sales tax.

93 Section 4. This act shall take effect July 1, 2018.

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Appropriations Subcommittee on Finance and Tax

Subject: Committee Agenda Request

Date: January 24, 2018

I respectfully request that **926**, relating to Natural Gas Fuel Taxes, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script, appearing to read "Doug Broxson".

Senator Doug Broxson
Florida Senate, District 1

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 1504

INTRODUCER: Community Affairs Committee and Senator Rouson

SUBJECT: Tax Deed Sales

DATE: February 19, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Recommend: Favorable
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1504 clarifies the responsibilities of the tax certificateholder when applying for a tax deed, including the specific costs to pay. The bill requires tax collectors to contract with title companies or abstract companies to provide a property information report. Costs for property information reports will be added to the costs of sale.

Additionally, the bill revises certain provisions regarding notice and distribution of surplus funds, and makes certain technical changes.

The bill does not affect state or local government revenues.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The State Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property.¹

¹ FLA. CONST. art. VII, s. 1(a).

The ad valorem tax is based on the taxable value of property as of January 1 of each year.² The property appraiser annually determines the “just value”³ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁴

Tax Collection and Tax Certificate Sales

After receiving the tax roll, the tax collector publishes a notice in the local newspaper stating the tax roll is open for collection, and within 20 working days of receipt of the tax roll, sends each taxpayer, whose address is known, a tax notice with the current taxes due and any delinquent taxes due.⁵ All taxes are due on November 1 of each year,⁶ and taxes become delinquent on April 1.⁷

If ad valorem taxes are not paid by June 1, the tax collector advertises and sells tax certificates to pay the delinquency.⁸ The tax certificate is awarded to the investor who will accept the lowest rate of interest for paying the taxes, interest, costs and charges due on the property.⁹ Unsold tax certificates and tax certificates valued at less than \$250 on homestead property are issued to the county.¹⁰ A tax certificate is a legal document that represents unpaid delinquent ad valorem taxes, non-ad valorem assessments, interest, and related costs and charges issued against a specific parcel of real property.¹¹ Once sold, the tax certificate becomes a first lien on the property, superior to all other liens, except as provided by law,¹² but can be enforced only through the remedies provided under ch. 197, F.S.¹³

The tax certificateholder may not take any action against the property for approximately two years, after which the certificateholder may apply for a tax deed.¹⁴ The tax certificate expires 7 years from the date the sale was advertised.¹⁵ If a tax deed has not been applied for, and no other

² Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

³ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

⁴ *See* s. 192.001(2) and (16), F.S.

⁵ Section 197.322(2), F.S. If payment has not been received, the tax collector must send out an additional notice by April 30. Section 197.343(1), F.S.

⁶ For simplicity, the dates used herein assume that the tax roll is completed and certified on time. Relevant statutes provide for shifting of these timeframes if the process is delayed. For example, *see* s. 197.333, F.S., providing that in the event the tax roll is delayed, taxes are due when the certified tax roll is received by the tax collector.

⁷ Section 197.333, F.S.

⁸ Sections 197.402(3) and 197.432(1), F.S.

⁹ Section 197.432(6), F.S.

¹⁰ Section 197.432, F.S.

¹¹ Section 197.102(1)(f), F.S.

¹² *Id.*

¹³ Section 197.432(2), F.S.

¹⁴ Section 197.502(1), F.S.

¹⁵ Section 197.482, F.S.

administrative or legal proceeding, including a bankruptcy, has been initiated, the tax certificate is null and void and must be canceled.¹⁶

The property owner may redeem a tax certificate by paying the face value amount of the tax certificate plus all interest, costs, and charges to the tax collector any time before a tax deed is issued, unless full payment for a tax deed is made to the clerk of the court.¹⁷ If the property owner redeems a tax certificate, the tax collector pays the tax certificateholder the amount received less a redemption fee.¹⁸ If the certificateholder cannot be found for payment, the money is remitted to the state as unclaimed property.¹⁹

Tax Deed Applications

At least two years after April 1 of the year in which the tax certificate was issued, and before the certificate expires, a certificateholder may apply for a tax deed with the tax collector.²⁰ The tax collector may charge a \$75 application fee and reimbursement of costs for use of an online application process, if offered. If the total fee is more than \$75, the applicant must have the option to apply online.²¹

A certificateholder that applies for a tax deed must buy or redeem all other outstanding tax certificates plus interest, any omitted taxes²² plus interest, any delinquent taxes plus interest, and any current taxes due on the property, and, if applicable, pay the costs of resale.²³ Failure to pay the costs of resale within 30 days after notice from the clerk of court results in the property being placed on the list of lands available for sale.²⁴

If the certificateholder is the county, the application fee and reimbursement costs charged by the tax collector must be deposited with the tax collector, but the county may not deposit any money for redemption or purchase of other tax certificates covering the property.²⁵ Certificateholders with more than one tax certificate may consolidate them into one application, but the tax collector is required to issue separate statements to the clerk of the circuit court to identify appropriate parties for notice requirements and the clerk must issue a separate tax deed for each listed parcel of real property.²⁶

¹⁶ *Id.* A deferred payment tax certificate is not subject to this provision.

¹⁷ Section 197.472(1), F.S. A portion of a certificate may be redeemed only if such portion can be ascertained by legal description and the portion to be redeemed is evidenced by a contract for sale or recorded deed. Section 197.472(4), F.S.

¹⁸ Section 197.472(5), F.S.

¹⁹ Section 197.473, F.S.

²⁰ Section 197.502(1), F.S.

²¹ *Id.*

²² "Omitted taxes" means those taxes which have not been extended on the tax roll against a parcel of property after the property has been placed upon the list of lands available for taxes pursuant to s. 197.502, F.S. Section 197.102(1)(c), F.S.

²³ Section 197.502(2), F.S. The requirement to purchase all other outstanding tax certificates is not imposed on counties that hold certificates and apply for a tax deed.

²⁴ *Id.*

²⁵ Section 197.502(3), F.S. The county must apply for a tax deed if the property has been most recently assessed at a value over \$5,000 by the property appraiser and may apply for a tax deed on property most recent assessment below \$5,000. The county must apply on or reasonably soon after 2 years after the April 1 of the year the tax certificate was issued.

²⁶ Section 197.502(9), F.S.

After the certificateholder provides the required funds, the tax collector must send a signed statement to the clerk of the circuit court confirming receipt and directing the clerk to notify the following persons prior to the sale of the property, if their addresses are documented:

- Any legal titleholder of record;
- Any lienholder of record who has recorded a lien against the property described in the tax certificate;
- Any mortgagee of record;
- Any vendee of a recorded contract for deed or any vendee who has applied to receive notice pursuant to s. 197.344(1)(c), F.S.;
- Any other lienholder who has applied to the tax collector to receive notice;
- Any person to whom the property was assessed on the tax roll for the year in which the property was last assessed;
- Any lienholder of record who has recorded a lien against a mobile home located on the property described in the tax certificate if the lien is recorded with the clerk of the circuit court in the county where the mobile home is located; and
- Any legal titleholder of record of property that is contiguous²⁷ to the property described in the tax certificate, if the property described is submerged land or common elements of a subdivision and if the address of the titleholder of contiguous property appears on the record of conveyance of the property to the legal titleholder.²⁸

The tax collector may purchase a reasonable bond for errors and omissions made in preparing this statement,²⁹ and may contract with a title or abstract company to provide the minimum information to identify the persons requiring notice from the clerk.³⁰ If additional information is required, the tax collector must make a written request to the title or abstract company stating the additional requirements.³¹ The law does not specify what report the tax collector must obtain but does reference the requirements for a property information report and title search or abstract.³²

A property information report is any report that discloses documents or information about a parcel of real property appearing in:

- The Official Records in the possession of the clerk of the circuit court as county recorder;³³
- The records of a county tax collector pertaining to ad valorem real property taxes and special assessments imposed by a governmental authority; or
- The Secretary of State filing office or another governmental filing office pertaining to real or personal property.³⁴

²⁷ “Contiguous” means touching, meeting, or joining at the surface or border, other than at a corner or a single point, and not separated by submerged lands. Submerged lands lying below the ordinary high-water mark which are sovereignty lands are not part of the upland contiguous property for purposes of notification. Section 197.502(4)(h), F.S.

²⁸ Sections 197.502(4)(a)-(h), F.S.

²⁹ Section 197.502(4), F.S. A search of the official records must be made by a direct and inverse search. “Direct” means the index in straight and continuous alphabetic order by grantor, and “inverse” means the index in straight and continuous alphabetic order by grantee.

³⁰ Section 197.502(5)(a), F.S.

³¹ *Id.*

³² Section 197.502(5)(a)-(b), F.S. The tax collector may not accept or pay for any title search or abstract if financial responsibility is not assumed for the search, but may set reasonable restrictions as to the liability or responsibility of the title or abstract company.

³³ Pursuant to s. 28.222, F.S.

³⁴ Section 627.7843(1), F.S.

A property information report may not include or imply, either directly or indirectly, any opinion, warranty, guarantee, insurance, or other similar assurance,³⁵ and liability for any errors or omissions in the report is limited to the contractual remedies available only to the party expressly identified as the recipient of the report not exceeding the amount paid for the report.³⁶ The report must contain the liability disclaimer worded in the statute.³⁷ Before a tax collector becomes liable for payment of a property information report, the report, whether in paper or electronic format, must include the letterhead of the person, firm, or company making the search and signature of the individual making the search or an officer of the firm.³⁸

A title search is the compiling of title information from official or public records.³⁹ An abstract is a summary of the record evidence of title.⁴⁰ An abstract must include:

- A description of the property,
- The names of the grantors and grantees, mortgagors and mortgagees,
- The nature of the instrument, consideration, date, release of dower, number of witnesses, number of book and page of record, and
- Such other information arranged in such order as the board of county commissioners may deem advisable.⁴¹

If a title search or abstract of title is produced, the fee paid for the title search or abstract must be collected from the certificateholder at the time the application is made, and the amount of the fee must be added to the opening bid of the tax deed sale.⁴² The tax collector may not accept or pay for any title search or abstract if financial responsibility is not assumed for the search.⁴³

In order to establish uniform prices for property information reports within the county, the tax collector must ensure that the contract for such reports include all requests for title searches or abstracts for a given period of time.⁴⁴

³⁵ Section 627.7843(2), F.S. A property information report is not title insurance. *Id.*

³⁶ Section 627.7843(3), F.S.

³⁷ *Id.* Under the tax deed application scheme, tax collectors may contract for higher maximum liability limits despite the statutory limitation on liability. Section 197.502(5)(a)2., F.S.

³⁸ Section 197.502(5)(a)1., F.S.

³⁹ Section 627.7711(4), F.S.

⁴⁰ *Adams v. Whittle*, 101 Fla. 705, 135 So.152 (Fla. 1931). The decision actually uses “epitome,” as in a summary of a written work.

⁴¹ Section 703.03, F.S. An abstract of tax sales relating to real estate must include the number of the tax certificate, date of sale, the year for which taxes were unpaid, number and page of book where it was recorded, date of redemption or cancellation, date of the tax sales deed, number and page of book where recorded, and such other information and in such order as may be deemed advisable by the clerk. Section 703.04, F.S.

⁴² Section 197.502(5)(b), F.S. However, reasonable restrictions as to the liability or responsibility of the title or abstract company are acceptable.

⁴³ Section 197.502(5)(a)2., F.S.

⁴⁴ Section 197.502(5)(a)3., F.S.

Tax Deed Sale

The clerk of the circuit court must advertise⁴⁵ and administer a sale and receive fees pursuant to a statutory fee schedule.⁴⁶ The clerk of the circuit court must notify the persons listed in the tax collector's statement of the tax deed application.⁴⁷ The notice must be mailed at least 20 days before the date of the sale. No notice is required if no addresses are listed in the tax collector's statement.⁴⁸ The clerk must certify the names and addresses of those persons notified and the date the notice was mailed or certify no address was listed on the tax collector's certification.⁴⁹ The failure of anyone to receive notice as provided by statute does not affect the validity of the tax deed issued pursuant to the notice.⁵⁰

The opening bid for county-held tax certificates against non-homestead property must include:

- All outstanding tax certificates against the property plus taxes for any omitted years;
- Delinquent taxes;
- Interest at the rate of 1.5 percent per month for the period running from the month after the date of application for the deed through the month of sale;⁵¹
- Costs incurred for the service of notice to the required parties by the clerk;⁵² and
- All costs and fees paid by the county.⁵³

The opening bid for individual tax certificates must include:

- The amount of money paid to the tax collector by the certificateholder at the time of application;
- The amount required to redeem the applicant's tax certificate and all other costs and fees paid by the applicant;
- All tax certificates that were sold subsequent to the filing of the tax deed application;

⁴⁵ Upon the receipt of the tax deed application and payment of proper charges, the clerk shall publish a form notice once each week for 4 consecutive weeks at weekly intervals in a newspaper selected as provided in s. 197.402, F.S., or as required if there is no available newspaper. No tax deed sale can be held until 30 days after the first publication of the notice. Section 197.512(1)-(2), F.S.

⁴⁶ Sections 197.502(5)(c) and 28.24(21)-(22), F.S. Currently, the clerk's fee is \$60.00 for processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds and \$10 for distribution of the excess proceeds for the first \$100, or fraction thereof.

⁴⁷ Section 197.522(1)(a), F.S. Notice must be made by certified mail with return receipt requested or, if the notice is to be sent outside the continental United States, by registered mail. The notice must include the warning language listed in the statute.

⁴⁸ *Id.* The certificateholder may also request the clerk mail notice to names and addresses provided by the certificateholder. The charges are paid by the certificateholder and added to the amount required to redeem the land for sale. Section 197.532, F.S.

⁴⁹ Section 197.522(1)(c) and (2)(b), F.S.

⁵⁰ Section 197.522(1)(d), F.S. In addition to the mailed notice, the sheriff of the county in which the legal titleholder resides must notify the legal titleholder of record of the property on which the tax certificate is outstanding at least 20 days prior to the date of sale. If the sheriff is unable to make service, he or she must post a copy of the notice in a conspicuous place at the legal titleholder's last known address. The inability of the sheriff to serve notice on the legal titleholder shall not affect the validity of the tax deed issued pursuant to the notice. A legal titleholder of record who resides outside the state may be notified by mail as required. However, no posting of notice shall be required if the property to be sold is classified for assessment purposes, according to use classifications established by the department, as nonagricultural acreage or vacant land. *See* Section 197.522(2)(a), F.S.

⁵¹ Section 197.542(1), F.S.

⁵² *Id.*

⁵³ Section 197.502(6)(a), F.S.

- Omitted taxes, if any exist;⁵⁴
- Interest at the rate of 1.5 percent per month for the period running from the month after the date of application for the deed through the month of sale; and
- Costs incurred for the service of notice to the required parties by the clerk.⁵⁵

Opening bids for any property assessed as homestead property on the latest tax roll must include one-half of the latest assessed value of the homestead in addition to the amounts for an opening bid on non-homestead property.⁵⁶

The property is sold at public auction by the clerk of the circuit court, or the clerk's deputy, during regular office hours and pursuant to the published notice.⁵⁷ The opening bid is the bid of the certificateholder.⁵⁸ If there are no higher bids, the property is sold to the certificateholder, who must pay the clerk any amounts included in the minimum bid not already paid, including, but not limited to, documentary stamp taxes, recording fees, and, if the property is homestead property, the moneys to cover one-half the value of the homestead within 30 days after the sale.⁵⁹ If the certificateholder fails to make full payment when due, the clerk enters the land on a list entitled "lands available for taxes."⁶⁰

At the sale, the property shall be sold to the highest bidder, who must post with the clerk a nonrefundable deposit of 5 percent of the bid or \$200, whichever is greater, at the time of the sale, to be applied to the sales price at the time of full payment.⁶¹ If the sale is canceled for any reason or the buyer fails to make full payment within the time required, the clerk must re-advertise the sale within 30 days after the buyer's nonpayment or, if canceled, within 30 days after the clerk receives the costs of resale.⁶² Any person, firm, corporation, or county that is the grantee of any tax deed is entitled to the immediate possession of the lands described in the deed.⁶³

Tax Sale Proceeds Distribution

If the property is not purchased by the certificateholder, the clerk must reimburse the certificateholder of the sums paid, including the amount required to redeem the certificate or certificates together with any and all subsequent unpaid taxes plus the costs and expenses of the

⁵⁴ Section 197.502(6)(b), F.S.

⁵⁵ Section 197.542(1), F.S.

⁵⁶ Section 197.502(6)(c), F.S.

⁵⁷ Section 197.542(1), F.S.

⁵⁸ *Id.*

⁵⁹ *Id.* Upon payment, a tax deed shall be issued and recorded by the clerk. Under s. 197.573, F.S., the usual restrictions and covenants limiting the use of property; the type, character and location of building; covenants against nuisances and what the former parties deemed to be undesirable conditions, in, upon, and about the property; and other similar restrictions and covenants; survive the tax deed sale. *See* s. 197.573, F.S.

⁶⁰ Section 197.542(1), F.S.

⁶¹ Section 197.542(2), F.S.

⁶² Section 197.542(3), F.S.

⁶³ Section 197.562, F.S.

application for deed, with interest.⁶⁴ The clerk distributes the proceeds of sale in the same manner as money received for the redemption of tax certificates owned by the county.⁶⁵

Any proceeds exceeding the certificateholder's statutory bid must be paid over to and disbursed by the clerk.⁶⁶ If the property purchased is homestead property and the statutory bid included the required homestead deposit,⁶⁷ that amount must be treated as excess and distributed in the same manner.⁶⁸

The clerk must distribute the excess proceeds to governmental units to pay any lien of record held by the governmental unit against the property.⁶⁹ If there is a balance after all governmental units are paid in full, the clerk retains the excess proceeds for the benefit of persons who were entitled to notice of the tax deed sale as identified by the tax collector, including any legal titleholder of record of property contiguous to tax deed property that is submerged land or common elements of a subdivision.⁷⁰ The clerk must notify these persons by mail that the funds are being held for their benefit.⁷¹ If the money is not claimed, the clerk may report the money as unclaimed and remit it to the state.⁷² The clerk may take money from the excess proceeds to cover any service charges, at the rate prescribed under the clerk's fee schedule,⁷³ and the costs of mailing notice.⁷⁴ Excess proceeds shall be held and disbursed in the same manner as unclaimed redemption moneys.⁷⁵ If excess proceeds are not sufficient to cover the service charges and mailing costs, the clerk shall receive the total amount of excess proceeds as a service charge.⁷⁶

If unresolved claims against the property exist on the date the property is purchased, the clerk must ensure that the excess funds are paid according to the priorities of the claims.⁷⁷ Junior lienholders cannot be paid if a higher priority lienholder has not made a claim.⁷⁸ The clerk may initiate an interpleader action against the lienholders to resolve any potential conflicts in claim and seek reasonable fees and costs.⁷⁹

⁶⁴ Section 197.582(1), F.S. Interest is 1.5 percent per month on the total of such sums for the period running from the month after the date of application for the deed through the month of sale.

⁶⁵ *Id.*

⁶⁶ Section 197.582(2), F.S.

⁶⁷ The homestead deposit is an amount equal to at least one-half of the assessed value of the homestead. Section 197.502(6)(c), F.S.

⁶⁸ Section 197.582(2), F.S.

⁶⁹ *Id.* Any tax certificates not incorporated in the tax deed application and omitted taxes, if any, are included. If the excess is not sufficient to pay all of such liens in full, the excess shall be paid to each governmental unit pro rata.

⁷⁰ Sections 197.502(4)(h) and 197.582(2), F.S.

⁷¹ Section 197.582(2), F.S.

⁷² Sections 197.582(2) and 717.117(4), F.S.

⁷³ *See* s. 28.24(10), F.S.

⁷⁴ Sections 197.582(2) and 197.473, F.S.

⁷⁵ *Id.*

⁷⁶ Section 197.582(2), F.S.

⁷⁷ Section 197.582(3), F.S.

⁷⁸ *Id.*

⁷⁹ *Id.*

III. Effect of Proposed Changes:

Section 1 amends section 197.502, F.S., relating to the application for obtaining a tax deed by holder of the tax sale certificate.

Section 197.502(2), F.S.

The bill requires the certificateholder applying for a tax deed to pay the mailing costs when the certificateholder requests additional mailing notices pursuant to s. 197.532, F.S., and other costs to bring the property to sale at public auction as outlined in s. 197.542, F.S. The bill also adds language requiring the tax collector to cancel a tax deed application if the certificateholder fails to pay the costs to bring the property to sale within 30 days after notice from the clerk's office and provides for taxes and costs associated with a cancelled tax deed to earn interest at the bid rate of the certificate on which the application was based.

Section 197.502(5)(a)-(b), F.S.

The bill requires, rather than allows, each tax collector to contract with a title company or an abstract company to provide a property information report, defined in s. 627.7843(1), F.S., and replaces references to "title searches or abstracts" with a reference to a "property information report."

Section 197.502(5)(c), F.S.

The bill requires the clerk to record a notice of tax deed application in the official records after the tax collector submits the application to the clerk. The notice serves as notice of the pendency of the tax deed application, remains effective for 1 year after the recording date, and is deemed to provide notice to any person who acquires an interest in the described property after the date of recording. The notice will be released automatically upon the sale, or, if the property is redeemed, released upon payment of the required clerk's fees. The notice must have the same information required for the notice that must be published by a newspaper or posted publicly under s. 197.512, F.S. The costs of recording the notice must be collected at the time of application and added to the opening bid for the property in the tax deed sale.

Section 197.502(5)(d), F.S.

The bill adds the specific statutory references for the advertisement and administration of a tax deed sale.

Section 197.502(5)(e), F.S.

The bill provides that sending the notice of the application for tax deed as required under ss. 197.512 and 197.522, F.S., to the persons entitled to receive notice under s. 197.502(4), F.S., is conclusively deemed sufficient to provide adequate notice of the application and sale at public auction.

Section 197.502(6)(a) and (b), F.S.

The bill adds current taxes to the list of costs required to be added to the opening bid for the tax deed on both county-held and individually purchased tax certificates, and adds “additional fees or costs incurred by the clerk” to the opening bid for individually purchased certificates.

Section 2 amends section 197.522, F.S., relating to notice to the property owner of a pending application for tax deed, to provide that the clerk may rely on the addresses provided by the tax collector and is not required to seek additional information to verify the addresses because property owners are presumed to know what taxes are due and payable annually under s. 197.122, F.S.

Section 3 amends section 197.582, F.S., relating to the disbursement of proceeds of sale.

Section 197.582(2) and (3), F.S.

The bill provides that the clerk must mail notices to the persons entitled to the excess proceeds from a tax deed sale to the addresses provided by the tax collector. The bill provides a form entitled the “Notice of Surplus Funds from Tax Deed Sale” for the clerk to use to notify claimants. Service charges and mailing costs are taken out of the surplus. If the surplus is not enough to cover the service charges and mailing costs, the clerk receives the total surplus proceeds as a service charge after certifying the deficiency.

Claimants have 120 days after the date of the notice to file a claim for the surplus proceeds. The bill provides a claim form that may be used by claimants.

Section 197.582(4)-(9), F.S.

The bill provides that the claims may be submitted by mail, commercial delivery service, in person, or by fax or e-mail. If submitted by mail, the postmark date is the date of filing the claim. For a claim submitted by commercial delivery service or delivered in person, the date of delivery is the filing date. The filing date for a faxed or e-mailed claim is the date of receipt by the clerk. Claims that are not filed by the close of business on the 120th day after the date of the mailed notice of surplus funds are barred and constitute a waiver of interest in the surplus proceeds, unless they are claims by the property owner.

The bill adds a review period of 90 days during which the clerk may file an interpleader action to determine the proper disbursement of the proceeds or pay the surplus funds according to the clerk’s own determination of priority based on the submitted claims. A declaratory action may not be filed until after the claim and review periods have expired.

The bill requires holders of governmental liens, other than federal government liens and ad valorem tax liens, to file a request for disbursement of surplus funds within 120 days after the mailing of the notice of surplus funds. The clerk or comptroller must disburse funds to governmental units holding any lien of record against the property, including any tax certificate not incorporated in the tax deed application and any omitted tax, before non-governmental claimants. The tax deed recipient may directly pay off the liens to governmental units then file a

timely claim with proof of payment and receive the same amount of funds, in the same priority, as the original lienholder.

The bill provides that if the clerk does not receive any claims for the surplus funds within the 120-day claim period, there is a conclusive presumption that the legal titleholder of record described in s. 197.502(4)(a), F.S., is entitled to the surplus funds. If the legal titleholder does not claim the surplus proceeds, the clerk must process the surplus proceeds as unclaimed money in the manner provided in ch. 717, F.S., regardless of whether the legal titleholder is a resident of the state or not.

Section 4 provides that the bill applies to tax deed applications filed on or after October 1, 2018, with the tax collector pursuant to s. 197.502, F.S.

Section 5 provides that the bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill does not affect state or local government revenues.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill clarifies and improves noticing requirements regarding the application for tax deeds by tax certificateholders and the related sale at public auction.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 197.502, 197.522, and 197.582.

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

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

CS by Community Affairs on February 13, 2018:

- Restores current law to allow tax collectors to contract with title companies and abstract companies for the preparation of property information reports;
- Removes the definition of “title company”;
- Adds language to provide that the tax collector must cancel a tax deed application if the certificateholder fails to pay the costs required to bring the property to sale within 30 days after notice from clerk;
- Provides for taxes and costs associated with a cancelled tax deed to earn interest at the bid rate for the certificate on which the application was based;
- Removes the negative revenue impacts to the state by returning to current law regarding disposition of unclaimed property; and
- Makes other technical changes.

B. Amendments:

None.

By the Committee on Community Affairs; and Senator Rouson

578-03173-18

20181504c1

1 A bill to be entitled
 2 An act relating to tax deed sales; amending s.
 3 197.502, F.S.; requiring a tax certificateholder to
 4 pay specified costs required to bring the property on
 5 which taxes are delinquent to sale; requiring the tax
 6 collector to cancel a tax deed application if certain
 7 costs are not paid within a specified period for
 8 certain purposes; revising procedures for applying
 9 for, recording, and releasing tax deed applications;
 10 revising provisions to require property information
 11 reports for certain purposes; prohibiting a tax
 12 collector from accepting or paying for a property
 13 information report under certain circumstances;
 14 amending s. 197.522, F.S.; authorizing a clerk to rely
 15 on addresses provided by the tax collector for
 16 specified purposes; amending s. 197.582, F.S.;
 17 revising procedures for the disbursement of surplus
 18 funds by clerks; providing forms for use in noticing
 19 and claiming surplus funds; specifying methods for
 20 delivering claims to the clerk's office; providing
 21 deadlines for filing claims; providing procedures to
 22 be used by clerks in determining disbursement of
 23 surplus funds; authorizing a tax deed recipient to pay
 24 specified liens; specifying procedures to be used by
 25 the tax clerk if surplus funds are not claimed;
 26 providing applicability; providing an effective date.
 27
 28 Be It Enacted by the Legislature of the State of Florida:
 29

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

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30 Section 1. Subsections (1), (2), (5), and (6) of section
 31 197.502, Florida Statutes, are amended to read:
 32 197.502 Application for obtaining tax deed by holder of tax
 33 sale certificate; fees.—
 34 (1) The holder of a tax certificate at any time after 2
 35 years have elapsed since April 1 of the year of issuance of the
 36 tax certificate and before the cancellation of the certificate,
 37 may file the certificate and an application for a tax deed with
 38 the tax collector of the county where the property described in
 39 the certificate is located. The tax collector may charge a tax
 40 deed application fee of \$75 and for reimbursement of the costs
 41 for providing online tax deed application services. If the tax
 42 collector charges a combined fee in excess of \$75, applicants
 43 may use ~~shall have the option of using the~~ online electronic tax
 44 deed application process or may file applications without using
 45 such service.
 46 (2) A certificateholder, other than the county, who applies
 47 ~~makes application~~ for a tax deed shall pay the tax collector at
 48 the time of application all amounts required for redemption or
 49 purchase of all other outstanding tax certificates, plus
 50 interest, any omitted taxes, plus interest, any delinquent
 51 taxes, plus interest, and current taxes, if due, covering the
 52 property. In addition, the certificateholder shall pay the costs
 53 required to bring the property to sale as provided in ss.
 54 197.532 and 197.542, including property information searches and
 55 mailing costs, as well as the costs of resale, if applicable. If
 56 the certificateholder fails to pay the costs to bring the
 57 property to sale within 30 days after notice from the clerk, the
 58 tax collector must cancel the tax deed application. All taxes

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

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20181504c1

59 and costs associated with a canceled tax deed application shall
 60 earn interest at the bid rate of the certificate on which the
 61 tax deed application was based. ~~and~~ Failure to pay ~~the such~~
 62 costs of resale, if applicable, within 30 days after notice from
 63 the clerk shall result in the clerk's entering the land on a
 64 list entitled "lands available for taxes."

65 (5) (a) For purposes of determining who must be noticed and
 66 provided the information required in subsection (4), the tax
 67 collector must ~~may~~ contract with a title company or an abstract
 68 company to provide a property information report as defined in
 69 s. 627.7843(1) the minimum information required in subsection
 70 ~~(4), consistent with rules adopted by the department.~~ If
 71 additional information is required, the tax collector must make
 72 a written request to the title or abstract company stating the
 73 additional requirements. The tax collector may select any title
 74 or abstract company, regardless of its location, as long as the
 75 fee is reasonable, the required minimum information is
 76 submitted, and the title or abstract company is authorized to do
 77 business in this state. The tax collector may advertise and
 78 accept bids for the title or abstract company if he or she
 79 considers it appropriate to do so.

80 1. The property information report must include the
 81 letterhead of the person, firm, or company that makes the
 82 search, and the signature of the individual who makes the search
 83 or of an officer of the firm. The tax collector is not liable
 84 for payment to the firm unless these requirements are met. The
 85 report may be submitted to the tax collector in an electronic
 86 format.

87 2. The tax collector may not accept or pay for a property

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88 information report any title search or abstract if financial
 89 responsibility is not assumed for the search. However,
 90 reasonable restrictions as to the liability or responsibility of
 91 the title or abstract company are acceptable. Notwithstanding s.
 92 627.7843(3), the tax collector may contract for higher maximum
 93 liability limits.

94 3. In order to establish uniform prices for property
 95 information reports within the county, the tax collector must
 96 ensure that the contract for property information reports
 97 includes include all requests for property information reports
 98 title searches or abstracts for a given period of time.

99 (b) Any fee paid for initial property information reports
 100 and any updates for a title search or abstract must be collected
 101 at the time of application under subsection (1), and the amount
 102 of the fee must be added to the opening bid.

103 (c) Upon receiving the tax deed application from the tax
 104 collector, the clerk shall record a notice of tax deed
 105 application in the official records, which constitutes notice of
 106 the pendency of a tax deed application with respect to the
 107 property and which remains effective for 1 year from the date of
 108 recording. A person acquiring an interest in the property after
 109 the tax deed application notice has been recorded is deemed to
 110 be on notice of the pending tax deed sale and no additional
 111 notice is required. The sale of the property automatically
 112 releases any recorded notice of tax deed application for that
 113 property. If the property is redeemed, the clerk must record a
 114 release of the notice of tax deed application upon payment of
 115 the fees as authorized in s. 28.24(8) and (12). The contents of
 116 the notice must be the same as the contents of the notice of

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117 publication required by s. 197.512. The cost of recording must
 118 be collected at the time of application under subsection (1) and
 119 added to the opening bid.

120 (d) The clerk must ~~shall~~ advertise and administer the sale
 121 as set forth in s. 197.512, administer the sale as set forth in
 122 s. 197.542, and receive such fees for the issuance of the deed
 123 and sale of the property as provided in s. 28.24.

124 (e) A notice of the application of the tax deed in
 125 accordance with ss. 197.512 and 197.522 which is sent to the
 126 addresses shown on the statement described in subsection (4) is
 127 conclusively deemed sufficient to provide adequate notice of the
 128 tax deed application and the sale at public auction.

129 (6) The opening bid:

130 (a) On county-held certificates on nonhomestead property
 131 shall be the sum of the value of all outstanding certificates
 132 against the property, plus omitted years' taxes, delinquent
 133 taxes, current taxes, if due, interest, and all costs and fees
 134 paid by the county.

135 (b) On an individual certificate must include, in addition
 136 to the amount of money paid to the tax collector by the
 137 certificateholder at the time of application, the amount
 138 required to redeem the applicant's tax certificate and all other
 139 costs, ~~and~~ fees paid by the applicant, and any additional fees
 140 or costs incurred by the clerk, plus all tax certificates that
 141 were sold subsequent to the filing of the tax deed application,
 142 current taxes, if due, and omitted taxes, if any.

143 (c) On property assessed on the latest tax roll as
 144 homestead property shall include, in addition to the amount of
 145 money required for an opening bid on nonhomestead property, an

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146 amount equal to one-half of the latest assessed value of the
 147 homestead.

148 Section 2. Present subsection (3) of section 197.522,
 149 Florida Statutes, is redesignated as subsection (4), and a new
 150 subsection (3) is added to that section, to read:

151 197.522 Notice to owner when application for tax deed is
 152 made.—

153 (3) When sending or serving a notice under this section,
 154 the clerk of the circuit court may rely on the addresses
 155 provided by the tax collector based on the certified tax roll
 156 and property information reports. The clerk of the circuit court
 157 has no duty to seek further information as to the validity of
 158 such addresses because property owners are presumed to know that
 159 taxes are due and payable annually under s. 197.122.

160 Section 3. Subsections (2) and (3) of section 197.582,
 161 Florida Statutes, are amended, and subsections (4) through (9)
 162 are added to that section, to read:

163 197.582 Disbursement of proceeds of sale.—

164 (2) (a) If the property is purchased for an amount in excess
 165 of the statutory bid of the certificateholder, the surplus
 166 ~~excess~~ must be paid over and disbursed by the clerk as set forth
 167 in subsections (3), (5), and (6). If the opening bid included
 168 the homestead assessment pursuant to s. 197.502(6)(c). ~~If the~~
 169 ~~property purchased is homestead property and the statutory bid~~
 170 ~~includes an amount equal to at least one-half of the assessed~~
 171 ~~value of the homestead,~~ that amount must be treated as surplus
 172 ~~excess~~ and distributed in the same manner. The clerk shall
 173 distribute the surplus excess to the governmental units for the
 174 payment of any lien of record held by a governmental unit

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175 against the property, including any tax certificates not
 176 incorporated in the tax deed application and omitted taxes, if
 177 any. ~~If the excess is not sufficient to pay all of such liens in~~
 178 ~~full, the excess shall be paid to each governmental unit pro~~
 179 ~~rata. If, after all liens of governmental units are paid in~~
 180 ~~full,~~ there remains a balance of undistributed funds, the
 181 balance ~~must shall~~ be retained by the clerk for the benefit of
 182 persons described in s. 197.522(1) (a), except those persons
 183 described in s. 197.502(4) (h), as their interests may appear.
 184 The clerk shall mail notices to such persons notifying them of
 185 the funds held for their benefit at the addresses provided in s.
 186 197.502(4). Such notice constitutes compliance with the
 187 requirements of s. 717.117(4). Any service charges, ~~at the rate~~
 188 ~~prescribed in s. 28.24(10),~~ and costs of mailing notices shall
 189 be paid out of the excess balance held by the clerk. Notice must
 190 be provided in substantially the following form:

191
 192 NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

193 CLERK OF COURT

194 ... COUNTY, FLORIDA

195
 196 Tax Deed #:....

197 Certificate #:....

198 Property Description:....

199 Pursuant to chapter 197, Florida Statutes, the above
 200 property was sold at public sale on ...(date of sale)..., and a
 201 surplus of \$...(amount)... (subject to change) will be held by
 202 this office for 120 days beginning on the date of this notice to
 203 benefit the persons having an interest in this property as

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204 described in section 197.502(4), Florida Statutes, as their
 205 interests may appear (except for those persons described in
 206 section 197.502(4) (h), Florida Statutes).
 207 To the extent possible, these funds will be used to satisfy
 208 in full each claimant with a senior mortgage or lien in the
 209 property before distribution of any funds to any junior mortgage
 210 or lien claimant or to the former property owner. To be
 211 considered for funds when they are distributed, you must file a
 212 notarized statement of claim with this office within 120 days of
 213 this notice. If you are a lienholder, your claim must include
 214 the particulars of your lien and the amounts currently due. Any
 215 lienholder claim that is not filed within the 120-day deadline
 216 is barred.
 217 A copy of this notice must be attached to your statement of
 218 claim. After the office examines the filed claim statements, it
 219 will notify you if you are entitled to any payment.

220 Dated:....

221 Clerk of Court

222
 223 (b) The mailed notice must include a form for making a
 224 claim under subsection (3). Service charges at the rate set
 225 forth in s. 28.24(10) and the costs of mailing must be paid out
 226 of the surplus funds held by the clerk. If the clerk or
 227 comptroller certifies that the surplus funds are not sufficient
 228 to cover the service charges and mailing costs, the clerk shall
 229 receive the total amount of surplus funds as a service charge.
 230 ~~Excess proceeds shall be held and disbursed in the same manner~~
 231 ~~as unclaimed redemption moneys in s. 197.473.~~ For purposes of
 232 identifying unclaimed property pursuant to s. 717.113, excess

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233 proceeds shall be presumed payable or distributable on the date
 234 the notice is sent. ~~If excess proceeds are not sufficient to~~
 235 ~~cover the service charges and mailing costs, the clerk shall~~
 236 ~~receive the total amount of excess proceeds as a service charge.~~

237 (3) A person receiving the notice under subsection (2) has
 238 120 days from the date of the notice to file a written claim
 239 with the clerk for the surplus proceeds. A claim in
 240 substantially the following form is deemed sufficient:

241 CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

242 Complete and return to:....

243 By mail:....

244 By e-mail:....

245 Note: The Clerk of the Court must pay all valid liens
 246 before distributing surplus funds to a titleholder.

247 Claimant's name:....

248 Contact name, if applicable:....

249 Address:....

250 Telephone Number:.... E-mail Address:....

251 Tax No.:....

252 Date of sale (if known):....

253 I am not making a claim and waive any claim I might have to
 254 the surplus funds on this tax deed sale.

255 I claim surplus proceeds resulting from the above tax deed
 256 sale.

257 I am a (check one)Lienholder;Titleholder.

258 (1) LIENHOLDER INFORMATION (Complete if claim is based on a
 259 lien against the sold property).

260 (a) Type of Lien:Mortgage;Court Judgment;
 261

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262Other

263 Describe in detail:....

264 If your lien is recorded in the county's official records,
 265 list the following, if known:

266 Recording date:....; Instrument #:....; Book #:....; Page
 267 #:....

268 (b) Original amount of lien: \$....

269 (c) Amounts due: \$....

270 1. Principal remaining due: \$....

271 2. Interest due: \$....

272 3. Fees and costs due, including late fees: \$.... (describe
 273 costs in detail, include additional sheet if needed);

274 4. Attorney fees: \$....(provide amount claimed): \$....

275 (2) TITLEHOLDER INFORMATION (Complete if claim is based on
 276 title formerly held on sold property.)

277 (a) Nature of title (check one):Deed;Court
 278 Judgment;Other (describe in detail):....

279 (b) If your former title is recorded in the county's
 280 official records, list the following, if known: Recording
 281 date:....; Instrument#:....; Book #:....; Page #:....

282 (c) Amount of surplus tax deed sale proceeds claimed: \$....

283 (d) Does the titleholder claim the subject property was
 284 homestead property?YesNo.

285 (3) I hereby swear or affirm that all of the above
 286 information is true and correct.

287 Date:....

288 Signature:....

289 STATE OF FLORIDA

290 COUNTY.

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291 Sworn to or affirmed and signed before me on ...(date)...
 292 by ...(name of affiant)...
 293 NOTARY PUBLIC or DEPUTY CLERK
 294 ...(Print, Type, or Stamp Commissioned Name of Notary)...
 295 Personally known, or
 296 Produced identification;
 297 Identification Produced:....

298

299 (4) A claim may be:
 300 (a) Mailed using the United States Postal Service. The
 301 filing date is the postmark on the mailed claim;
 302 (b) Delivered using either a commercial delivery service or
 303 in person. The filing date is the day of delivery; or
 304 (c) Sent by fax or e-mail, as authorized by the clerk. The
 305 filing date is the date the clerk receives the fax or e-mail.
 306 (5) Except for claims by a property owner, claims that are
 307 not filed on or before close of business on the 120th day after
 308 the date of the mailed notice as required by s. 197.582(2) are
 309 barred. A person, other than the property owner, who fails to
 310 file a proper and timely claim is barred from receiving any
 311 disbursement of the surplus funds. The failure of any person
 312 described in s. 197.502(4), other than the property owner, to
 313 file a claim for surplus funds within the 120 days constitutes a
 314 waiver of interest in the surplus funds and all claims thereto
 315 are forever barred.
 316 (6) Within 90 days after the claim period expires, the
 317 clerk may either file an interpleader action in circuit court to
 318 determine the proper disbursement or pay the surplus funds
 319 according to the clerk's determination of the priority of claims

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

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320 using the information provided by the claimants under subsection
 321 (3). The clerk may move the court to award reasonable fees and
 322 costs from the interpleaded funds. An action to require payment
 323 of surplus funds is not ripe until the claim and review periods
 324 expire. The failure of a person described in s. 197.502(4),
 325 other than the property owner, to file a claim for surplus funds
 326 within the 120 days constitutes a waiver of all interest in the
 327 surplus funds and all claims for them are forever barred.
 328 (7) A holder of a recorded governmental lien, other than a
 329 federal government lien or ad valorem tax lien, must file a
 330 request for disbursement of surplus funds within 120 days after
 331 the mailing of the notice of surplus funds. The clerk or
 332 comptroller must disburse payments to each governmental unit to
 333 pay any lien of record held by a governmental unit against the
 334 property, including any tax certificate not incorporated in the
 335 tax deed application and any omitted taxes, before disbursing
 336 the surplus funds to nongovernmental claimants.
 337 (8) The tax deed recipient may directly pay off all liens
 338 to governmental units that could otherwise have been requested
 339 from surplus funds, and, upon filing a timely claim under
 340 subsection (3) with proof of payment, the tax deed recipient may
 341 receive the same amount of funds from the surplus funds for all
 342 amounts paid to each governmental unit in the same priority as
 343 the original lienholder.
 344 (9) If the clerk does not receive claims for surplus funds
 345 within the 120-day claim period, as required in subsection (5),
 346 there is a conclusive presumption that the legal titleholder of
 347 record described in s. 197.502(4) (a) is entitled to the surplus
 348 funds. The clerk must process the surplus funds in the manner

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349 provided in chapter 717, regardless of whether the legal
350 titleholder is a resident of the state or not.

351 ~~(3) If unresolved claims against the property exist on the~~
352 ~~date the property is purchased, the clerk shall ensure that the~~
353 ~~excess funds are paid according to the priorities of the claims.~~
354 ~~If a lien appears to be entitled to priority and the lienholder~~
355 ~~has not made a claim against the excess funds, payment may not~~
356 ~~be made on any lien that is junior in priority. If potentially~~
357 ~~conflicting claims to the funds exist, the clerk may initiate an~~
358 ~~interpleader action against the lienholders involved, and the~~
359 ~~court shall determine the proper distribution of the~~
360 ~~interpleaded funds. The clerk may move the court for an award of~~
361 ~~reasonable fees and costs from the interpleaded funds.~~

362 Section 4. This act applies to tax deed applications filed
363 on or after October 1, 2018, with the tax collector pursuant to
364 s. 197.502, Florida Statutes.

365 Section 5. This act shall take effect July 1, 2018.

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: PCS/CS/SB 1608 (705324)

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Transportation Committee and Senator Grimsley

SUBJECT: Agricultural Recovery

DATE: February 21, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Miller</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1608 addresses a number of provisions related to the agriculture industry. Specifically, the bill:

- Allows certain lands classified as agricultural for tax purposes to continue to be classified as such for 5 years after being damaged by a natural disaster. The assessment applies retroactively to lands damaged by a natural disaster that occurred on or after July 1, 2017.
- Reduces the assessment of certain screened enclosed horticultural structures for ad valorem assessment purposes.
- Exempts certain materials related to agriculture and aquaculture from sales and use tax, and provides for retroactive application and a process for claiming a refund.
- Codifies the State Agricultural Response Team within the Department of Agriculture & Consumer Services (DACCS) and assigns it certain duties.
- Provides for the emergency transportation of agricultural products, as well as revising the authority and duties of the Florida Department of Transportation (FDOT) with respect to electronic permit verification during a declared emergency.

For Fiscal Year 2018-2019, the bill appropriates \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services for the Florida Agricultural Promotion Campaign.

The Revenue Estimating Conference estimates that this bill will reduce General Revenue Fund receipts by \$59.5 million in Fiscal Year 2018-2019, and \$27.8 million each year thereafter. Local government revenues will be reduced by \$15.4 million in Fiscal Year 2018-2019, and \$8.9 million each year thereafter.

II. Present Situation:

The present situation for each section of the bill is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Section 1 provides that the bill may be cited as the “Farmers and Ranchers Matter Act.”

Assessment of Agricultural Lands (Section 2)

Present Situation:

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³

The Florida Constitution limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁴ The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁵ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Agricultural land is one example of property that is assessed based on its current use rather than its fair market value.⁶

Currently, certain structures that are attached physically to the land are considered to be a part of the average yields per acre and have no separately assessable contributory (taxable) value.⁷

These structures include:

- Irrigation systems, including pumps and motors;

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ *See* FLA. CONST. art. VII, s. 4.

⁵ Section 193.011(2), F.S.

⁶ FLA. CONST. art. VII, s. 4(a).

⁷ Section 193.461(6)(c), F.S. This treatment of these structures applies when using the income approach in determining value.

- Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms; and
- Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the DACS.⁸

Effect of Proposed Changes:

Section 2 amends s. 193.461(7), F.S., to allow agricultural lands that incur damage as a result of a natural disaster for which a state of emergency is declared,⁹ and which results in the halting of agricultural production, must continue to be classified as agricultural lands for five years following termination of the emergency declaration. However, if such lands are diverted from agricultural use to nonagricultural use during or after the five-year recovery period, such lands must be assessed at fair market value using the factors for deriving just valuation in s. 193.011, F.S. This provision applies retroactively to natural disasters that occurred on or after July 1, 2017.

The bill also amends s. 193.461(6)(c), F.S., to provide that screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements are considered a part of the average yields per acre and have no separately assessable value.

Exemption from Taxation (Sections 3 and 4)

Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹⁰ transient rentals,¹¹ rental of commercial real estate,¹² and a limited number of services. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.¹³ There are currently more than 250 exemptions, exclusions, deductions and credits from the sales and use tax.¹⁴

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and on communications services as defined in ch. 202,

⁸ Section 193.461(6)(c), F.S.

⁹ Section 252.36(2), F.S., provides for declaration of a state of emergency by executive order or proclamation of the Governor, if he or she finds an emergency or the threat of an emergency has occurred or is about to occur. The law provides that the state of emergency “shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.

¹⁰ Section 212.04, F.S.

¹¹ Section 212.03, F.S.

¹² Section 212.031, F.S.

¹³ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Nov. 15, 2017).

¹⁴ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 164-170 (2017).

F.S.”¹⁵ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or where they are delivered. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 percent to 1.5.¹⁶

Building materials are exempt from the sales and use tax and county discretionary sales surtaxes when they are used for certain purposes (e.g., building materials used in rehabilitation of real property located in an enterprise zone¹⁷ or in a rural area of economic opportunity).¹⁸

Effect of Proposed Changes:

Section 3 amends s. 212.08, F.S., to exempt the following from the sales and use tax:

- Building materials used in the construction of a nonresidential farm building;¹⁹
- Poles, nets, and other materials used for aquaculture leases; and
- Fencing materials used in the construction of farm fences on lands classified as agricultural land.

The bill provides the exemption through a refund of previously paid taxes and is available only for materials purchased on or after September 1, 2017, which allows purchasers the opportunity to receive a refund of taxes paid prior to the effective date of the bill.

The bill defines “building materials” as tangible personal property that becomes a component part of a nonresidential farm building.

The Department of Revenue (DOR) will accept refund applications within six months of the transaction or the effective date of the bill, whichever occurs later. The bill requires an applicant to submit to the DOR:

- An affidavit executed by the owner of the materials or the real property into which the materials will be or were incorporated, including a statement that the materials were or will be used exclusively as required by this exemption;
- The name and address of the person claiming the refund;
- The address and assessment roll parcel number of the property where the improvement is made;
- A description of the improvement; and
- The sales invoice or other proof of purchase of the materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the dealer from whom the materials were purchased.

¹⁵ Section 212.054, F.S.

¹⁶ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2017 Local Discretionary Sales Surtax Rates in Florida’s Counties, 224-225 (2017), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (last visited Nov. 15, 2017).

¹⁷ Section 212.08(5)(g), F.S.

¹⁸ Section 212.08(5)(r), F.S.

¹⁹ Section 604.50(2)(d), F.S., defines “nonresidential farm building” as any temporary or permanent building or support structure classified as a nonresidential farm building on a farm [which is exempt from the Florida building code] or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential building. The term includes, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

Section 4 provides the Department of Revenue with emergency rulemaking authority.

State Agricultural Response Team (Section 5)

Present Situation:

Section 252.35, F.S., requires the Division of Emergency Management (DEM) to prepare a statewide comprehensive emergency management plan (CEMP). The state CEMP is the master operations document in responding to all emergencies, and all catastrophic, major, and minor disasters. It also:

- Defines the responsibilities of all levels of government, private, volunteer and non-governmental organizations that make up the State Emergency Response Team (SERT); and
- Ensures that all levels of government are able to mobilize as a unified emergency organization to safeguard the well-being of Florida's residents and visitors.²⁰

The SERT is comprised of agency-appointed emergency coordination officers and staff from state agencies, volunteer and non-governmental organizations, and is sorted into 18 emergency support functions (ESFs) that carry out coordination and completion of response and recovery activities in the State Emergency Operations Center. The ESFs are grouped by function, rather than agency, with each ESF headed by a primary state agency and supported by additional agencies. Under the CEMP, the DACS is assigned to ESF 17 for animal and agricultural issues.

The DACS facilitated the development of the State Agricultural Response Team (SART), along with other partners, with the mission to “support an effective and coordinated incident response for the animal and agricultural sectors in the State of Florida.”²¹ The SART's strategic imperatives are to:

- Support a multi-agency coordination group for state-level response activities for animal and agriculture issues.
- Develop and support an Incident Management Team with equipment and training.
- Develop and support response resources such as the Mobile Animal Response Equipment Units, College of Veterinary Medicine Veterinary Emergency Treatment Service, and Florida Veterinary Corps with funding and or training.
- Develop and support county and regional outreach, training and information coordination in order to enhance local and regional response capabilities.²²

Currently, the SART is not expressly identified or addressed in statute.

Effect of Proposed Changes:

Section 5 creates s. 252.3569, F.S., to establish the SART within the DACS. The bill provides that the duties of the SART include, but are not limited, to:

²⁰ See the current CEMP at p. 5, available at: <https://floridadisaster.org/globalassets/importedpdfs/2016-state-cemp-complete-final-draft.pdf>. (Last visited February 7, 2018.) Section 252.35(2)(a), F.S., requires submission of the CEMP to the Senate President, House Speaker, and Governor on February 1 of every even-numbered year.

²¹ See the *FloridaSART* website available at: <http://flsart.org/about/>. (Last visited February 7, 2018.)

²² *Id.*

- Oversight of the emergency management functions of preparedness, recovery, mitigation, and response with all agencies and organizations that are involved with the state's response activities to animal, agricultural, and vector issues;
- The development, training, and support of county agricultural response teams; and
- Staffing the Emergency Support Function 17 at the State Emergency Operations Center and staffing as necessary at county emergency operations centers.

This section of the bill codifies existing practice.

Emergency Transportation/Permit Verification (Section 6)

Present Situation:

Section 316.565, F.S., currently authorizes the Governor to declare an emergency when a breakdown occurs in the normal public transportation facilities necessary in moving *perishable food* crops grown in this state. The FDOT may establish (increase or eliminate) weight loads during such emergency for hauling perishable foods over the highways from the fields or packinghouses to the nearest available public transportation facility as circumstances demand. The FDOT is required to designate special highway routes, *excluding* the interstate highway system, to facilitate the trucking and render any other assistance needed to expedite moving the perishables.

Effect of Proposed Changes:

Section 6 amends s. 316.565, F.S., to replace the term “perishable food crops” with “agricultural products.”²³ This allows the Governor to declare an emergency when a breakdown occurs in the normal public transportation facilities necessary in moving agricultural products raised in the state.

The bill authorizes the FDOT to issue, and any law enforcement office authorized to enforce the traffic laws may accept, electronic verification of permits during such emergency. Permits issued under this directive are valid for up to 60 days; however, the validity of the permit may not exceed the period of the declared state of emergency or any extension thereof.

The legislative intent is also revised to supersede any existing laws when necessary to protect and save agricultural products, rather than to protect and save any perishable food crops grown in the state.

Florida Agricultural Promotional Campaign/“Fresh From Florida” (Section 7)

Present Situation:

The Florida Agricultural Promotional Campaign (FAPC) was created by the Florida legislature in 1990 to increase consumer awareness and expand the market for Florida agricultural products. Farmers who join the FAPC gain access to industry information and the ability to participate in

²³ Section 604.60, F.S., defines “agricultural product” as the natural products from a farm, nursery, grove, orchard, vineyard, garden, or apiary, including livestock, tobacco, and vegetables, and includes aquacultural, horticultural, viticultural, forestry, aquatic, dairy, livestock, poultry, bee, and any farm products.

offers such as reduced entrance rates at trade shows, research that includes up-to-date analysis and sales data, and incentive programs for use of the “Fresh From Florida” logo.²⁴ Additionally, the promotional campaign markets Florida’s agricultural products to consumers through a mix of media, retail outreach, and events.

Effect of Proposed Changes:

Section 7 appropriates, for Fiscal Year 2018-2019, \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services for the Florida Agriculture Promotion Campaign to expand initiatives promoting agricultural products of this state.

Other Provisions (Section 8)

Section 8 directs the Division of Law Revision and Information to replace the phrase “effective date of this act” wherever it occurs in the act with the date the act becomes a law.

Section 9 provides that the bill takes effect July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues. Subsection (b) of s. 18, Art. VII, Florida Constitution, provides that except upon approval of each house of the legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,²⁵ which for Fiscal Year 2017-2018, is \$2.05 million or less.²⁶

The Revenue Estimating Conference estimates this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$7.6 million in Fiscal Year 2018-2019. Therefore, the bill may require passage by a two-thirds vote of the membership of each house.

²⁴ The Florida Department of Agriculture and Consumer Services, “*Fresh From Florida*” *Industry Membership*, <https://www.freshfromflorida.com/es/Business-Services/Fresh-From-Florida-Industry-Membership> (last visited February 20, 2018).

²⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>. (Last visited February 7, 2018.)

²⁶ Based on the Demographic Estimating Conference’s population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf>. (Last visited February 7, 2018).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that this bill will reduce General Revenue Fund receipts by \$59.5 million in Fiscal Year 2018-2019, and \$27.8 million each year thereafter. Local government revenues will be reduced by \$15.4 million in Fiscal Year 2018-2019, and \$8.9 million each year thereafter.

The table below outlines the revenue impact of the bill.

Issue	GR		Trust		Local		Total	
	<u>1st year</u>	<u>Recur.</u>	<u>1st year</u>	<u>Recur.</u>	<u>1st year</u>	<u>Recur.</u>	<u>1st year</u>	<u>Recur.</u>
5-year agricultural assessment	-	-	-	-	-	-	-	-
Screened enclosed structures	-	-	-	-	-	(1.9)	-	(1.9)
Building materials	(40.8)	(18.4)	(*)	(*)	(10.5)	(4.7)	(51.3)	(23.1)
Fencing materials	(18.5)	(9.2)	(*)	(*)	(4.8)	(2.3)	(24.1)	(11.4)
Aquaculture leases	(0.2)	(0.2)	(*)	(*)	(0.1)	(*)	(0.3)	(0.2)
Total	(59.5)	(27.8)	(*)	(*)	(15.4)	(8.9)	(75.7)	(36.6)

(*) Impact less than \$50,000.

B. Private Sector Impact:

Some owners of agricultural land will experience lower ad valorem tax assessments.

Purchasers of materials may receive a reduction in the cost of construction if they receive a refund of the sales and use tax paid for certain agriculture and aquaculture materials.

C. Government Sector Impact:

For Fiscal Year 2018-2019, the bill appropriates \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services for the Florida Agriculture Promotion Campaign.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 212.08, and 316.565.

This bill creates the following sections of the Florida Statutes: 252.3569 and 604.71.

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

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

Recommended CS by Appropriations Subcommittee on Finance and Tax on February 21, 2018:

The committee substitute:

- Provides an agricultural assessment retroactively to lands damaged as a result of a natural disaster that occurred on or after July 1, 2017.
- Removes the exemption for the cost of labor associated with the materials exemption, labor costs are not currently taxable, and makes technical changes.
- Removes the Agritourism Signage provision.
- Extends to the Department of Transportation the option to issue electronic permit verifications during declared emergencies. The permit is valid for up to 60 days or for the duration of the emergency, whichever comes first.
- Appropriates \$5 million in nonrecurring funds from the General Revenue Fund to the Department of Agriculture and Consumer Services for the Florida Agriculture Promotion Campaign.

CS by Transportation on February 6, 2018:

The committee substitute:

- Provides an additional set of circumstances under which an existing agricultural classification of lands may be extended or continued.
- Adds certain screened enclosed horticultural structures to a list of structures currently deemed to have no separately assessable value for purposes of the income methodology approach to ad valorem assessment of agricultural property.
- Exempts certain agriculture and aquaculture related materials and labor costs from sales, use, and transaction taxation under Chapter 212, F.S., and provides a process for claiming a refund.
- Codifies the SART within the DACS and assigns it certain emergency management related duties.

- Revises provisions relating to emergency transportation of perishable food, revising applicability of those provisions to crops grown and livestock raised in the state, as well as revising related authority and duties of the FDOT related to truck weight restriction waivers.

B. Amendments:

None.

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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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2018	.	
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Appropriations Subcommittee on Finance and Tax (Grimsley)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 281 - 403

and insert:

(c) Lands classified for assessment purposes as agricultural lands which are not being used for agricultural production as a result of a natural disaster for which a state of emergency is declared pursuant to s. 252.36, when such disaster results in the halting of agricultural production, must continue to be classified as agricultural lands for 5 years



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11 following termination of the emergency declaration. However, if
12 such lands are diverted from agricultural use to nonagricultural
13 use during or after the 5-year recovery period, such lands must
14 be assessed under s. 193.011. This paragraph applies
15 retroactively to natural disasters that occurred on or after
16 July 1, 2017.

17 Section 3. Subsection (19) is added to section 212.08,
18 Florida Statutes, to read:

19 212.08 Sales, rental, use, consumption, distribution, and
20 storage tax; specified exemptions.—The sale at retail, the
21 rental, the use, the consumption, the distribution, and the
22 storage to be used or consumed in this state of the following
23 are hereby specifically exempt from the tax imposed by this
24 chapter.

25 (19) SALES TAX REFUND FOR MATERIALS RELATING TO AGRICULTURE
26 AND AQUACULTURE.—

27 (a) Building materials used in the construction of a
28 nonresidential farm building as defined in s. 604.50; poles,
29 nets, and other materials used for aquaculture leases; and
30 fencing materials used in the construction of farm fences on
31 land classified as agricultural under s. 193.461 are exempt from
32 the tax imposed under this chapter. The exemption provided in
33 this subsection is available only through a refund of previously
34 paid taxes and is available only for materials purchased on or
35 after September 1, 2017.

36 (b) For purposes of the exemption provided in this
37 subsection, the term "building materials" means tangible
38 personal property that becomes a component part of a
39 nonresidential farm building.



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40 (c) To receive a refund pursuant to this subsection, the
41 owner of the materials or the real property into which the
42 materials will be or were incorporated must apply to the
43 department within 6 months after the transaction or the
44 effective date of this act, whichever occurs later. The refund
45 application must include the following information:

46 1. An affidavit executed by the owner of the materials or
47 the real property into which the materials will be or were
48 incorporated, including a statement that the materials were or
49 will be used exclusively as required under this subsection.

50 2. The name and address of the person claiming the refund.

51 3. The address and assessment roll parcel number of the
52 real property where the improvement is made.

53 4. A description of the improvement.

54 5. The sales invoice or other proof of purchase of the
55 materials, showing the amount of sales tax paid, the date of
56 purchase, and the name and address of the dealer from whom the
57 materials were purchased.

58 (d) A person who furnishes a false affidavit to the
59 department in an application submitted pursuant to paragraph (c)
60 is subject to the penalty specified in s. 212.085 and as
61 otherwise provided by law.

62 Section 4. (1) The Department of Revenue may, and all
63 conditions are deemed met to, adopt emergency rules pursuant to
64 ss. 120.536(1) and 120.54(4), Florida Statutes, to implement s.
65 212.08(19), Florida Statutes.

66 (2) This section expires January 1, 2024.

67 Section 5. Section 252.3569, Florida Statutes, is created
68 to read:



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69 252.3569 Monitoring of agriculture and livestock safety
70 during disaster.—The Florida Comprehensive Emergency Management
71 Plan must allow the Department of Agriculture and Consumer
72 Services, working from the department’s offices or in the
73 Emergency Operations Center, ESF-17, to create the State
74 Agricultural Response Team. If created, the duties and
75 responsibilities of the team include, but are not limited to,
76 the development, training, and support of county agricultural
77 response teams; asset acquisition; and, as necessary, colocation
78 of a team member at activated local emergency operations
79 centers.

80 Section 6. Section 316.565, Florida Statutes, is amended to
81 read:

82 316.565 Emergency transportation, agricultural products
83 ~~perishable food~~; establishment of weight loads, etc.—

84 (1) The Governor may declare an emergency to exist when
85 there is a breakdown in the normal public transportation
86 facilities necessary in moving agricultural products, as defined
87 in s. 604.60, ~~perishable food crops~~ grown in the state. The
88 Department of Transportation is authorized during such emergency
89 to establish such weight loads for hauling over the highways
90 ~~from the fields or packinghouses to the nearest available public~~
91 ~~transportation facility~~ as circumstances demand. The Department
92 of Transportation may issue, and any law enforcement officer
93 authorized to enforce the traffic laws of this state may accept,
94 electronic verification of permits during such an emergency. A
95 permit issued pursuant to this section is valid for up to 60
96 days; however, the validity of the permit may not exceed the
97 period of the declared state of emergency or any extension



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98 thereof. The Department of Transportation shall designate
99 special highway routes, excluding the interstate highway system,
100 to facilitate the trucking and render any other assistance
101 needed to expedite moving the agricultural products ~~perishables~~.

102 (2) It is the intent of the Legislature in this chapter to
103 supersede any existing laws when necessary to protect and save
104 any agricultural products ~~perishable food crops~~ grown in the
105 state and give authority for agencies to provide necessary
106 temporary assistance requested during any such emergency. The
107 department shall consult with the Department of Agriculture and
108 Consumer Services and stakeholders in the agricultural industry
109 in implementing this section.

110 Section 7. For the 2018-2019 fiscal year, the sum of \$5
111 million in nonrecurring funds from the General Revenue Fund is
112 appropriated to the Department of Agriculture and Consumer
113 Services for the Florida Agriculture Promotion Campaign to
114 expand initiatives promoting agricultural products of this
115 state.

117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete lines 8 - 50

120 and insert:

121 specified period if such lands are not being used for
122 agricultural production as a result of certain natural
123 disasters; providing for retroactive application;
124 amending s. 212.08, F.S.; creating a new exemption
125 from the sales, rental, use, consumption,
126 distribution, and storage tax for specified materials;



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127 specifying that such exemption is only available
128 through a refund of previously paid taxes; specifying
129 the effective date of the exemption; defining the term
130 "building materials"; specifying the requirements for
131 obtaining a refund on taxes paid; specifying a
132 deadline for the submission of applications for such
133 refunds; providing a penalty for filing a false
134 affidavit; authorizing the department to adopt
135 emergency rules; providing for future expiration of
136 the emergency rulemaking authority; creating s.
137 252.3569, F.S.; requiring the Florida Comprehensive
138 Emergency Management Plan to allow the Department of
139 Agriculture and Consumer Services to create the State
140 Agricultural Response Team; specifying requirements,
141 responsibilities, and duties of the team; amending s.
142 316.565, F.S.; revising the Governor's authority, to
143 include agricultural products instead of only
144 perishable food, in declaring an emergency relating to
145 the transport of such products when there is a
146 breakdown in the normal public transportation
147 facilities necessary to move such products;
148 authorizing the Department of Transportation to issue,
149 and specified law enforcement officers to accept,
150 electronic verification of permits during a declared
151 state of emergency; providing that such permits are
152 valid for up to a specified period of time, but no
153 longer than the duration of the declared state of
154 emergency or any extension thereof; requiring the
155 Department of Transportation to consult with the



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156 Department of Agriculture and Consumer Services and
157 stakeholders in the agricultural industry in
158 implementing emergency transportation assistance for
159 agricultural products; providing an appropriation;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2018	.	
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Appropriations Subcommittee on Finance and Tax (Grimsley)
recommended the following:

Senate Amendment to Amendment (178362) (with title amendment)

Delete lines 69 - 79
and insert:

252.3569 Florida state agricultural response team.—The
Legislature finds that the Department of Agriculture and
Consumer Services is the lead agency for animal, agricultural,
and vector issues in Florida during emergency or disaster
situations, as described by the Florida Comprehensive Emergency



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11 Management Plan. Pursuant to this responsibility, there is
12 established within the department a state agricultural response
13 team. Duties of the team include, but are not limited to:

14 (1) Oversight of the emergency management functions of
15 preparedness, recovery, mitigation, and response with all
16 agencies and organizations that are involved with the state's
17 response activities to animal, agricultural, and vector issues;

18 (2) Development, training, and support of county
19 agricultural response teams; and

20 (3) Staffing the Emergency Support Function 17 at the State
21 Emergency Operations Center and staffing as necessary at county
22 emergency operations centers.

23
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete lines 137 - 141

27 and insert:

28 252.3569, F.S.; providing legislative findings;
29 establishing a state agricultural response team within
30 the Department of Agriculture and Consumer Services;
31 specifying the duties of the team; amending s.

By the Committee on Transportation; and Senator Grimsley

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20181608c1

1 A bill to be entitled
 2 An act relating to agricultural recovery; providing a
 3 short title; amending s. 193.461, F.S.; specifying the
 4 methodology for the assessment of certain structures
 5 in horticultural production; specifying, subject to
 6 certain conditions, that land classified as
 7 agricultural remains classified as such for a
 8 specified period if such lands are damaged by certain
 9 natural disasters and agricultural production is
 10 halted or reduced; amending s. 212.08, F.S.; creating
 11 a new exemption from sales, rental, use, consumption,
 12 distribution, and storage tax for specified materials
 13 and labor costs; providing for retroactive
 14 application; specifying the requirements for obtaining
 15 a refund on taxes paid; specifying a deadline for
 16 submissions for such refunds; specifying that
 17 possession of a written certification of a purchaser's
 18 entitlement to the exemption by a seller, lessor, or
 19 other dealer relieves him or her from the obligation
 20 of collecting the tax on nontaxable amounts; requiring
 21 the department to look solely to the purchaser for the
 22 recovery of certain taxes; creating s. 252.3569, F.S.;
 23 requiring the Florida Comprehensive Emergency
 24 Management Plan to allow the Department of Agriculture
 25 and Consumer Services to create the State Agricultural
 26 Response Team; specifying requirements,
 27 responsibilities, and duties of the team; amending s.
 28 316.565, F.S.; authorizing the Department of
 29 Transportation to waive certain weight load

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

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30 restrictions and permit verifications for the
 31 transport of agricultural products from fields or
 32 packinghouses to public transportation facilities
 33 after certain natural disasters; authorizing the
 34 extension of such waivers for certain purposes;
 35 authorizing the department to issue or accept
 36 electronic verification of permits during specified
 37 periods; requiring the department to designate certain
 38 routes and render assistance in moving agricultural
 39 products under such circumstances; requiring the
 40 Department of Highway Safety and Motor Vehicles to
 41 consult with certain entities in implementing
 42 specified emergency provisions; creating s. 604.71,
 43 F.S.; requiring the Department of Transportation to
 44 create and administer a program to install directional
 45 signs to assist visitors in locating certain
 46 agritourism facilities; specifying requirements for
 47 the placement of signs; specifying qualifications for
 48 the program; requiring the department to adopt rules
 49 and coordinate with the Department of Agriculture and
 50 Consumer Services in administering the program;
 51 providing a directive to the Division of Law Revision
 52 and Information; providing an effective date.

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

55
 56 Section 1. This act may be cited as the "Farmers and
 57 Ranchers Matter Act."

58 Section 2. Section 193.461, Florida Statutes, is amended to

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

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59 read:

60 193.461 Agricultural lands; classification and assessment;
61 mandated eradication or quarantine program; natural disasters.-

62 (1) The property appraiser shall, on an annual basis,
63 classify for assessment purposes all lands within the county as
64 either agricultural or nonagricultural.

65 (2) Any landowner whose land is denied agricultural
66 classification by the property appraiser may appeal to the value
67 adjustment board. The property appraiser shall notify the
68 landowner in writing of the denial of agricultural
69 classification on or before July 1 of the year for which the
70 application was filed. The notification shall advise the
71 landowner of his or her right to appeal to the value adjustment
72 board and of the filing deadline. The property appraiser shall
73 have available at his or her office a list by ownership of all
74 applications received showing the acreage, the full valuation
75 under s. 193.011, the valuation of the land under the provisions
76 of this section, and whether or not the classification requested
77 was granted.

78 (3) (a) Lands may not be classified as agricultural lands
79 unless a return is filed on or before March 1 of each year.
80 Before classifying such lands as agricultural lands, the
81 property appraiser may require the taxpayer or the taxpayer's
82 representative to furnish the property appraiser such
83 information as may reasonably be required to establish that such
84 lands were actually used for a bona fide agricultural purpose.
85 Failure to make timely application by March 1 constitutes a
86 waiver for 1 year of the privilege granted in this section for
87 agricultural assessment. However, an applicant who is qualified

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88 to receive an agricultural classification who fails to file an
89 application by March 1 must file an application for the
90 classification with the property appraiser on or before the 25th
91 day after the mailing by the property appraiser of the notice
92 required under s. 194.011(1). Upon receipt of sufficient
93 evidence, as determined by the property appraiser, that
94 demonstrates that the applicant was unable to apply for the
95 classification in a timely manner or that otherwise demonstrates
96 extenuating circumstances that warrant the granting of the
97 classification, the property appraiser may grant the
98 classification. If the applicant files an application for the
99 classification and fails to provide sufficient evidence to the
100 property appraiser as required, the applicant may file, pursuant
101 to s. 194.011(3), a petition with the value adjustment board
102 requesting that the classification be granted. The petition may
103 be filed at any time during the taxable year on or before the
104 25th day following the mailing of the notice by the property
105 appraiser as provided in s. 194.011(1). Notwithstanding s.
106 194.013, the applicant must pay a nonrefundable fee of \$15 upon
107 filing the petition. Upon reviewing the petition, if the person
108 is qualified to receive the classification and demonstrates
109 particular extenuating circumstances judged by the value
110 adjustment board to warrant granting the classification, the
111 value adjustment board may grant the classification for the
112 current year. The owner of land that was classified agricultural
113 in the previous year and whose ownership or use has not changed
114 may reapply on a short form as provided by the department. The
115 lessee of property may make original application or reapply
116 using the short form if the lease, or an affidavit executed by

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

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117 the owner, provides that the lessee is empowered to make
 118 application for the agricultural classification on behalf of the
 119 owner and a copy of the lease or affidavit accompanies the
 120 application. A county may, at the request of the property
 121 appraiser and by a majority vote of its governing body, waive
 122 the requirement that an annual application or statement be made
 123 for classification of property within the county after an
 124 initial application is made and the classification granted by
 125 the property appraiser. Such waiver may be revoked by a majority
 126 vote of the governing body of the county.

127 (b) Subject to the restrictions specified in this section,
 128 only lands that are used primarily for bona fide agricultural
 129 purposes shall be classified agricultural. The term "bona fide
 130 agricultural purposes" means good faith commercial agricultural
 131 use of the land.

132 1. In determining whether the use of the land for
 133 agricultural purposes is bona fide, the following factors may be
 134 taken into consideration:

- 135 a. The length of time the land has been so used.
- 136 b. Whether the use has been continuous.
- 137 c. The purchase price paid.
- 138 d. Size, as it relates to specific agricultural use, but a
 139 minimum acreage may not be required for agricultural assessment.
- 140 e. Whether an indicated effort has been made to care
 141 sufficiently and adequately for the land in accordance with
 142 accepted commercial agricultural practices, including, without
 143 limitation, fertilizing, liming, tilling, mowing, reforestation,
 144 and other accepted agricultural practices.
- 145 f. Whether the land is under lease and, if so, the

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146 effective length, terms, and conditions of the lease.

147 g. Such other factors as may become applicable.

148 2. Offering property for sale does not constitute a primary
 149 use of land and may not be the basis for denying an agricultural
 150 classification if the land continues to be used primarily for
 151 bona fide agricultural purposes while it is being offered for
 152 sale.

153 (c) The maintenance of a dwelling on part of the lands used
 154 for agricultural purposes does ~~shall~~ not in itself preclude an
 155 agricultural classification.

156 (d) When property receiving an agricultural classification
 157 contains a residence under the same ownership, the portion of
 158 the property consisting of the residence and curtilage must be
 159 assessed separately, pursuant to s. 193.011, to qualify for the
 160 assessment limitation set forth in s. 193.155. The remaining
 161 property may be classified under the provisions of paragraphs
 162 (a) and (b).

163 (e) Notwithstanding the provisions of paragraph (a), land
 164 that has received an agricultural classification from the value
 165 adjustment board or a court of competent jurisdiction pursuant
 166 to this section is entitled to receive such classification in
 167 any subsequent year until such agricultural use of the land is
 168 abandoned or discontinued, the land is diverted to a
 169 nonagricultural use, or the land is reclassified as
 170 nonagricultural pursuant to subsection (4). The property
 171 appraiser must, no later than January 31 of each year, provide
 172 notice to the owner of land that was classified agricultural in
 173 the previous year informing the owner of the requirements of
 174 this paragraph and requiring the owner to certify that neither

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175 the ownership nor the use of the land has changed. The
 176 department shall, by administrative rule, prescribe the form of
 177 the notice to be used by the property appraiser under this
 178 paragraph. If a county has waived the requirement that an annual
 179 application or statement be made for classification of property
 180 pursuant to paragraph (a), the county may, by a majority vote of
 181 its governing body, waive the notice and certification
 182 requirements of this paragraph and shall provide the property
 183 owner with the same notification provided to owners of land
 184 granted an agricultural classification by the property
 185 appraiser. Such waiver may be revoked by a majority vote of the
 186 county's governing body. This paragraph does not apply to any
 187 property if the agricultural classification of that property is
 188 the subject of current litigation.

189 (4) The property appraiser shall reclassify the following
 190 lands as nonagricultural:

191 (a) Land diverted from an agricultural to a nonagricultural
 192 use.

193 (b) Land no longer being utilized for agricultural
 194 purposes.

195 (5) For the purpose of this section, the term "agricultural
 196 purposes" includes, but is not limited to, horticulture;
 197 floriculture; viticulture; forestry; dairy; livestock; poultry;
 198 bee; pisciculture, if the land is used principally for the
 199 production of tropical fish; aquaculture, including algaculture;
 200 sod farming; and all forms of farm products as defined in s.
 201 823.14(3) and farm production.

202 (6) (a) In years in which proper application for
 203 agricultural assessment has been made and granted pursuant to

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204 this section, the assessment of land shall be based solely on
 205 its agricultural use. The property appraiser shall consider the
 206 following use factors only:

- 207 1. The quantity and size of the property;
- 208 2. The condition of the property;
- 209 3. The present market value of the property as agricultural
 210 land;
- 211 4. The income produced by the property;
- 212 5. The productivity of land in its present use;
- 213 6. The economic merchantability of the agricultural
 214 product; and

215 7. Such other agricultural factors as may from time to time
 216 become applicable, which are reflective of the standard present
 217 practices of agricultural use and production.

218 (b) Notwithstanding any provision relating to annual
 219 assessment found in s. 192.042, the property appraiser shall
 220 rely on 5-year moving average data when utilizing the income
 221 methodology approach in an assessment of property used for
 222 agricultural purposes.

223 (c) 1. For purposes of the income methodology approach to
 224 assessment of property used for agricultural purposes,
 225 irrigation systems, including pumps and motors, physically
 226 attached to the land shall be considered a part of the average
 227 yields per acre and shall have no separately assessable
 228 contributory value.

229 2. Litter containment structures located on producing
 230 poultry farms and animal waste nutrient containment structures
 231 located on producing dairy farms shall be assessed by the
 232 methodology described in subparagraph 1.

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233 3. Structures or improvements used in horticultural
 234 production for frost or freeze protection, which are consistent
 235 with the interim measures or best management practices adopted
 236 by the Department of Agriculture and Consumer Services pursuant
 237 to s. 570.93 or s. 403.067(7)(c), shall be assessed by the
 238 methodology described in subparagraph 1.

239 4. Screened enclosed structures used in horticultural
 240 production for protection from pests and diseases or to comply
 241 with state or federal eradication or compliance agreements shall
 242 be assessed by the methodology described in subparagraph 1.

243 (d) In years in which proper application for agricultural
 244 assessment has not been made, the land shall be assessed under
 245 the provisions of s. 193.011.

246 (7) (a) Lands classified for assessment purposes as
 247 agricultural lands which are taken out of production by a state
 248 or federal eradication or quarantine program, including the
 249 Citrus Health Response Program, shall continue to be classified
 250 as agricultural lands for 5 years after the date of execution of
 251 a compliance agreement between the landowner and the Department
 252 of Agriculture and Consumer Services or a federal agency, as
 253 applicable, pursuant to such program or successor programs.
 254 Lands under these programs which are converted to fallow or
 255 otherwise nonincome-producing uses shall continue to be
 256 classified as agricultural lands and shall be assessed at a de
 257 minimis value of up to \$50 per acre on a single-year assessment
 258 methodology while fallow or otherwise used for nonincome-
 259 producing purposes. Lands under these programs which are
 260 replanted in citrus pursuant to the requirements of the
 261 compliance agreement shall continue to be classified as

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262 agricultural lands and shall be assessed at a de minimis value
 263 of up to \$50 per acre, on a single-year assessment methodology,
 264 during the 5-year term of agreement. However, lands converted to
 265 other income-producing agricultural uses permissible under such
 266 programs shall be assessed pursuant to this section. Land under
 267 a mandated eradication or quarantine program which is diverted
 268 from an agricultural to a nonagricultural use shall be assessed
 269 under s. 193.011.

270 (b) Lands classified for assessment purposes as
 271 agricultural lands that participate in a dispersed water storage
 272 program pursuant to a contract with the Department of
 273 Environmental Protection or a water management district which
 274 requires flooding of land shall continue to be classified as
 275 agricultural lands for the duration of the inclusion of the
 276 lands in such program or successor programs and shall be
 277 assessed as nonproductive agricultural lands. Land that
 278 participates in a dispersed water storage program that is
 279 diverted from an agricultural to a nonagricultural use shall be
 280 assessed under s. 193.011.

281 (c) Lands classified for assessment purposes as
 282 agricultural lands which incur damage as a result of a natural
 283 disaster for which a state of emergency is declared pursuant to
 284 s. 252.36 and which results in the halting or reduction of
 285 agricultural production must continue to be classified as
 286 agricultural lands for 5 years following termination of the
 287 emergency declaration. However, if such lands are diverted from
 288 agricultural use to nonagricultural use during or after the 5-
 289 year recovery period, such lands must be assessed under s.
 290 193.011.

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291 Section 3. Subsection (19) is added to section 212.08,
292 Florida Statutes, to read:

293 212.08 Sales, rental, use, consumption, distribution, and
294 storage tax; specified exemptions.—The sale at retail, the
295 rental, the use, the consumption, the distribution, and the
296 storage to be used or consumed in this state of the following
297 are hereby specifically exempt from the tax imposed by this
298 chapter.

299 (19) EXEMPTIONS; MATERIALS AND LABOR COSTS RELATING TO
300 AGRICULTURE AND AQUACULTURE.—

301 (a) The following are exempt from the tax imposed by this
302 chapter.

303 1. Building materials used in the construction of a
304 nonresidential farm building as defined in s. 604.50; poles,
305 nets, and other materials used for aquaculture leases; and
306 building materials used in the construction of farm fences on
307 land classified as agriculture as defined in s. 193.461; and

308 2. The cost of labor associated with the construction or
309 installation of any item specified in subparagraph 1.

310

311 The exemptions specified in this paragraph apply retroactively
312 to September 1, 2017.

313 (b) In order to claim a refund on taxes paid for the
314 materials and labor costs identified in paragraph (a), the
315 purchaser must submit a signed certificate stating that the
316 materials and labor are to be used exclusively as required under
317 this subsection. Such submission must also include the name and
318 address of the person claiming the refund, the address and
319 assessment roll parcel number of the real property where the

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

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320 improvement is made, and a description of the improvement.
321 Application for refunds must be submitted to the department
322 within 6 months after the transaction or the effective date of
323 this act, whichever occurs later.

324 (c) Possession by a seller, lessor, or other dealer of a
325 written certification by the purchaser certifying the
326 purchaser's entitlement to an exemption allowed under this
327 subsection relieves the seller from the responsibility of
328 collecting the tax on the nontaxable amounts, and the department
329 shall look solely to the purchaser for recovery of such tax if
330 it determines that the purchaser was not entitled to the
331 exemption.

332 Section 4. Section 252.3569, Florida Statutes, is created
333 to read:

334 252.3569 Monitoring of agriculture and livestock safety
335 during disaster.—The Florida Comprehensive Emergency Management
336 Plan must allow the Department of Agriculture and Consumer
337 Services, working from the department's offices or in the
338 Emergency Operations Center, ESF-17, to create the State
339 Agricultural Response Team. If created, the duties and
340 responsibilities of the team must include, but are not limited
341 to, the development, training, and support of county
342 agricultural response teams; asset acquisition; and, as
343 necessary, colocation of a team member at activated local
344 emergency operations centers.

345 Section 5. Section 316.565, Florida Statutes, is amended to
346 read:

347 316.565 Emergency transportation, ~~crops and livestock~~
348 ~~perishable food~~; establishment of weight loads, etc.—

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

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349 (1) The Governor may declare an emergency to exist when
 350 there is a breakdown in the normal public transportation
 351 facilities necessary in moving ~~perishable food~~ crops grown and
 352 livestock raised in the state. The Department of Transportation
 353 is authorized during such emergency to waive any ~~establish such~~
 354 weight load restrictions and permit verifications ~~leads~~ for
 355 hauling over the highways from the fields or packinghouses to
 356 the nearest available public transportation facility as
 357 circumstances demand. Such waivers may be extended beyond the
 358 end of a declared emergency to provide for protracted harvesting
 359 and disaster recovery efforts. The department is authorized to
 360 issue or accept electronic verification of permits during such
 361 emergency and protracted periods. The Department of
 362 Transportation shall designate special highway routes, ~~excluding~~
 363 ~~the interstate highway system,~~ to facilitate the trucking and
 364 render any other assistance needed to expedite moving
 365 agricultural products ~~the perishables.~~

366 (2) It is the intent of the Legislature in this chapter to
 367 supersede any existing laws when necessary to protect and save
 368 ~~any perishable food~~ crops grown and livestock raised in the
 369 state and give authority for agencies to provide necessary
 370 temporary assistance requested during any such emergency. The
 371 department shall consult with the Department of Agriculture and
 372 Consumer Services and stakeholders in the agricultural industry
 373 in implementing this section.

374 Section 6. Section 604.71, Florida Statutes, is created to
 375 read:

376 604.71 Florida agritourism signage program.—The department
 377 shall create and administer a program to provide and install

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378 directional signs on major public highways at, or in reasonable
 379 proximity to, the nearest interchange or within 1 mile of roads
 380 leading to commercial agricultural facilities that promote
 381 tourism by providing tours and onsite sales or samples of
 382 Florida agricultural products to tourists.

383 (1) Directional signage must be placed at intervals in a
 384 manner that provides visitors with sufficient information to
 385 locate the agricultural facility.

386 (2) To qualify for participation in the program, an
 387 agricultural facility must:

388 (a) Be open for business at least 4 days a week, 10 months
 389 of the year;

390 (b) Have a working growing or ranching area of at least 2
 391 acres that can be toured from the facility location specified in
 392 the signage;

393 (c) Offer tours of the growing or ranching area; and

394 (d) Apply to and be approved by the department under this
 395 section. Upon application by a facility, the department shall
 396 assess the facility as to its suitability for the program and
 397 the reasonable costs of creating and installing directional
 398 signs.

399 (3) The department shall adopt rules to administer this
 400 section, including, but not limited to, an application and
 401 approval process for applicants.

402 (4) The department shall coordinate with the Department of
 403 Agriculture and Consumer Services in administering this section.

404 Section 7. The Division of Law Revision and Information is
 405 directed to replace the phrase "the effective date of this act"
 406 wherever it occurs in this act with the date this act becomes a

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407 law.

408 Section 8. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Appropriations Subcommittee on Finance and Tax

Subject: Committee Agenda Request

Date: February 15, 2018

I respectfully request that **CS/Senate Bill #1608**, relating to Agriculture Recovery, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Denise Grimsley".

Senator Denise Grimsley
Florida Senate, District 26

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: HJR 7001

INTRODUCER: Ways and Means Committee and Representative Leek and others

SUBJECT: Supermajority Vote for State Taxes or Fees

DATE: February 20, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Diez-Arguelles	AFT	Recommend: Fav/1 amendment
2.			AP	

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

HJR 7001 proposes an amendment to the State Constitution providing that no state tax or fee may be imposed, authorized, raised by the Legislature, or authorized by the Legislature to be raised, except through legislation approved by two-thirds of the membership of each house of the Legislature. The joint resolution also requires that any proposed state tax or fee imposition, authorization or increase must be contained in a separate bill that contains no other subject.

The joint resolution specifies that the proposed amendment does not authorize the imposition of any state tax or fee otherwise prohibited by the State Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

The amendment proposed in the joint resolution will take effect on January 8, 2019, if approved by sixty percent of the voters during the 2018 general election or earlier special election.

The Revenue Estimating Conference determined that the joint resolution does not affect state revenue.

Article XI, Section 5(d) of the State Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. Based on 2016 advertising costs, staff estimates full publication costs for advertising the proposed constitutional amendment to be approximately \$43,732, which would likely be paid from nonrecurring General Revenue funds.

II. Present Situation:

Background

Under current law the Legislature has broad power to enact and modify the state's revenue policy through legislation, subject to state and federal constitutional constraints. Such legislation is generally subject to the normal constitutional requirements for the enactment of general law. Passage of a bill requires a majority vote in each house of the Legislature,¹ and presentation to the Governor for approval.² The bill becomes a law if the Governor approves it, or fails to veto it within the timeframes prescribed in the State Constitution.³ Vetoes can be overcome by a two-thirds vote of each house of the Legislature.⁴

Corporate Income Tax

Florida's constitution requires three-fifths approval of the membership of each house of the Legislature for increases in the corporate income tax rate above 5 percent.⁵

Other Types of Bills Requiring a Supermajority Vote

There are several other types of bills that require something greater than a majority vote to become law. These include:

- Bills that would authorize the conveyance of property taken by eminent domain to a natural person or private entity require a three-fifths vote of each house of the Legislature.⁶
- Bills that would appropriate nonrecurring general revenue funds for recurring purposes cannot exceed three percent of the total general revenue funds estimated to be available unless approved by a three-fifths vote of the membership of each house of the Legislature.⁷
- Bills that would repeal court rules of practice or procedure require a two-thirds vote of the membership of each house of the Legislature.⁸
- Bills that would increase or decrease judicial offices by a number different than that certified by the Supreme Court to the Legislature.⁹
- Bills that would create special laws or general laws of local application that are prohibited by general law (but not by the constitution), or bills that would amend or repeal such a prohibition, require a three-fifths vote of the membership of each house of the Legislature.¹⁰

¹ Fla. Const. Art. III, s. 7.

² Fla. Const. Art. III, s. 8(a).

³ The Governor has seven days after presentation to act on a bill if the seven day period occurs during a legislative session, or fifteen days otherwise. Fla. Const. Art. III, s. 8(a).

⁴ Fla. Const. Art. III, s. 8(c).

⁵ Fla. Const. Art. VII, s. 5(a). The current corporate income tax rate is 5.5 percent. Section 220.11(2), F.S.

⁶ Fla. Const. Art. X, s. 6(c).

⁷ Fla. Const. Art. III, s. 19(3).

⁸ Fla. Const. Art. V, s. 2(a).

⁹ Fla. Const. Art. V, s. 9.

¹⁰ Fla. Const. Art. III, s. 11(a)(21). The following for prohibited subject matters have been added under the authority of this constitutional provision: s. 112.67, F.S. (Pertaining to protection of public employee retirement benefits); s. 121.191, F.S. (Pertaining to state-administered or supported retirement systems); s. 145.16, F.S. (Pertaining to compensation of designated county officials); s. 189.031(2), F.S. (Pertaining to independent special districts); s. 190.049, F.S. (Pertaining to the creation of independent special districts having the powers enumerated in two or more of the paragraphs of s. 190.012, F.S.); s. 215.845, F.S. (Pertaining to the maximum rate of interest on bonds); s. 298.76(1), F.S. (Pertaining to the grant of authority,

- Bills that would create certain local mandates that would require counties or municipalities to expend funds,¹¹ reduce their authority to raise revenues,¹² or reduce the percentage of a state shared tax,¹³ require a two-thirds vote of the membership of each house of the Legislature.
- Bills that would create or recreate a trust fund require a vote of three-fifths of the membership of each house of the Legislature.¹⁴
- Bills that would raise revenue above certain constitutionally prescribed limits require a two-thirds vote of the membership of each house of the Legislature.¹⁵
- Bills that would exempt public access from certain public records or meetings require a two-thirds vote of the membership of each house of the Legislature.¹⁶
- Joint resolutions proposing an amendment to the State Constitution require a three-fifths vote of the membership of each house of the Legislature.¹⁷
- Bills creating a special election for voter approval of a constitutional amendment proposed by joint resolution, a report of a revision commission, a constitutional convention or the taxation and budget reform commission, require a three-fourths vote of the membership of each house of the Legislature.¹⁸

Constitutional Amendments Approving New State Taxes or Fees

In 1996, Florida voters approved an amendment to the State Constitution raising the threshold by which amendments imposing new state taxes or fees must be approved. It provides, “No new State tax or fee may be imposed on or after November 8, 1994 by any amendment to this State Constitution unless the proposed amendment is approved by not fewer than two-thirds of the voters voting in the election in which such proposed amendment is considered For purposes of this section, the phrase “new State tax or fee” means any tax or fee which would produce revenue subject to lump sum or other appropriation by the Legislature, either for the State general revenue fund or any trust fund, which tax or fee is not in effect on November 7, 1994 including without limitation such taxes and fees as are the subject of proposed constitutional amendments appearing on the ballot on November 8, 1994.”¹⁹

Other States with Supermajority Vote Requirements for Tax or Revenue Increases

Currently, 15 states (including Florida) require a supermajority vote to impose or increase some or all taxes and fees. Except for Wisconsin, these requirements are found in the states’ constitutions. These requirements vary widely in their application. The following table summarizes the requirements for each affected state:

power, rights, or privileges to a water control district formed pursuant to ch. 298, F.S.); s. 373.503(2)(b), F.S. (Pertaining to allocation of millage for water management purposes); s. 1011.77, F.S. (Pertaining to taxation for school purposes and the Florida Education Finance Program); s. 1013.37(5), F.S. (Pertaining to the “State Uniform Building Code for Public Educational Facilities Construction”).

¹¹ Fla. Const. Art. VII, s. 18(a)

¹² Fla. Const. Art. VII, s. 18(b)

¹³ Fla. Const. Art. VII, s. 18(c)

¹⁴ Fla. Const. Art. III, s. 19(f)(1).

¹⁵ Fla. Const. Art. VII, s. (1)(e).

¹⁶ Fla. Const. Art. I, s. 24(c).

¹⁷ Fla. Const. Art. XI, s. 1.

¹⁸ Fla. Const. Art. XI, s. 5(a)

¹⁹ Id.

State	Year Adopted	Vote Requirement	Application
Arizona ²⁰	1992	2/3	New taxes, tax rates, fees, reduction or elimination of exemptions, etc., assessments, authorizations
Arkansas ²¹	1934	3/4	Tax rates, applicable only to taxes in effect as of the effective date of the amendment
California ²²	1979	2/3	New or increased taxes, levies, exactions (not fees)
Delaware ²³	1980	3/5	New taxes and fees
Florida ²⁴	1971	3/5	Corporate income tax rate above 5 percent
Kentucky ²⁵	2000	3/5 ²⁶	Raising revenue or appropriating funds
Louisiana ²⁷	1966	2/3	New taxes
Michigan ²⁸	1994	3/4	A law that increases the statutory limits on ad valorem taxes in effect as of 02-01-1994.
Mississippi ²⁹	1970	3/5	Any revenue bill, or any bill providing for assessments of property for taxation
Missouri ³⁰	1996	2/3	Any increase in taxes or fees that produces annual revenue increases of \$50 million or more
Nevada ³¹	1996	2/3	Increases in public revenue, including taxes, fees, assessments and rates, or tax base changes
Oklahoma	1992	3/4	New taxes and tax rates
Oregon ³²	1996	3/5	New taxes and tax rates
South Dakota ³³	1996	2/3	New taxes and tax rates
Wisconsin ³⁴	2011	2/3	Increases in sales or income tax rates (Statutory requirement)

²⁰ A.R.S. Const. art. 9, s. 22.

²¹ AR Const. art. 5, s. 38.

²² West's Ann. Cal. Const. art. 13A, s. 3.

²³ Del. C. Ann. Const. art. 8, s. 11.

²⁴ Fla. Const. art. VII, s. 5(b).

²⁵ KY Const. s. 36.

²⁶ This limitation applies to a legislative session in an odd-numbered year.

²⁷ LSA-Const. art. 7, s. 2.

²⁸ M.C.L.A. Const. art. 9, s 3.

²⁹ MS Const. art. 4, s 70.

³⁰ V.A.M.S. Const. art. 10. s. 18(e).

³¹ N.R.S. Const. art 4, s. 18.

³² OR Const. art IV, s. 25.

³³ SD Const. art. 11, s. 14.

³⁴ Wisconsin Statutes 13.085.

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to the State Constitution that would provide that no state tax or fee may be imposed, authorized, or raised by the Legislature, or authorized by the Legislature to be raised, except through legislation approved by two-thirds of the membership of each house of the Legislature. The joint resolution defines the following terms:

- "Fee" means any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.
- "Raise" means:
 - To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
 - To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
 - To decrease or eliminate a state tax or fee exemption or credit.

The joint resolution requires that any proposed state tax or fee imposition, authorization or increase must be contained in a separate bill that contains no other subject. The joint resolution also specifies that the proposed amendment does not authorize the imposition of any state tax or fee otherwise prohibited by this Constitution, and does not apply to any tax or fee imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

The amendment proposed by the joint resolution does not contain an effective date. Therefore, pursuant to Art. XI, Fla. Const., s. 5(e), it shall be effective on the first Tuesday after the first Monday in January following the election, which is January 8, 2019.

While this joint resolution does not affect existing taxes and fees, it affects the Legislature's ability to respond to future conditions.

For example, fees are typically used to recover the costs of providing a service or benefit. "User fees" are used to recover the costs of goods and services provided by the government to individuals or businesses that use them, such as highway tolls, parks admissions, and university tuition. "Regulatory fees" are used to recover the costs of providing a license or permit under laws enacted to protect health, welfare, and public safety. The joint resolution limits the Legislature's ability to impose increased costs upon those persons receiving services or benefits.

The joint resolution limits the Legislature's ability to change the state's revenue structure in response to changing circumstances even when the result of any change is revenue-neutral. Exemptions or tax credits that have outlived their intended purposes will be more difficult to repeal under this joint resolution. Also, the Legislature's ability to enact a bill to correct a court or administrative decision that results in an interpretation of a tax statute that was not intended by the Legislature will be limited.

The joint resolution limits the Legislature's ability to change legislatively established premiums and copayments associated with the State Employee Health Insurance Program or the Florida Medicaid Program.

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

Not applicable to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference adopted a zero impact for the joint resolution.³⁵ This is a joint resolution proposing a constitutional amendment to be submitted to the voters, and whether the constitutional amendment passes or not, the impact is zero. If it passes, the amendment creates a new constraint on the Legislature's ability to enact, authorize or increase state taxes and fees. It does not directly impact current baseline revenue forecasts because they are based on current law and current administration and do not contain assumptions regarding future legislative changes. Future positive state and local revenue impacts from proposed legislation that could pass under current legislative authority may not occur if the amendment is approved by voters.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution creates Article VII, section 19 of the State Constitution.

³⁵Revenue Estimating Conference, Supermajority Vote for State Taxes and Fees, 2018 HB 7001, p. 138, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page138-139.pdf (Analyzed Nov 17, 2017).

IX. Additional Information:

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

None

- B. **Amendments:**

Barcode 813842 by Appropriations Subcommittee on Finance and Tax on February 20, 2018:

The amendment is the substance of SJR 1742 which passed the subcommittee on January 29, 2018.

The amendment requires a 3/5 vote of the membership of each house of the Legislature for a law that:

- imposes a new tax,
- increases the rate or amount of an existing tax, or
- broadens the tax base of an existing tax

and

- results in a net increase in state revenue.

The amendment does not require a supermajority vote for:

- a law that increases state fees.
- a law that amends or repeals a tax exemption or credit.
- a law that contains both increases and decreases in revenues but that does not result in a net increase in state revenues.

(The amendment allows for very small increases in revenues for bills that contain both increases and decreases. The increase cannot exceed 1% of the tax increases contained in the bill.)

The amendment does not apply to any tax imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.



813842

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/20/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with ballot and title amendments)

Delete everything after the resolving clause
and insert:

That the following creation of Section 19 of Article VII of
the State Constitution is agreed to and shall be submitted to
the electors of this state for approval or rejection at the next
general election or at an earlier special election specifically
authorized by law for that purpose:

ARTICLE VII



813842

FINANCE AND TAXATION

SECTION 19. Supermajority vote required to increase state tax revenues by increasing taxes.—

(a) A law that imposes a new tax, increases the rate or amount of a tax, or expands a tax base, and that results in a net increase in state revenues, must be approved by three-fifths of the membership of each house of the legislature.

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

(1) "Expands a tax base" means broadening the scope of a tax to include additional classes of property, activity, or income, but does not include the amendment or repeal of a credit or exemption.

(2) "Net increase in state revenues" means the revenues produced by the tax increases contained in the law, minus any revenue reductions contained in the law. For purposes of this paragraph, whether a law results in a net increase is determined by the annual net revenues estimated to be collected in the first state fiscal year when all the changes in the bill are fully effective. For a law that both increases and reduces revenues, a revenue increase of less than one percent (1%) of the tax increases contained in the law is not considered a net increase in state revenues.

(c) This section does not authorize the imposition of any state tax otherwise prohibited by this constitution, and does not apply to any tax imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

=====B A L L O T S T A T E M E N T A M E N D M E N T=====

And the ballot statement is amended as follows:



813842

40 Delete everything after the resolving clause
41 and insert:

42 CONSTITUTIONAL AMENDMENT

43 ARTICLE VII, SECTION 19

44 SUPERMAJORITY VOTE REQUIRED TO INCREASE STATE TAX REVENUES
45 BY INCREASING TAXES.—Requires a law that imposes a new tax,
46 increases the rate or amount of a tax, or expands a tax base,
47 and that results in a net increase in state revenues, to be
48 approved by three-fifths of the membership of each house of the
49 Legislature. Defines the terms “expands a tax base” and “net
50 increase in state revenues.” This amendment does not apply to
51 county, municipality, school board, or special district taxes.

52
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete everything before the resolving clause
56 and insert:

57 House Joint Resolution

58 A joint resolution proposing the creation of Section
59 19 of Article VII of the State Constitution to require
60 a law that imposes a new tax, increases the rate or
61 amount of a tax, or expands a tax base, and that
62 results in a net increase in state revenues, to be
63 approved by three-fifths of the membership of each
64 house of the Legislature.

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1 House Joint Resolution
 2 A joint resolution proposing the creation of section
 3 19 of Article VII of the State Constitution to provide
 4 that no state tax or fee may be imposed, authorized,
 5 or raised by the legislature except through
 6 legislation approved by two-thirds of the membership
 7 of each house of the legislature and presented to the
 8 Governor for approval; providing for applicability;
 9 providing definitions; requiring any tax or fee
 10 imposed or raised under this section to be contained
 11 in a separate bill that contains no other subject.
 12

13 Be It Resolved by the Legislature of the State of Florida:

14
 15 That the following creation of Section 19 of Article VII of
 16 the State Constitution is agreed to and shall be submitted to
 17 the electors of this state for approval or rejection at the next
 18 general election or at an earlier special election specifically
 19 authorized by law for that purpose:

20 ARTICLE VII

21 FINANCE AND TAXATION

22 SECTION 19. Supermajority vote required to impose,
 23 authorize, or raise state taxes or fees.-

24 (a) SUPERMAJORITY VOTE REQUIRED TO IMPOSE OR AUTHORIZE NEW
 25 STATE TAX OR FEE. No new state tax or fee may be imposed or

HJR 7001

2018

26 authorized by the legislature except through legislation
 27 approved by two-thirds of the membership of each house of the
 28 legislature and presented to the Governor for approval pursuant
 29 to Article III, Section 8.

30 (b) SUPERMAJORITY VOTE REQUIRED TO RAISE STATE TAXES OR
 31 FEES. No state tax or fee may be raised by the legislature
 32 except through legislation approved by two-thirds of the
 33 membership of each house of the legislature and presented to the
 34 Governor for approval pursuant to Article III, Section 8.

35 (c) APPLICABILITY. This section does not authorize the
 36 imposition of any state tax or fee otherwise prohibited by this
 37 Constitution, and does not apply to any tax or fee imposed by,
 38 or authorized to be imposed by, a county, municipality, school
 39 board, or special district.

40 (d) DEFINITIONS. As used in this section, the following
 41 terms shall have the following meanings:

42 (1) "Fee" means any charge or payment required by law,
 43 including any fee for service, fee or cost for licenses, and
 44 charge for service.

45 (2) "Raise" means:

46 a. To increase or authorize an increase in the rate of a
 47 state tax or fee imposed on a percentage or per mill basis;

48 b. To increase or authorize an increase in the amount of a
 49 state tax or fee imposed on a flat or fixed amount basis; or

50 c. To decrease or eliminate a state tax or fee exemption

HJR 7001

2018

51 or credit.
 52 (e) SINGLE-SUBJECT. A state tax or fee imposed,
 53 authorized, or raised under this section must be contained in a
 54 separate bill that contains no other subject.

55
 56 BE IT FURTHER RESOLVED that the following statement be
 57 placed on the ballot:

58 CONSTITUTIONAL AMENDMENT

59 ARTICLE VII, SECTION 19

60 SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, OR RAISE
 61 STATE TAXES OR FEES.—Prohibits the legislature from imposing,
 62 authorizing, or raising a state tax or fee except through
 63 legislation approved by a two-thirds vote of each house of the
 64 legislature in a bill containing no other subject. This proposal
 65 does not authorize a state tax or fee otherwise prohibited by
 66 the Constitution and does not apply to fees or taxes imposed or
 67 authorized to be imposed by a county, municipality, school
 68 board, or special district.

69
 70 BE IT FURTHER RESOLVED that the following statement be
 71 placed on the ballot if a court declares the preceding statement
 72 defective and the decision of the court is not reversed:

73 CONSTITUTIONAL AMENDMENT

74 ARTICLE VII, SECTION 19

75 SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, OR RAISE

HJR 7001

2018

76 STATE TAXES OR FEES.—Proposing the following amendment to the
 77 State Constitution:

78 ARTICLE VII

79 FINANCE AND TAXATION

80 SECTION 19. Supermajority vote required to impose,
 81 authorize, or raise state taxes or fees.—

82 (a) SUPERMAJORITY VOTE REQUIRED TO IMPOSE OR AUTHORIZE NEW
 83 STATE TAX OR FEE. No new state tax or fee may be imposed or
 84 authorized by the legislature except through legislation
 85 approved by two-thirds of the membership of each house of the
 86 legislature and presented to the Governor for approval pursuant
 87 to Article III, Section 8.

88 (b) SUPERMAJORITY VOTE REQUIRED TO RAISE STATE TAXES OR
 89 FEES. No state tax or fee may be raised by the legislature
 90 except through legislation approved by two-thirds of the
 91 membership of each house of the legislature and presented to the
 92 Governor for approval pursuant to Article III, Section 8.

93 (c) APPLICABILITY. This section does not authorize the
 94 imposition of any state tax or fee otherwise prohibited by this
 95 Constitution, and does not apply to any tax or fee imposed by,
 96 or authorized to be imposed by, a county, municipality, school
 97 board, or special district.

98 (d) DEFINITIONS. As used in this section, the following
 99 terms shall have the following meanings:

100 (1) "Fee" means any charge or payment required by law,

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2018

101 including any fee for service, fee or cost for licenses, and
102 charge for service.

103 (2) "Raise" means:

104 a. To increase or authorize an increase in the rate of a
105 state tax or fee imposed on a percentage or per mill basis;

106 b. To increase or authorize an increase in the amount of a
107 state tax or fee imposed on a flat or fixed amount basis; or

108 c. To decrease or eliminate a state tax or fee exemption
109 or credit.

110 (e) SINGLE-SUBJECT. A state tax or fee imposed,
111 authorized, or raised under this section must be contained in a
112 separate bill that contains no other subject.



813842

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/20/2018	.	
	.	
	.	
	.	

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

Senate Amendment (with ballot and title amendments)

Delete everything after the resolving clause
and insert:

That the following creation of Section 19 of Article VII of
the State Constitution is agreed to and shall be submitted to
the electors of this state for approval or rejection at the next
general election or at an earlier special election specifically
authorized by law for that purpose:

ARTICLE VII



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FINANCE AND TAXATION

SECTION 19. Supermajority vote required to increase state tax revenues by increasing taxes.—

(a) A law that imposes a new tax, increases the rate or amount of a tax, or expands a tax base, and that results in a net increase in state revenues, must be approved by three-fifths of the membership of each house of the legislature.

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

(1) "Expands a tax base" means broadening the scope of a tax to include additional classes of property, activity, or income, but does not include the amendment or repeal of a credit or exemption.

(2) "Net increase in state revenues" means the revenues produced by the tax increases contained in the law, minus any revenue reductions contained in the law. For purposes of this paragraph, whether a law results in a net increase is determined by the annual net revenues estimated to be collected in the first state fiscal year when all the changes in the bill are fully effective. For a law that both increases and reduces revenues, a revenue increase of less than one percent (1%) of the tax increases contained in the law is not considered a net increase in state revenues.

(c) This section does not authorize the imposition of any state tax otherwise prohibited by this constitution, and does not apply to any tax imposed by, or authorized to be imposed by, a county, municipality, school board, or special district.

=====B A L L O T S T A T E M E N T A M E N D M E N T=====

And the ballot statement is amended as follows:



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40 Delete everything after the resolving clause
41 and insert:

42 CONSTITUTIONAL AMENDMENT

43 ARTICLE VII, SECTION 19

44 SUPERMAJORITY VOTE REQUIRED TO INCREASE STATE TAX REVENUES
45 BY INCREASING TAXES.—Requires a law that imposes a new tax,
46 increases the rate or amount of a tax, or expands a tax base,
47 and that results in a net increase in state revenues, to be
48 approved by three-fifths of the membership of each house of the
49 Legislature. Defines the terms “expands a tax base” and “net
50 increase in state revenues.” This amendment does not apply to
51 county, municipality, school board, or special district taxes.

52
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete everything before the resolving clause
56 and insert:

57 House Joint Resolution

58 A joint resolution proposing the creation of Section
59 19 of Article VII of the State Constitution to require
60 a law that imposes a new tax, increases the rate or
61 amount of a tax, or expands a tax base, and that
62 results in a net increase in state revenues, to be
63 approved by three-fifths of the membership of each
64 house of the Legislature.

CourtSmart Tag Report

Room: SB 401
Caption: Senate Appropriations Subcommittee on Finance and Tax

Case No.:

Type:
Judge:

Started: 2/20/2018 9:04:58 AM

Ends: 2/20/2018 9:42:02 AM

Length: 00:37:05

9:05:00 AM Sen. Stargel (Chair)
9:05:06 AM Roll Call
9:05:33 AM S 926
9:05:40 AM Sen. Broxson
9:06:12 AM Am. 793458
9:06:16 AM Sen. Broxson
9:06:53 AM Erin Ballas, National Waste and Recycling Association (Waives in Support)
9:06:54 AM Dale Calhoun, Florida Natural Gas Association (Waives in Support)
9:06:59 AM Steve Uhlfelder, Lobbyist, United Parcel Service (Waives in Support)
9:07:04 AM Eric Criss, President, Beer Industry of Florida (Waives in Support)
9:07:25 AM Roll Call (Favorable)
9:07:46 AM S 730
9:07:50 AM Sen. Perry
9:08:36 AM Roll Call (Favorable)
9:10:00 AM Sen. Perry (Chair)
9:10:05 AM S 502
9:10:13 AM Sen. Stargel
9:11:54 AM Am. 848256
9:13:35 AM Sen. Stargel
9:14:16 AM Roll Call (Favorable)
9:14:49 AM Sen. Stargel (Chair)
9:15:02 AM S 1504
9:15:14 AM Sen. Rader
9:16:55 AM Fred Buggett, Florida Clerks of Court (Waives in Support)
9:17:16 AM Roll Call (Favorable)
9:17:46 AM S 7001
9:17:59 AM Sen. Garcia (Chair)
9:18:04 AM Sen. Stargel
9:19:28 AM Am. 813842
9:19:34 AM Sen. Stargel
9:21:25 AM Sen. Rodriguez
9:21:53 AM Sen. Stargel
9:22:25 AM Sen. Garcia
9:22:33 AM Sen. Stargel
9:22:49 AM S 7001 (Cont)
9:23:04 AM Rich Templin, Florida AFL-CIO
9:26:25 AM Sen. Garcia
9:26:30 AM R. Templin
9:27:02 AM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (Waives in Support)
9:27:05 AM Erik Jones (Waives in Opposition)
9:27:13 AM Nickenga Campbell (Waives in Opposition)
9:27:23 AM Anthony Marciano, Sergeant (Waives in Opposition)
9:27:28 AM Jason Smith (Waives in Opposition)
9:27:34 AM Inur Al-Hayah C. Matabalao (Waives in Opposition)
9:27:48 AM Robin Beal, Area Coordinator (Waives in Opposition)
9:27:52 AM Alla Bruikmon (Waives in Opposition)
9:28:01 AM Kimberely Smith (Waives in Opposition)
9:28:03 AM Amy Datz (Waives in Opposition)
9:28:09 AM Marie Snowman Baker, Teacher (Waives in Opposition)
9:28:14 AM Lisa Mazza, Teacher (Waives in Opposition)
9:28:20 AM Brittni Wegmann, Teacher (Waives in Opposition)
9:28:26 AM Janice Orum, Teacher (Waives in Opposition)

9:28:31 AM Aron Zions, Teacher (Waives in Opposition)
9:28:35 AM Gerry Showers (Waives in Opposition)
9:28:40 AM Daniel Martin, Chief Steward, UAW 1821 (Waives in Opposition)
9:28:46 AM Mitchell Estupinon, Political Legislative Director, UAW 1821 (Waives in Opposition)
9:28:52 AM Yennifer Mateo (Waives in Opposition)
9:29:00 AM Jerome Bess (Waives in Opposition)
9:29:06 AM Maureen Gibson (Waives in Opposition)
9:29:11 AM Gail Marie Perry, Chair, Communications Workers of America
9:30:11 AM David Collers, Sierra Club Florida (Waives in Opposition)
9:30:22 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida (Waives in Support)
9:30:26 AM Mia Diaz, Office Manager, Florida Tax Watch (Waives in Support)
9:30:33 AM Stephanie Owens, Legislative Advocate, League of Women Voters Florida (Waives in Opposition)
9:30:37 AM Andrew Hosek, Analyst, Americans for Prosperity (Waives in Support)
9:30:40 AM Cindy Bess (Waives in Opposition)
9:30:57 AM Sen. Rodriguez
9:32:17 AM Sen. Garcia
9:33:40 AM Sen. Stargel
9:35:42 AM Roll Call (Favorable)
9:35:49 AM Sen. Stargel (Chair)
9:35:57 AM S 1608
9:36:04 AM Sen. Grimsley
9:38:31 AM Am. 178362
9:38:35 AM Sen. Grimsley
9:39:51 AM Am. 565682
9:39:58 AM Sen. Grimsley
9:40:22 AM S 1608 (cont)
9:40:32 AM Nancy Stephens, Executive Vice President (Waives in Support)
9:40:40 AM Adam Basford, Director of State Legislative Affairs, Florida Farm Bureau (Waives in Support)
9:41:15 AM Roll Call (Favorable)
9:41:25 AM Sen. Garcia
9:41:39 AM Sen. Steube
9:41:52 AM Meeting Adjourned