

Tab 1	CS/SB 1330 by CA, Rodriguez (CO-INTRODUCERS) Garcia ; (Identical to CS/H 00571) Ad Valorem Tax Exemption for Nonprofit Homes for the Aged						
Tab 2	SB 1444 by Wright ; (Identical to H 01161) Florida Small Manufacturing Business Recovery Act						
779020	A	S	RCS	FT, Wright	Delete L.198 - 225:	04/14 12:41 PM	
Tab 3	SPB 7082 by FT ; Corporate Income Tax						
Tab 4	SB 1358 by Gruters ; (Similar to H 01007) Valuation of Timeshare Real Property						
Tab 5	CS/SB 1390 by CM, Gruters ; (Compare to H 01125) Capital Investment Tax Credit						
275582	A	S	RCS	FT, Gruters	Before L.38:	04/14 12:41 PM	
Tab 6	CS/SB 1584 by CA, Gruters ; (Similar to CS/H 00623) Taxation of Real Property Platform Transactions						
210520	A	S	RCS	FT, Gruters	Delete L.19 - 65:	04/14 12:41 PM	
Tab 7	SJR 1182 by Brandes ; (Identical to H 01377) Limitation on the Assessment of Real Property/Residential Purposes						
Tab 8	CS/SB 1186 by CA, Brandes ; (Similar to CS/H 01379) Property Assessments for Elevated Properties						
476708	A	S	RCS	FT, Brandes	Delete L.79 - 173:	04/14 12:41 PM	
Tab 9	SB 1246 by Rodrigues ; (Identical to H 00863) Capital Investment Tax Credit						
945154	D	S	RCS	FT, Rodrigues	Delete everything after	04/14 12:41 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Rodriguez, Chair
Senator Cruz, Vice Chair

MEETING DATE: Wednesday, April 14, 2021
TIME: 9:00—11:00 a.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Rodriguez, Chair; Senator Cruz, Vice Chair; Senators Berman, Harrell, Hooper, Jones, Rodrigues, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	CS/SB 1330 Community Affairs / Rodriguez (Identical CS/H 571)	Ad Valorem Tax Exemption for Nonprofit Homes for the Aged; Exempting from ad valorem taxation certain entities wholly owned by a nonprofit corporation, etc. CA 03/30/2021 Fav/CS FT 04/14/2021 Favorable AP	Favorable Yeas 8 Nays 0
2	SB 1444 Wright (Identical H 1161)	Florida Small Manufacturing Business Recovery Act; Creating the "Florida Small Manufacturing Business Recovery Act"; requiring the Department of Economic Opportunity to accept applications for certification of relief funds and relief contributions in a specified manner; prohibiting the department from approving more than a specified amount of relief investment authority and relief contributions; authorizing applicants whose applications were denied to provide additional information within a certain timeframe to cure defects in their applications; authorizing nonrefundable tax credits for owners of tax credit certificates issued by the department, etc. CM 03/15/2021 Favorable FT 03/31/2021 Not Considered FT 04/14/2021 Fav/CS AP	Fav/CS Yeas 8 Nays 0
Consideration of proposed bill:			
3	SPB 7082	Corporate Income Tax; Adopting the 2021 version of the Internal Revenue Code and other federal statutes relating to federal income taxes for purposes of the state corporate income tax code; providing for retroactive operation; requiring the addition to adjusted federal income of certain amounts of business interest expense deductible in certain taxable years, etc.	Submitted and Reported Favorably as Committee Bill Yeas 5 Nays 3

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Wednesday, April 14, 2021, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1358 Gruters (Similar H 1007)	Valuation of Timeshare Real Property; Providing a condition for the adequacy of the number of resales for the purposes of certain tax appeals; providing that this condition meets the constitutional mandate for just valuation, etc. RI 03/30/2021 Favorable FT 04/14/2021 Unfavorable AP	Unfavorable Yeas 3 Nays 5
5	CS/SB 1390 Commerce and Tourism / Gruters (Compare H 1125)	Capital Investment Tax Credit; Providing a credit against the corporate income tax, the sales and use tax, or a stated combination of the two taxes to a qualifying business that establishes a qualifying project for the creation of intellectual property which meets certain capital investment criteria; authorizing use of the credit or portions of the credit by the business members of its affiliated group of corporations; providing a credit against the corporate income tax, the sales and use tax, or a stated combination of the two taxes to a qualifying business that incurs eligible production infrastructure costs that exceed a certain threshold, etc. CM 03/29/2021 Fav/CS FT 04/14/2021 Fav/CS AP	Fav/CS Yeas 8 Nays 0
6	CS/SB 1584 Community Affairs / Gruters (Similar CS/H 623)	Taxation of Real Property Platform Transactions; Defining the terms “affiliated group of corporations” and “real property platform”; providing a methodology to be used in determining documentary stamp taxes due for certain transactions by real property platforms or affiliated groups of corporations involving residential property which meet specified criteria, etc. CA 03/30/2021 Fav/CS FT 04/14/2021 Fav/CS AP	Fav/CS Yeas 8 Nays 0
7	SJR 1182 Brandes (Identical HJR 1377, Compare CS/H 1379, Linked CS/S 1186)	Limitation on the Assessment of Real Property/Residential Purposes; Proposing amendments to the State Constitution, effective January 1, 2023, to authorize the Legislature, by general law, to prohibit the consideration of any change or improvement made to real property used for residential purposes to improve the property’s resistance to flood damage in determining the assessed value of such property for ad valorem taxation purposes, etc. CA 03/10/2021 Favorable FT 04/14/2021 Favorable AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Wednesday, April 14, 2021, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 1186 Community Affairs / Brandes (Similar CS/H 1379, Compare HJR 1377, Linked SJR 1182)	Property Assessments for Elevated Properties; Specifying that changes to elevate certain homestead and nonhomestead residential property, respectively, do not increase the assessed value of the property under certain circumstances; requiring property owners to provide certification for such property; prohibiting certain areas from being included in square footage calculation, etc. CA 03/10/2021 Fav/CS FT 04/14/2021 Fav/CS AP	Fav/CS Yeas 8 Nays 0
9	SB 1246 Rodrigues (Identical H 863)	Capital Investment Tax Credit; Authorizing passenger car rental companies and travel agencies that meet certain criteria in a specified year to use unused tax credits for certain purposes, etc. CM 03/29/2021 Favorable FT 04/14/2021 Fav/CS AP	Fav/CS Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1330

INTRODUCER: Community Affairs Committee and Senator Rodriguez and others

SUBJECT: Ad Valorem Tax Exemption for Nonprofit Homes for the Aged

DATE: April 13, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1330 expands the ownership options that would allow a nonprofit home for the aged to qualify for an exemption from ad valorem taxation. Currently, the taxpayer may be a Florida limited partnership the sole general partner of which is a not-for-profit corporation. The bill allows the sole general partner to be another entity wholly owned by a not-for-profit corporation.

The Revenue Estimating Conference estimates that the bill will reduce local government revenue by \$100,000 beginning in Fiscal Year 2022-2023.

The bill takes effect January 1, 2022.

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 tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ 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. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.⁷

Ad Valorem Tax Exemption for Homes for the Aged

Florida exempts nonprofit homes for the aged from property tax; however, the home must be owned in one of two ways. The home can qualify for an exemption by being owned directly by a not-for-profit corporation or by being owned by a Florida limited partnership whose sole general partner is a not-for-profit corporation.⁸

If the home qualifies, the exemption applies to units or apartments reserved for or occupied by a permanent resident of this state who is:

- An individual with a gross income of no more than \$34,374 per year who is at least 62 years of age or is totally and permanently disabled;⁹
- A couple with a combined gross income of no more than \$38,590 per year, or the surviving spouse of such a couple, if the surviving spouse lived with the deceased at the time of the

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 FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4.

⁸ Section 196.1975, F.S.

⁹ The original statutory income thresholds are adjusted annually by the percentage change in the average cost-of-living index. See s. 196.1975(4), F.S. For the current income threshold, see: Florida Department of Revenue, *Cost of Living Adjustments*, available at: <https://floridarevenue.com/property/Documents/CostofLivingAdjust.pdf> (last visited April 7, 2021).

deceased's death in a home for the aged, at least one of whom must be at least 62 years of age or is totally and permanently disabled;¹⁰ or

- A totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S., regardless of income.

Common areas of the home for the aged are exempt if 25 percent or more of the units or apartments are restricted to or occupied by persons who meet the income requirements.¹¹

The facility must annually file an application for exemption with the property appraiser¹² and submit an affidavit from each person residing in a unit or apartment claiming an exemption.¹³

The person signing the affidavit must attest that he or she resides in the unit or apartment claiming the exemption and, in good faith, makes that unit or apartment his or her permanent residence.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 196.1975, F.S., to authorize a third ownership option that would allow a nonprofit home for the aged to qualify for a property tax exemption; a home owned by a Florida limited partnership the sole general partner of which is an entity wholly owned by a not-for-profit corporation.

The bill takes effect January 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a 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 cities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant fiscal impact, which for Fiscal Year 2021-2022, is forecast at \$2.2 million.¹⁵

¹⁰ *Id.*

¹¹ Section 196.1975(8), F.S.

¹² Section 196.1975(9)(b), F.S.

¹³ Section 196.1975(9)(b), F.S.

¹⁴ *Id.*

¹⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 10, 2021). \$2.2 Million is based on the Florida Demographic Estimating Conference's Nov. 13, 2020 population forecast for 2021 of 21,925,785. The conference packet is available at: <http://edr.state.fl.us/content/conferences/population/demographicsummary.pdf> (last visited March 29, 2021).

The Revenue Estimating Conference determined that the bill will reduce local government revenues by \$100,000 beginning in Fiscal Year 2022-2023. Therefore, this bill might not be a mandate subject to Article VII, s. 18(b) of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference analyzed the identical House companion and determined that the bill will reduce local government revenue by \$100,000 beginning in Fiscal Year 2022-2023.¹⁶

B. Private Sector Impact:

The bill will enable additional homes for the aged operated by not-for-profit corporations to qualify for the ad valorem tax exemption.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁶ Revenue Estimating Impact Conference, *Ad Valorem Tax Exemption for Nonprofit Homes for the Aged, CS/HB 571*, (March 19, 2021), available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page234-237.pdf (last visited April 9, 2021).

VIII. Statutes Affected:

This bill substantially amends section 196.1975 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.)

CS by Community Affairs on March 30, 2021:

The CS removes the provision reducing the minimum tenant age requirement for the ad valorem tax exemption for a unit or apartment.

- 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 Senators Rodriguez
and Garcia

578-03611-21

20211330c1

1 A bill to be entitled
2 An act relating to ad valorem tax exemption for
3 nonprofit homes for the aged; amending s. 196.1975,
4 F.S.; exempting from ad valorem taxation certain
5 entities wholly owned by a nonprofit corporation;
6 providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (1) of section 196.1975, Florida
11 Statutes, is amended to read:
12 196.1975 Exemption for property used by nonprofit homes for
13 the aged.-Nonprofit homes for the aged are exempt to the extent
14 that they meet the following criteria:
15 (1) The applicant must be a corporation not for profit
16 pursuant to chapter 617 or a Florida limited partnership, the
17 sole general partner of which is a corporation not for profit
18 under pursuant to chapter 617 or an entity wholly owned by a
19 corporation not for profit under chapter 617, and the
20 corporation not for profit must have been exempt as of January 1
21 of the year for which exemption from ad valorem property taxes
22 is requested from federal income taxation by having qualified as
23 an exempt charitable organization under ~~the provisions of s.~~
24 501(c) (3) of the Internal Revenue Code of 1954 or of the
25 corresponding section of a subsequently enacted federal revenue
26 act.
27 Section 2. This act shall take effect January 1, 2022.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/14/21

Meeting Date

SB 1330

Bill Number (if applicable)

Topic AFFORDABLE HOUSING FOR SENIORS

Amendment Barcode (if applicable)

Name JEREMY SHARKEY

Job Title President Capital Alliance Group

Address 100 E College Ave

Phone 850 224 1660

Street

T4H

City

FL

State

32301

Zip

Email JEREMY.SHARKEY@capalliance.com

Speaking: For Against Information

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

Representing BERKELEY HOUSING INITIATIVE - NON PROFIT

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1444

INTRODUCER: Finance and Tax Committee and Senator Wright

SUBJECT: Florida Small Manufacturing Business Recovery Act

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

I. Summary:

CS/SB 1444 creates s. 288.715, F.S., the Florida Small Manufacturing Business Recovery Act. The bill allows investors to earn credits against the insurance premium tax and retaliatory tax equal to their investment in certified relief funds; in turn, the relief funds will invest in certain businesses. The bill caps investment at a level that will result in no more than \$80 million in tax credits under the program.

The Department of Economic Opportunity (DEO) will administer the program by certifying relief funds, granting tax credits to investors, and, if necessary, revoking a relief fund's tax credit authority.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$16 million beginning in Fiscal Year 2023-2024, and by \$16 million each fiscal year thereafter.

The bill takes effect July 1, 2021.

II. Present Situation:

Economic Development Incentives that use Tax Credits

Capital Investment Tax Credit

The Capital Investment Tax Credit was created to attract and grow capital-intensive industries in the state by offering an annual tax credit equal to 5 percent of the eligible capital costs generated by a qualifying project. The tax credit offered may only be used against the corporate income tax or insurance premium tax liability generated by or arising out of a qualifying project.¹ Qualifying

¹ Section 220.191, F.S.

projects are in high-impact portions of the clean energy, life sciences, financial services, information technology, semi-conductor, transportation equipment manufacturing, advanced manufacturing, or corporate headquarters facility industries. In calendar year 2019, the DEO approved over \$67 million in capital investment tax credits.²

Rural Job Tax Credit Program

The Florida Rural Job Tax Credit Program offers a tax credit incentive for eligible businesses that are located within a designated qualified rural area to create new jobs.³ The tax credit ranges from \$1,000 to \$1,500 per qualified employee and can be taken against either the businesses' corporate income tax or sales and use tax liabilities. A business is limited to no more than \$500,000 of tax credits per year.⁴ The DEO administers this program and may approve up to \$5 million in tax credits per year. In calendar year 2019, the DEO approved \$100,000 in rural job tax credits.⁵

Florida New Markets Development Program⁶

The Florida New Markets Development Program (NMDP), similar to the program created in this bill, uses tax credits to spur economic development. The NMDP allows Florida taxpayers to earn tax credits against corporate income tax or insurance premium tax liability by investing in qualified community development entities (CDEs) that make investments in qualified low-income community businesses. CDEs are domestic corporations or partnerships that have a primary role in administering the tax credit program and act as intermediaries between the investors, financiers, and low-income community businesses. The NMDP is modeled after the federal New Markets Tax Credit program.⁷ The NMDP is capped at a cumulative investment that would result in no more than \$216.34 million in tax credits, and an annual investment that would result in no more than \$36.6 million in a single fiscal year.⁸ The NMDP has exhausted its credit allocation. It has not issued tax credits since Fiscal Year 2014-2015.⁹

Examples of Acts in Other States

In 2017, Georgia created the Georgia Agribusiness and Rural Jobs Act, which is designed to spur \$100 million in capital investments in rural businesses in the state. Investors may redeem up to \$15 million in tax credits annually for four years (for a total of \$60 million tax credits) against their corporate income tax and premium tax liabilities.¹⁰ While Georgia's tax credit program incentivizes investment in rural businesses instead of manufacturing businesses, the program's

² Department of Economic Opportunity, *2019-2020 Incentives Report*, 49, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited Mar. 24, 2021).

³ Sections 212.098 and 220.1895, F.S.

⁴ Section 212.098(6)(d), F.S.

⁵ *Supra* note 2.

⁶ Sections 288.991-.9922, F.S.

⁷ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs*, 33-37 (Jan. 2020), available at <http://www.edr.state.fl.us/Content/returnoninvestment/ROISELECTPROGRAMS2020final.pdf> (last visited Mar. 24, 2021).

⁸ Section 288.9914(3)(c), F.S.

⁹ Florida Dep't of Economic Opportunity, *2017 Incentives Report*, 11, available at <http://www.floridajobs.org/docs/default-source/reports-and-legislation/2017-annual-incentives-report.pdf?sfvrsn=4> (last visited Mar. 24, 2021).

¹⁰ Ga. Code Annotated s. 33-1-25, *et seq.* (2017).

structure is similar to that of the proposed bill. Similar legislation directed towards other industries has been proposed in several other states, including Kentucky¹¹ and Washington.¹²

Additionally, the federal New Markets Tax Credit Program is structurally similar to the program created by the bill. The federal program, which offers investors a credit against the federal income tax in exchange for making equity investments in Community Development Entities (CDEs), was extended through 2025 with a \$5 billion annual appropriation under the federal Consolidated Appropriations Act, 2021.¹³ Several CDEs are actively financing businesses in Florida under the federal program.¹⁴

Insurance Premium Tax and Retaliatory Tax

Florida imposes on insurers a tax on insurance premiums. For the tax imposed by s. 624.509, F.S., tax is due on:

- Insurance premiums;
- Premiums for title insurance;
- Assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements; and
- Annuity premiums or considerations.

The general tax rate is 1.75 percent of gross receipts on account of life and health insurance policies covering Florida residents and on account of all other types of policies and contracts covering property, subjects, or risks located, resident, or to be performed in Florida, minus reinsurance and return premiums.¹⁵ Annuity policies or contracts held in Florida are taxed at 1 percent of gross receipts, and direct written premiums for bail bonds are taxed at 1.75 percent, excluding any amounts retained by licensed bail bond agents or appointed managing general agents.¹⁶ The insurance premium tax is collected by the Department of Revenue (DOR) and distributed to the General Revenue Fund.¹⁷

Florida imposes a retaliatory tax on foreign or alien insurers if the other state or country where the insurer is domiciled imposes a greater tax burden on Florida insurers, or their agents or representatives, in excess of what the state or country imposes on such entities that are domiciled in that state or country.¹⁸ The retaliatory tax is calculated by first calculating the foreign or alien insurer's Florida premium tax liability, and then calculating the insurer's liability as if its Florida premiums were written in the jurisdiction where it is domiciled and its Florida employees and

¹¹ Kentucky House Bill 203 (2019), <https://apps.legislature.ky.gov/record/19rs/hb203.html> (last visited Mar. 24, 2021).

¹² Doug Farquhar, *Jump-Starting Rural Economies* (Apr. 2018), available at <http://www.ncsl.org/research/environment-and-natural-resources/jump-starting-rural-economies.aspx> (last visited Mar. 24, 2021).

¹³ Consolidated Appropriations Act, H.R. 133, 116th Cong., s. 112, (2020).

¹⁴ United States Department of the Treasury, *New Markets Tax Credit Qualified Equity Investment Report (March 2021)*, available at <https://www.cdfifund.gov/sites/cdfi/files/2021-03/NMTC%20QEI%20Issuance%20Report-March%202021.pdf> (last visited Mar. 24, 2021).

¹⁵ Section 624.509(1), F.S.

¹⁶ *Id.*

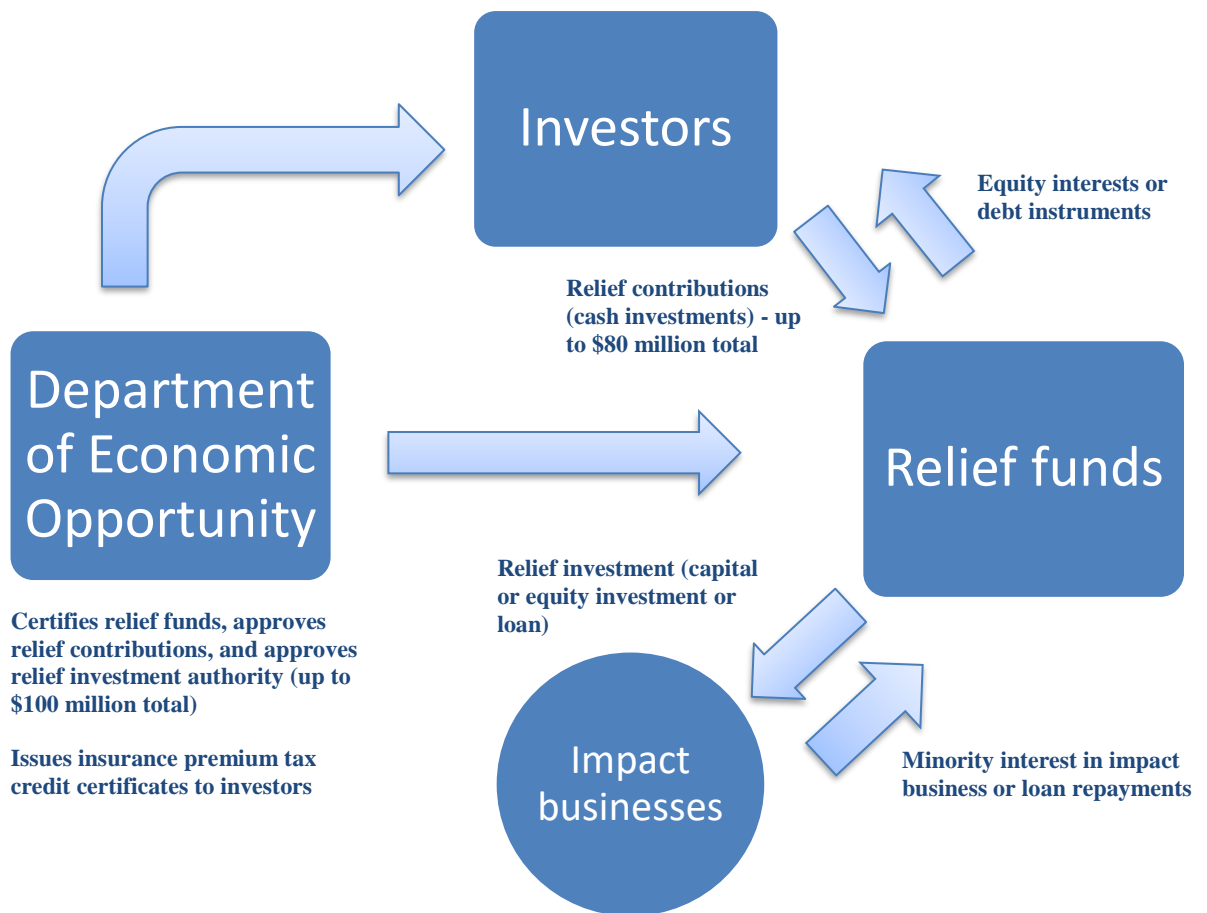
¹⁷ Section 624.509(3), F.S.

¹⁸ *See* s. 624.5091, F.S.

property were located in that jurisdiction.¹⁹ After adjusting both calculations for various credits, other taxes, and fees, the retaliatory tax due, if any, is equal to the amount that taxes imposed by other jurisdiction exceed those imposed under Florida law.²⁰ Retaliatory taxes are collected by the DOR and deposited into the Insurance Regulatory Trust Fund up to an annually adjusted amount, with the remainder deposited into the General Revenue Fund.²¹

III. Effect of Proposed Changes:

The bill creates s. 288.715, F.S., the Florida Small Manufacturing Business Recovery Act, to be administered by the DEO. The bill uses tax credits against the state insurance premium tax and retaliatory tax to incentivize certain investors to make cash investments, known as “relief contributions,” to certified relief funds that, in turn, will make capital or equity investments in, or loans with a maturity date of at least 2 years to, an impact business. The total relief investment authority is capped at \$100 million and relief contributions are capped at \$80 million. The following provides a simplified overview:



¹⁹ Senate Committee on Finance and Tax, *An Overview of Florida’s Insurance Premium Tax*, Report Number 2007-122, 7, October 2006, available at http://archive.flsenate.gov/data/publications/2007/senate/reports/interim_reports/pdf/2007-122ftlong.pdf (last visited March 24, 2021).

²⁰ *Id.*

²¹ Section 624.5091(5), F.S.

An impact business is one that, at the time of the initial investment by the relief fund:

- Has fewer than 200 employees;
- Has its principal business operations in Florida. A business has its principal business operations in the state if at least 60 percent of the business's employees are Florida residents, at least 80 percent of the business's payroll is paid to Florida residents, or the business has agreed to use the proceeds of a relief investment to relocate at least 60 percent of the business's employees to Florida or pay at least 80 percent of the business's payroll to Florida residents; and
- Is engaged in manufacturing under North American Industry Classification System code 31-33. A business not engaged in manufacturing is considered an impact business under the bill if the DEO has determined that an investment in such a business will benefit the state's recovery.

Tax Credit Application, Approval, and Allocation

Beginning August 1, 2021, the DEO must accept applications for certification of relief funds and relief contributions. Applications must include:

- The total relief investment authority²² sought by the applicant, 80 percent of which must consist of relief contributions;
- Evidence that an applicant or an affiliate of the applicant is licensed as a rural business investment company or small business investment company;²³
- Evidence that at least one principal of the rural or small business investment company is, and has been for at least 4 years, an officer, employee, or affiliate of the applicant on the date the application is submitted;
- Evidence that the applicant and its affiliates have invested more than \$500 million in small businesses, regardless of whether the principal businesses operations of the small business are in the state; and
- A signed affidavit from each investor stating that the investor agrees to make a relief contribution,²⁴ and the amount of the relief contribution.

The DEO must approve or deny an application within 30 days of its receipt. The DEO must deny an application if:

- The application is incomplete, including failing to submit the affidavits accounting for at least 80 percent of the relief investment authority sought;
- The application does not include evidence proving the relief fund is eligible for certification; or
- The DEO has already approved the maximum total relief investment authority and relief contributions.

The total relief investment authority is capped at \$100 million and relief contributions are capped at \$80 million.

²² "Relief investment authority" means the amount stated on the notice certifying a relief fund issued by the DEO.

²³ See 7 U.S.C. s. 2009cc and 15 U.S.C. s. 681.

²⁴ "Relief contribution" means a cash investment in a relief fund which equals the amount specified on a notice of tax credit allocation issued by the DEO after certification. The investments must purchase an equity interest in the relief fund or a debt instrument issued by the relief fund.

The DEO must issue a written notice to an approved applicant certifying the applicant as a relief fund and specifying the applicant's amount of relief investment authority. If the DEO denies an application for any reason other than the aforementioned reasons, the DEO must notify the applicant and allow the applicant to cure defects in the application within 15 days of receipt of the notice of denial.

The DEO may not reduce a relief fund's requested relief investment authority unless such an allocation would cause the DEO to exceed the relief investment authority and relief contribution limits. If the DEO approves applications received on the same day with relief investment authority and relief contribution amounts that would collectively exceed the limits specified by the bill, the DEO must approve both applicants but proportionally reduce the authority and contribution for each approved application as necessary to avoid exceeding the limit.

Additionally, the DEO may not approve any applications submitted after a denied application until the previously denied application has been cured and reconsidered if the approval of the subsequent application would result in exceeding the dollar limitations on relief investment authority or relief contributions.

Within 30 days after certification, a relief fund must collect the relief contributions from each investor whose affidavit was included in the application, collect direct or indirect equity investments from affiliates of the fund equal to at least 10 percent of the relief fund's investment authority, and provide the DEO, for each investor seeking a tax credit certificate, the investor's federal employer identification number (if a business) or social security number (if an individual). A relief fund must send to the DEO proof of collecting such contributions and investments within 35 days of certification. If a relief fund fails to send such documentation, the DEO must revoke the fund's certification.

Upon a relief fund's satisfaction of the aforementioned collection and documentation requirements, the DEO must issue a notice of the amount and utilization schedule of the tax credit certificates allocated to each investor or affiliate as a result of their relief contributions. The DEO must provide the DOR, for each person who is allocated tax credit certificates, the person's name, the amount of the credit allocation, the utilization schedule, federal employer identification number or social security number, and the closing date of the relief fund to which the person made a relief contribution. Only the first \$3.5 million of a relief fund's investment in any one impact business may be considered a relief investment; a relief investment in an affiliate of an impact business is considered a relief investment in that impact business.

Tax Credits

An investor that made a relief contribution is issued a nonrefundable tax credit certificate against the insurance premium tax under s. 624.509, F.S., and the retaliatory tax under s. 624.5091, F.S., which is transferable to any person that pays premium taxes in the state.

On the closing date,²⁵ a taxpayer that made a relief contribution is eligible for a tax credit equal to the amount specified in the notice sent by the DEO. The DEO will issue investors a tax credit certificate for one-fifth of the relief contributions on the anniversary of the relief fund's closing date every year for 5 years, beginning in 2023. If the tax credit received in one year exceeds the taxes owed for that year, the unused credits may be carried forward indefinitely; a retaliatory tax may not be required for using the tax credit. Anyone receiving a tax credit must include a copy of the tax credit certificate when submitting an annual statement for each year the credit is claimed.

Revocation of Tax Credit Certificates and Exit from the Program

The DEO is not required to issue a tax credit to a relief fund that does not invest at least 70 percent of its relief investment authority in relief investments within 1 year of the closing date or 100 percent of its authority within 2 years of the closing date. A relief investment is any capital or equity investment²⁶ in or loan²⁷ to an impact business with a maturity of at least 2 years after the date of issuance.

The DEO may revoke a relief fund's tax credit certificate if the relief fund:

- Makes a distribution in excess of the cumulative investment earnings of the relief fund, taking into account all past distributions, before satisfying the investment level requirements listed above;
- Fails to maintain the required investment levels through the fifth anniversary of the closing date;²⁸ or
- Makes a distribution that results in the fund having less than 100 percent of its authority invested in other relief investments or held in cash or marketable securities available for relief investments, after satisfying the original investment level requirements but before decertification of the relief fund.

The DEO must notify a relief fund of the reasons for revocation before revoking the tax credit certificate, and the DEO may not revoke a certificate if a relief fund corrects the reasons for revocation within 30 days of receiving notice.

A relief fund that has invested all of its relief investment authority in relief investments may apply to the DEO to be decertified on or after the sixth anniversary of the fund's closing date. The DEO must respond and not unreasonably deny an application for decertification within 60 days of receipt; the fact that no tax credit certificates have been revoked with respect to the relief fund is evidence to prove that the relief fund is eligible for decertification. The DEO must

²⁵ The closing date is the date on which a relief fund has collected the relief funds from each investor whose affidavit was included in the fund's application and the direct or indirect equity investments from affiliates of the relief fund.

²⁶ An equity investment is a relief investment only if the relief fund does not acquire a majority interest in the small business as a result of the investment.

²⁷ A secured loan is a relief investment only if it has an initial interest rate of less than 2 percent or principal and interest payments deferred for at least 1 year. Subordinate loans must have an initial interest rate of 6 percent and interest payments deferred for at least 1 year.

²⁸ An investment that is sold or repaid is considered to be maintained if the relief fund reinvests an amount equal to the repaid or sold investment into other relief investments in Florida within 1 year of receipt of such funds.

send notice of its decision to approve or deny an application for decertification, including, if necessary, any reasons for denial.

The DEO may not revoke a tax credit certificate in response to any action a relief fund takes after decertification. However, a decertified relief fund's tax credit certificate may be revoked as a result of actions taken while a fund was certified, even if the actions are discovered after the fund has been decertified.

The relief investment authority and relief contributions of a relief fund whose tax credit certificate has been revoked do not count towards the \$100 million limit and \$80 million limit on relief investment authorities and relief contributions, respectively, that the DEO is authorized to approve. Relief investment authority and relief contribution amounts from such a fund will be awarded pro rata to relief funds whose investment relief authorities were reduced in order to not exceed the total relief investment authority the DEO may approve. Relief investment authority remaining may be awarded to new applicants. The DEO must notify the DOR of lapsed or revoked relief authority.

Reporting Requirements

Each relief fund must submit a report to the DEO on or before April 1 of each year, including the closing date year, until the calendar year after the relief fund is decertified. In addition to an itemization of the relief fund's investments, reports must also include:

- A bank statement evidencing each relief investment;
- The name, location, and industry class of each impact business that received a relief investment and evidence that the business qualified as an impact business at the time of the investment;
- The jobs created and retained as a result of each relief investment; and
- Any other information required by the DEO.

Relief funds must also submit a report to the DEO on or before the fifth business day after the first and second anniversaries of the closing date that provides documentation proving that the relief fund has met the investment thresholds required and has not violated any other revocation provisions.

Miscellaneous

A relief fund may request the DEO to issue a written opinion advising whether a business qualifies as an impact business; if the DEO does not respond within 10 days, the business is deemed an impact business or small business.

The bill grants the DEO rulemaking authority to implement the program.

The bill takes effect July 1, 2021.

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

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$16 million beginning in Fiscal Year 2023-2024, and by \$16 million each fiscal year thereafter.²⁹

B. Private Sector Impact:

Businesses that qualify as impact businesses under the bill could obtain equity or debt financing under the act. The bill provides investment opportunities for rural business investment companies and small business investment companies. Insurers may reduce their insurance premium tax or retaliatory tax liability by making relief contributions or using credits transferred to them by investors or affiliates.

C. Government Sector Impact:

The DEO may incur administrative costs to implement and operate the program.

²⁹ Office of Economic and Demographic Research, The Florida Legislature, *SB 1444 & HB 1161* (March 19, 2021), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page211-213.pdf (last visited March 25, 2021). See 212 for assumptions for this estimate.

The DOR estimates it requires a \$50,116 appropriation in Fiscal Year 2023-2024 to implement the bill.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

- The DOR noted the following issues:³¹
 - “Premium taxes” is defined on lines 84 and 85 as any insurance premium tax liability or any retaliatory tax liability. It is unclear if a taxpayer must choose between the two, whether the tax credit certificates will distinguish which tax they are available for, or whether a taxpayer can break the credit up and annually split its credit amount between both taxes. It may be easier for a taxpayer to make an election when applying for the credit so DEO can indicate on the certificate the tax to which the certificate is applicable.
 - It is not clear if a taxpayer is eligible for the entire eligible credit amount in the initial year or one-fifth of the credit amount. See lines 243 through 249.
- Lines 243-245 provide that “a taxpayer that made a relief contribution” is eligible for the credit equal to the amount specified in the DEO notice, and lines 245-249 require the DEO to issue certificates for 5 years equal to one-fifth of the relief contributions allocated to the taxpayer. It appears that a taxpayer that did not make a relief contribution but was transferred the credit by an investor or affiliate is not subject to this provision and may use the entire credit amount in the initial year, but the sponsor may wish to specify.

VIII. Statutes Affected:

This bill creates section 288.715 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.)

CS by Finance and Tax on April 14, 2021:

The CS:

- Requires relief funds, within 30 days after being certified as a relief fund, to provide the DEO the federal employer identification number (for businesses) or social security number (for individuals) of each investor seeking a tax credit certificate. This information is provided to the DOR for purposes of administering the credit.
- Requires the DEO to provide the DOR specified information for each person who is allocated tax credit certificates.

³⁰ Florida Dep’t of Revenue, *Senate Bill 1444 Analysis* (March 15, 2021) (on file with the Senate Committee on Finance and Tax).

³¹ *Id.*

- Requires the DEO to notify the DOR of a relief fund's lapsed or revoked relief investment authority.

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
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04/14/2021	.	
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The Committee on Finance and Tax (Wright) recommended the following:

Senate Amendment

Delete lines 198 - 225
and insert:
whose affidavit was included in the application;

2. Collect direct or indirect equity investments from affiliates of the relief fund, including employees, officers, and directors of such affiliates, equal to at least 10 percent of the relief fund's investment authority; and

3. For each investor seeking a tax credit certificate,



11 provide the department with the investor's federal employer
12 identification number, if a business, or the investor's social
13 security number, if an individual.

14 (g) Within 35 days after receiving certification under
15 paragraph (e), a relief fund must send documentation to the
16 department which proves the relief fund has collected the
17 amounts required under paragraph (f). If the relief fund fails
18 to comply with this paragraph, the department shall revoke the
19 relief fund's certification.

20 (h) After a relief fund satisfies the requirement under
21 paragraph (g), the department shall issue to each investor or
22 affiliate identified under paragraph (g) a notice of the amount
23 and utilization schedule of the tax credit certificates
24 allocated to the investor or affiliate as a result of the
25 investor or affiliate's relief contribution. The department
26 shall provide the Department of Revenue, for each person who is
27 allocated tax credit certificates, the person's name, the amount
28 of the credit allocation, the utilization schedule, the
29 information required by subparagraph (f)3., and the closing date
30 of the relief fund to which the person made a relief
31 contribution.

32 (i) If a relief fund's certification is revoked under
33 paragraph (g) or the relief fund has tax credits revoked under
34 paragraph (5) (b), the corresponding relief investment authority
35 and relief contributions do not count toward limits on total
36 relief investment authority and relief contributions authorized
37 under paragraph (b). The department shall first award lapsed or
38 revoked relief investment authority and the corresponding relief
39 contributions pro rata to each relief fund awarded less than the



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40 relief investment authority for which it applied pursuant to
41 subparagraph (b)1. The department may award any remaining relief
42 investment authority to new applicants. The department shall
43 notify the Department of Revenue of lapsed or revoked relief
44 investment authority.

By Senator Wright

14-01583-21

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1 A bill to be entitled
 2 An act relating to the Florida Small Manufacturing
 3 Business Recovery Act; creating s. 288.715, F.S.;
 4 providing a short title; defining terms; requiring the
 5 Department of Economic Opportunity to accept
 6 applications for certification of relief funds and
 7 relief contributions in a specified manner; specifying
 8 information required to be submitted in an
 9 application; requiring the department to approve or
 10 deny applications within a specified timeframe;
 11 prohibiting the department from approving more than a
 12 specified amount of relief investment authority and
 13 relief contributions; requiring the department to deny
 14 applications under certain circumstances; requiring
 15 the department to provide notice of approval or denial
 16 to applicants; requiring the department to certify
 17 approved applications; authorizing applicants whose
 18 applications were denied to provide additional
 19 information within a certain timeframe to cure defects
 20 in their applications; requiring the department to
 21 reconsider such applications; requiring certified
 22 relief funds to collect contributions and investments
 23 and submit certain documentation within a specified
 24 timeframe; requiring the department to revoke relief
 25 funds' certification under certain circumstances;
 26 requiring the department to give notice relating to
 27 tax credit certificates; providing requirements
 28 relating to lapsed or revoked investment authority;
 29 authorizing nonrefundable tax credits for owners of

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30 tax credit certificates issued by the department;
 31 providing restrictions on the credit; requiring
 32 taxpayers to submit a copy of the tax credit
 33 certificate with the taxpayers' annual statements;
 34 authorizing the department to revoke tax credit
 35 certificates under certain circumstances; prohibiting
 36 certain amounts invested in impact businesses from
 37 being counted as a relief investment; authorizing
 38 certain relief funds to apply to the department to be
 39 decertified; providing procedures for decertification;
 40 authorizing a relief fund to request certain opinions
 41 from the department; requiring relief funds to submit
 42 specified reports to the department; authorizing the
 43 department to adopt rules; providing an effective
 44 date.
 45
 46 Be It Enacted by the Legislature of the State of Florida:
 47
 48 Section 1. Section 288.715, Florida Statutes, is created to
 49 read:
 50 288.715 The Florida Small Manufacturing Business Recovery
 51 Act.—
 52 (1) This section may be cited as the "Florida Small
 53 Manufacturing Business Recovery Act."
 54 (2) As used in this section, the term:
 55 (a) "Affiliate" means a person that directly, or indirectly
 56 through one or more intermediaries, controls, is controlled by,
 57 or is under common control with another person. For the purposes
 58 of this paragraph, a person is "controlled by" another person if

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59 the controlling person holds, directly or indirectly, the
 60 majority voting or ownership interest in the controlled person
 61 or has control over the day-to-day operations of the controlled
 62 person by contract or by law.

63 (b) "Closing date" means the date on which a relief fund
 64 has collected the amounts specified in paragraph (3) (f).

65 (c) "Department" means the Department of Economic
 66 Opportunity.

67 (d) "Impact business" means a business that, at the time of
 68 the initial relief investment by a relief fund:

69 1. Has fewer than 200 employees;

70 2. Has its principal business operations in this state; and

71 3. Is engaged in the North American Industry Classification
 72 System codes 31-33 or, if not engaged in such industries, the
 73 department determines that an investment in the business will be
 74 beneficial to this state's recovery.

75
 76 For the purposes of this paragraph, a business has its principal
 77 business operations in this state if at least 60 percent of the
 78 business' employees reside in this state, at least 80 percent of
 79 the business' payroll is paid to individuals who reside in this
 80 state, or the business has agreed to use the proceeds of a
 81 relief investment to relocate at least 60 percent of the
 82 business' employees to this state or pay at least 80 percent of
 83 the business' payroll to individuals residing in this state.

84 (e) "Premium taxes" means taxes imposed under s. 624.509 or
 85 s. 624.5091.

86 (f) "Relief contribution" means a cash investment in a
 87 relief fund which equals the amount specified on a notice of tax

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88 credit allocation issued by the department under paragraph
 89 (3) (h). The investment must purchase an equity interest in the
 90 relief fund or purchases, at par value or premium, a debt
 91 instrument issued by the relief fund which has an original
 92 maturity date of at least 5 years after the date of issuance and
 93 a repayment schedule that is no greater than level principal
 94 amortization over 5 years.

95 (g) "Relief fund" means an entity certified by the
 96 department under paragraph (3) (e).

97 (h) "Relief investment" means any capital or equity
 98 investment in an impact business or any loan to an impact
 99 business which has a stated maturity at least 2 years after the
 100 date of issuance. A secured loan is a relief investment only if
 101 it has an initial interest rate of less than 2 percent or
 102 principal and interest payments deferred for at least 1 year. A
 103 subordinate loan is a relief investment only if it has an
 104 initial interest rate of less than 6 percent or principal and
 105 interest payments deferred for at least 1 year. An equity
 106 investment is a relief investment only if the relief fund does
 107 not acquire a majority interest in the small business as a
 108 result of such investment. The term "relief investment" does not
 109 include any transaction that includes an origination fee.

110 (i) "Relief investment authority" means the amount stated
 111 on the notice issued under paragraph (3) (e) certifying the
 112 relief fund. Eighty percent of a relief fund's relief investment
 113 authority must consist of relief contributions.

114 (j) "Small business" means any business that has its
 115 principal business operations in this state, as described in
 116 paragraph (d), and which, at the time the initial relief

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117 investment is made, has fewer than 250 employees or the number
 118 of employees set forth for the business' North American Industry
 119 Classification System code under 13 C.F.R. s. 121.201, whichever
 120 is greater.

121 (3) (a) Beginning August 1, 2021, the department shall
 122 accept applications for certification of relief funds and relief
 123 contributions. The application must include:

124 1. The total relief investment authority sought by the
 125 applicant;

126 2. Evidence that proves, to the satisfaction of the
 127 department, that:

128 a. The applicant or an affiliate of the applicant is a
 129 federally approved or licensed rural business investment company
 130 under 7 U.S.C. s. 2009cc or a small business investment company
 131 under 15 U.S.C. s. 681. The applicant must include a certificate
 132 executed by an executive officer of the applicant attesting that
 133 the approval or license remains in effect and has not been
 134 revoked;

135 b. At least one principal or similar officer of such entity
 136 is, and has been for at least 4 years, an officer or employee of
 137 the applicant or an affiliate of the applicant on the date the
 138 application is submitted; and

139 c. As of the date the application is submitted, the
 140 applicant and its affiliates have invested more than \$500
 141 million in small businesses, regardless of whether the principal
 142 business operations of the small business are in this state; and

143 3. A signed affidavit from each investor stating that the
 144 investor agrees to make a relief contribution and the amount of
 145 the relief contribution.

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146 (b)1. Except as provided in subparagraph 2., the department
 147 shall approve or deny an application within 30 days after
 148 receiving the application. The department shall deem
 149 applications received on the same day as having been received
 150 simultaneously. The department may not approve more than \$100
 151 million in relief investment authority and may not approve more
 152 than \$80 million in relief contributions. If approving
 153 simultaneously submitted applications would result in exceeding
 154 these limits, the department shall proportionally reduce the
 155 relief investment authority and the relief contributions for
 156 each approved application as necessary to avoid exceeding the
 157 limit.

158 2. If the department denies an application for
 159 certification as a relief fund, and approving a subsequently
 160 submitted application would result in exceeding the dollar
 161 limitation on relief investment authority or relief
 162 contributions, assuming the previously denied application was
 163 completed, clarified, or cured under subparagraph (e)2., the
 164 agency may not make a determination on the subsequently
 165 submitted application until the previously denied application is
 166 reconsidered or the 15-day period for submitting additional
 167 information regarding that application has passed, whichever
 168 occurs first.

169 (c) The department must deny an application if:

170 1. The application is incomplete, including failing to
 171 submit the affidavits accounting for at least 80 percent of the
 172 relief investment authority sought;

173 2. The applicant does not satisfy the requirements of
 174 subparagraph (a)2.; or

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175 3. The department has already approved the maximum total
 176 relief investment authority and relief contributions authorized
 177 under subparagraph (b)1.

178 (d) The department may not deny a relief fund application
 179 or reduce the requested relief investment authority for reasons
 180 other than those described in paragraphs (b) and (c).

181 (e)1. If the department approves an application, the
 182 department must issue a written notice to the applicant
 183 certifying the applicant as a relief fund and specifying the
 184 applicant's amount of relief investment authority.

185 2. If the department denies an application, the department
 186 must notify the applicant of the reasons for denial. If the
 187 application was denied for any reason other than a reason
 188 specified in paragraph (c) or because the applicant failed to
 189 satisfy subparagraph (a)3., the applicant may submit additional
 190 information to the agency to cure defects in the application
 191 within 15 days after receipt of the notice of denial. The
 192 department must reconsider such application within 15 days after
 193 receiving any additional information and, if the application is
 194 approved, treat it as approved as of its original filing date.

195 (f) Within 30 days after receiving a certification under
 196 paragraph (e), a relief fund must:

197 1. Collect the relief contributions from each investor
 198 whose affidavit was included in the application; and

199 2. Collect direct or indirect equity investments from
 200 affiliates of the relief fund, including employees, officers,
 201 and directors of such affiliates, equal to at least 10 percent
 202 of the relief fund's investment authority.

203 (g) Within 35 days after receiving certification under

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204 paragraph (e), a relief fund must send documentation to the
 205 department which proves the relief fund has collected the
 206 amounts required under paragraph (f). If the relief fund fails
 207 to comply with this paragraph, the department shall revoke the
 208 relief fund's certification.

209 (h) After a relief fund satisfies the requirement under
 210 paragraph (g), the department shall issue to each investor or
 211 affiliate identified under paragraph (g) a notice of the amount
 212 and utilization schedule of the tax credit certificates
 213 allocated to the investor or affiliate as a result of the
 214 investor or affiliate's relief contribution.

215 (i) If a relief fund's certification is revoked under
 216 paragraph (g) or the relief fund has tax credits revoked under
 217 paragraph (5) (b), the corresponding relief investment authority
 218 and relief contributions do not count toward limits on total
 219 relief investment authority and relief contributions authorized
 220 under paragraph (b). The department shall first award lapsed or
 221 revoked relief investment authority and the corresponding relief
 222 contributions pro rata to each relief fund awarded less than the
 223 relief investment authority for which it applied pursuant to
 224 subparagraph (b)1. The department may award any remaining relief
 225 investment authority to new applicants.

226 (4) (a) A nonrefundable tax credit certificate is authorized
 227 for owners of tax credit certificates issued by the department
 228 under paragraph (b). The credit may be claimed against premium
 229 taxes and is transferable to any person that pays premium taxes
 230 in this state.

231 (b) On the closing date, a taxpayer that made a relief
 232 contribution is eligible for a credit equal to the amount

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233 specified in the notice issued under paragraph (3)(h). On or
 234 before the anniversaries of the closing date occurring in 2023,
 235 2024, 2025, 2026, and 2027, the department shall issue a tax
 236 credit certificate equal to one-fifth of the relief
 237 contributions allocated to the taxpayer.

238 (c) Any amount of credits which exceeds the tax otherwise
 239 due for that year may be carried forward for any ensuing taxable
 240 years. An additional retaliatory tax may not be required as a
 241 result of using the credit. A taxpayer claiming a credit under
 242 this section shall submit a copy of the tax credit certificate
 243 with the taxpayer's annual statement for each taxable year in
 244 which the credit is claimed.

245 (5)(a) The department is not required to issue a tax credit
 246 certificate to a relief fund that does not invest at least 70
 247 percent of its relief investment authority in relief investments
 248 within 1 year after the closing date or 100 percent of its
 249 relief investment authority in relief investments within 2 years
 250 after the closing date.

251 (b) The department may revoke tax credit certificates
 252 issued pursuant to subsection (4) if:

253 1. Before satisfying paragraph (a), the relief fund makes a
 254 distribution or payment in excess of the cumulative investment
 255 earnings of the relief fund as of the date of the distribution
 256 or payment, taking into account all past distributions and
 257 payments;

258 2. After satisfying paragraph (a), the relief fund fails to
 259 maintain those levels of investment until the fifth anniversary
 260 of the closing date. For the purposes of this subparagraph, an
 261 investment is maintained even if the investment is sold or

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262 repaid, so long as the relief fund reinvests an amount equal to
 263 the capital returned or recovered from the original investment,
 264 exclusive of any profits realized, in other relief investments
 265 in this state within 1 year of the receipt of such capital.

266 Regularly scheduled principal payments on a loan that is a
 267 relief investment are deemed continuously invested in a relief
 268 investment if the amounts are reinvested in one or more relief
 269 investments by the end of the following calendar year; or

270 3. After satisfying paragraph (a) and before the relief
 271 fund is decertified pursuant to paragraph (d), the relief fund
 272 makes a distribution or payment that results in the relief fund
 273 having less than 100 percent of its relief investment authority
 274 invested in relief investments or held in cash or marketable
 275 securities available for investment in relief investments.

276
 277 The department must notify the relief fund of the reasons for
 278 revocation before revoking tax credit certificates pursuant to
 279 this paragraph. If, within 30 days after the department sends
 280 such notice, the relief fund corrects the reasons given in the
 281 notice to the satisfaction of the department, the department may
 282 not revoke the tax credit certificates.

283 (c) The amount by which one or more relief investments by a
 284 relief fund in the same impact business exceeds \$3.5 million may
 285 not be counted as a relief investment for the purposes of this
 286 section, exclusive of capital repaid or redeemed by such small
 287 business and reinvested as a relief investment in such small
 288 business. A relief investment in an affiliate of an impact
 289 business shall be treated as a relief investment in that impact
 290 business for the purposes of this paragraph.

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291 (d)1. On or after the sixth anniversary of the closing
 292 date, a relief fund that has invested 100 percent of its relief
 293 investment authority in relief investments may apply to the
 294 department to be decertified as a relief fund. The department
 295 shall respond to and not unreasonably deny the application
 296 within 60 days after receiving the application. In evaluating
 297 the application, the fact that no tax credit certificates have
 298 been revoked with respect to the relief fund shall be evidence
 299 to prove that the relief fund is eligible for decertification.
 300 2. The department shall send notice to the relief fund of
 301 its determination with respect to decertification and reasons
 302 for denial, if applicable.
 303 3. The department may not revoke a tax credit certificate
 304 due to any actions of a relief fund which occur after
 305 decertification, but the department may revoke tax credit
 306 certificates due to the actions of a relief fund which occur
 307 before decertification even if such actions are discovered after
 308 the date of decertification.
 309 (e) A relief fund may request a written opinion from the
 310 department as to whether a business qualifies as an impact
 311 business. The department shall issue a written opinion to the
 312 relief fund within 10 business days after receiving such a
 313 request. If the department determines that the business
 314 qualifies as an impact business or if the department fails to
 315 timely issue the written opinion, the business shall be
 316 considered a small business or impact business for the purposes
 317 of this section.
 318 (6) (a) Each relief fund shall submit a report to the
 319 department on or before April 1 of each year, including the

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320 closing date year, until the calendar year after the relief fund
 321 is decertified. The report must provide an itemization of the
 322 relief fund's relief investments and must include the following
 323 documents and information:
 324 1. A bank statement evidencing each relief investment;
 325 2. The name, location, and industry class of each impact
 326 business that received a relief investment from the relief fund
 327 and evidence that the business qualified as an impact business
 328 at the time the investment was made, if applicable;
 329 3. The jobs created and retained as a result of each relief
 330 investment; and
 331 4. Any other information required by the department.
 332 (b) Each relief fund shall submit a report to the
 333 department on or before the fifth business day after the first
 334 and second anniversaries of the closing date which provides
 335 documentation to prove that the relief fund has met the
 336 investment thresholds required in paragraph (5) (a) and has not
 337 violated any of the other revocation provisions described in
 338 paragraph (5) (b).
 339 (7) The department may adopt rules to implement this
 340 section.
 341 Section 2. This act shall take effect July 1, 2021.

Page 12 of 12

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Commerce and Tourism, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Finance and Tax
Transportation

SENATOR TOM A. WRIGHT

14th District

March 25, 2021

The Honorable Ana Maria Rodriguez
318, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1444 – Florida Small Manufacturing Business Recovery Act

Dear Chair Rodriguez:

Senate Bill 1444, relating to the Florida Small Manufacturing Business Recovery Act has been referred to the Committee on Finance and Tax. I am requesting your consideration on placing SB 1444 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Robert Babin, Staff Director of the Committee on Finance and Tax
Stephanie Bell-Parke, Administrative Assistant of the Committee on Finance and Tax

REPLY TO:

- 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/14/21

Meeting Date

1444

Bill Number (if applicable)

Topic Florida Small Manufacturing Business Recovery Act Amendment Barcode (if applicable)

Name Slater Bayliss

Job Title _____

Address 204 S Monroe St.
Street

Phone 850-222-8900

Tallahassee FL 32301
City State Zip

Email swb@cardenaspartne
cor

Speaking: For Against Information

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

Representing Advantage Capital Partners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021

Meeting Date

1444

Bill Number (if applicable)

Topic Florida Small Manufacturing Business Recovery Act

Amendment Barcode (if applicable)

Name B.D. Jogerst

Job Title _____

Address 516 N Adams St

Street

Phone 850-224-7173

Tallahassee

FL

32301

Email bjogerst@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 7082

INTRODUCER: Finance and Tax Committee

SUBJECT: Corporate Income Tax

DATE: April 14, 2021

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Kim	Babin		FT Submitted as Comm. Bill/Fav

I. Summary:

SB 7082 updates Florida's corporate income tax code by conforming it to the federal Internal Revenue Code and other United States statutes relating to federal income tax in effect on January 1, 2021. The bill adopts all amendments made to such federal statutes in the 2020 calendar year to the extent such changes affect the Florida corporate income tax, except that it does not adopt (decouples from) the changes made to the business interest expense deduction made by the Coronavirus Aid, Relief, and Economic Security (CARES) Act for taxable years beginning in 2019 and 2020. The adoption of federal income tax statutes operates retroactively to January 1, 2021.

Based on Revenue Estimating Conference estimates, the bill will reduce General Revenue Fund receipts by approximately \$211.9 million in Fiscal Year 2021-2022 with a recurring negative impact of \$108.3 million. See Section V, Fiscal Impact Statement, below for the estimated fiscal impact by specific area and for out years.

The bill is effective upon becoming a law.

II. Present Situation:

Florida Corporate Income Tax

Florida imposes a tax on the taxable income of corporations and financial institutions doing business in Florida.¹ The current tax rate is 4.458 percent² of a taxpayer's net income for its taxable year (the calendar or fiscal year or period upon which its net income is computed).³

¹ Section 220.02, F.S.

² The tax rate was adjusted downward to 4.458 percent pursuant to s. 220.1105, F.S., for taxable years beginning on or after January 1, 2019. Pursuant to s. 220.1105(5), F.S., the rate is scheduled to return to 5.5 percent for taxable years beginning on or after January 1, 2022.

³ Sections 220.11(2) and 220.63(2), F.S.

The calculation of Florida corporate income tax starts with a taxpayer's federal taxable income.⁴ Taxable income earned by a taxpayer operating in more than one state is taxed in Florida on an apportioned basis using a formula based on 25 percent on property, 25 percent on payroll, and 50 percent on sales.⁵ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt, effective with taxable years beginning on or after January 1, 2013.⁶

Florida corporate income tax is collected by the Florida Department of Revenue (department) and all collections are paid into the General Revenue Fund.⁷ Net collections (receipts minus refunds) of the Florida corporate income tax were \$1.67 billion in Fiscal Year 2019-2020.⁸

Conformity with Federal Income Tax Statutes

Florida conforms to the Internal Revenue Code and other United States statutes relating to federal income taxes by adopting the same meanings of terms used in the Florida corporate income tax code as when used in a comparable context in federal income tax statutes.⁹ This includes, as mentioned above, using federal taxable income as the starting point for calculating Florida net income. State corporate income tax systems conform to the Internal Revenue Code to varying degrees and share a large body of common concepts and doctrines.¹⁰ The reasons for “piggybacking” or conforming to federal income tax statutes, rather than developing an entirely separate tax system, include substantial administrative savings, uniformity, and reduction in compliance costs.¹¹

Florida conforms to federal income tax statutes as they exist on a certain fixed date (referred to as “static” or “fixed date” conformity), meaning that legislative action is required to incorporate any changes made to such federal statutes since the last date of conformity.¹² The Florida corporate income tax code currently adopts the Internal Revenue Code and other federal income tax statutes as they existed on January 1, 2020.¹³

⁴ Section 220.12, F.S.

⁵ Section 220.15, F.S.

⁶ Section 220.14, F.S.

⁷ Section 220.701, F.S.

⁸ Revenue Estimating Conference, *General Revenue Consensus Estimating Conference Comparison Report*, Dec. 21, 2020, 27, available at <http://www.edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 11, 2021).

⁹ Section 220.03(2)(c), F.S.

¹⁰ Richard D. Pomp, *State & Local Taxation*, 9th Ed. (2019), Vol. 2, at 10-8 to 10-9.

¹¹ *Id.*

¹² For a discussion on Florida's adoption of static conformity and the alternative proposal of automatic adoption of future federal amendments to the Internal Revenue Code (referred to as “rolling” conformity) which appears in s. 220.03(3), F.S., see Arthur J. England, Jr., “Corporate Income Taxation in Florida: Background, Scope, and Analysis,” *An Introduction to Florida Corporate Income Taxation*, (Tallahassee: Department of Office Services, The Florida State University, 1972), 10-12.

¹³ Section 220.03(1)(n) and (2)(c), F.S.

In conforming to federal income tax statutes, a state may choose not to adopt (“decouple” from) a federal amendment because of its impact to state revenues or its inapplicability to the state tax system, and instead specify its own treatment of the issue.¹⁴

Section III, Effect of Proposed Changes, below describes the present situation and the effect of certain changes to federal income tax statutes since January 1, 2020, as adopted in the bill.¹⁵

III. Effect of Proposed Changes:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act

The federal CARES Act was signed into law on March 27, 2020, “to provide emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic.”¹⁶ It made a number of changes to federal income tax statutes, including temporarily relaxing some restrictions on tax deductions which were imposed by the federal Tax Cuts and Jobs Act of 2017 (TCJA).¹⁷

Net Operating Loss Deduction

Present Situation: The net operating loss (NOL) provisions of the Internal Revenue Code provide a tax deduction for most taxpayers whose deductible expenses for a taxable year exceed their gross income, subject to certain adjustments.¹⁸ When a firm has a loss (i.e., an NOL), its federal income taxes are not reduced immediately beyond zero; rather, the business owes no income tax in that taxable year and its loss is carried to other years.¹⁹ An NOL is “carried back” when applied to taxable years before the loss year and “carried over” or “carried forward” when applied to taxable years after the loss year. A carryback of losses yields immediate tax reductions in the form of a refund or credit, while a carryforward reduces future tax liabilities.²⁰ The Internal Revenue Code requires that NOLs be applied starting with the earliest taxable year to which the loss may be carried.²¹ Generally, Florida currently follows the Internal Revenue Code with respect to the computation and handling of an NOL for Florida corporate income tax purposes, except that for Florida purposes, an NOL may be carried forward only and may not be carried back to taxable years before the loss year.²²

¹⁴ Pomp at 10-9. Some examples of decoupling from the Internal Revenue Code in the Florida corporate income tax code include the treatment of bonus depreciation and the Section 179 depreciation deduction, and the prohibition against the carryback of net operating losses, as discussed *infra*. See s. 220.13(1)(e)1. and 2. and (b)1., F.S.

¹⁵ Changes to federal credits, such as the accelerated refundability of federal alternative minimum tax credits in the Coronavirus Aid, Relief, and Economic Security Act, are not described here because adjustments to federal credits do not significantly affect a taxpayer’s Florida taxable income. See *infra* note 74.

¹⁶ Pub. L. No. 116-136 (2020).

¹⁷ Pub. L. No. 115-97 (2017).

¹⁸ 26 U.S.C. s. 172.

¹⁹ See Congressional Research Service, *Tax Treatment of Net Operating Losses (NOLs) in the Coronavirus Aid, Relief, and Economic Security (CARES) Act* (Updated Oct. 6, 2020), available at <https://crsreports.congress.gov/product/pdf/IN/IN11296> (last visited April 11, 2021).

²⁰ *Id.*

²¹ 26 U.S.C. s. 172(b)(2).

²² Section 220.13(1)(b)1., F.S., and Fla. Admin. Code R. 12C-1.013(15)(a).

Before the enactment of the TCJA, a taxpayer could, for federal income tax purposes, use the aggregate amount of NOLs carried back or carried forward from other loss years to fully offset its taxable income for a taxable year and owe no income tax for that year.²³ The TCJA limited the percentage of taxable income that NOLs generated in taxable years after 2017 could offset to 80 percent of the taxable income for a taxable year.²⁴ The CARES Act temporarily suspends this limitation for taxable years beginning in 2018, 2019, and 2020, allowing a taxpayer to use NOLs to fully offset taxable income in those years.²⁵

The TCJA generally prohibited the carryback of NOLs generated in taxable years after 2017 while allowing such NOLs to be carried forward indefinitely, a change from a general 2-year carryback period and a 20-year carryover period.²⁶ The CARES Act temporarily lifted the carryback restriction, providing a 5-year carryback period for NOLs generated in taxable years 2018, 2019, and 2020. However, the carryback change does not affect Florida because, as described above, Florida has decoupled from NOL carryback provisions and does not allow NOLs to be carried back.

Effect of Proposed Change: The bill adopts the CARES Act's suspension of the 80 percent NOL limitation, meaning that for taxable years beginning in 2018, 2019, and 2020, a Florida taxpayer may use NOLs to fully offset its taxable income for those years, rather than up to 80 percent. A taxpayer who claimed an NOL in a filed return in any of those years would amend such return(s) with the department for a refund or credit.

Business Interest Expense Deduction

Present Situation: The business interest expense (BIE) provisions of the Internal Revenue Code provide a tax deduction for interest expenses or other borrowing costs incurred in a trade or business or in the production of rental or royalty income.²⁷ The deduction is generally applied in the year the expenses are paid or accrued, depending on the taxpayer's method of accounting. Florida currently conforms to the Internal Revenue Code on the BIE deduction and does not decouple from any provision.

Before the enactment of the TCJA, taxpayers could generally fully deduct their BIE subject to some restrictions and exceptions. The TCJA limited, except for certain taxpayers²⁸, the BIE deduction for taxable years beginning after 2017 to the sum of the taxpayer's business interest income for the taxable year, 30 percent of the taxpayer's adjusted taxable income for the taxable year, and the taxpayer's floor plan financing interest for the taxable year.²⁹ The amount of business interest not allowed as a deduction because of this limitation generally may be carried forward indefinitely.³⁰ The CARES Act has temporarily increased this limit for taxable years

²³ 26 U.S.C. s. 172(a) (2016).

²⁴ 26 U.S.C. s. 172(a) (2018).

²⁵ 26 U.S.C. s. 172(a) (2021).

²⁶ 26 U.S.C. s. 172(b)(1) (2018).

²⁷ 26 U.S.C. s. 163.

²⁸ Taxpayers with average annual gross receipts in the prior three taxable years of \$25 million or less are exempted from the limitation, as well as certain trades or businesses. See 26 U.S.C. s. 163(j)(3) and (7).

²⁹ 26 U.S.C. s. 163(j).

³⁰ 26 U.S.C. s. 163(j)(2).

beginning in 2019 and 2020, raising the 30 percent limit on a taxpayer's adjusted taxable income in the above formula to 50 percent.³¹

Effect of Proposed Change: The bill decouples from the CARES Act's raised limit on a taxpayer's adjusted taxable income for the BIE deduction. The bill requires a taxpayer, for taxable years beginning in 2019 and 2020, to add back to its taxable income an amount equal to the excess, if any, of 100 percent of the amount deducted for federal income tax purposes as BIE for the taxable year pursuant to the CARES Act (the 50 percent limit), over 100 percent of the amount that would be deductible as BIE if calculated under the TCJA (the 30 percent limit). In effect, the bill limits the BIE deduction for Florida corporate income tax purposes to that under the TCJA for taxable years beginning in 2019 and 2020.

Depreciation of Qualified Improvement Property (“Retail Glitch Fix”)

Present Situation: Generally, the Internal Revenue Code allows a depreciation deduction from taxable income, which is a reasonable allowance for the exhaustion and wear and tear (including a reasonable allowance for obsolescence) of property used in a trade or business or property held for the production of income.³² An allowance is set aside each taxable year in accordance with a reasonably consistent plan, starting when the property is placed in service.³³ The aggregate amount of the allowances plus the salvage value, at the end of the estimated useful life of the property, should equal the cost or other specified basis of the property.³⁴ Over time, the Internal Revenue Code has adopted different systems for computing depreciation. The current system, the Modified Accelerated Cost Recovery System (MACRS), applies to most tangible property generally placed in service after 1986.³⁵ Under MACRS, the cost of eligible property is recovered over a 3-, 5-, 7-, 10-, 15-, 20-, 27.5-, 31.5-, or 39-year period, depending on the type of property, by applying statutory recovery methods and conventions.

Starting in 2001 with the federal Job Creation and Worker Assistance Act of 2002, Congress implemented, reinstated, and expanded a “bonus depreciation” allowance for qualifying property, which was created to spur increased business investment during periods of negative or sluggish economic growth by lowering the cost of capital for investment in certain assets.³⁶ Bonus depreciation allows a taxpayer to expense (or deduct as a current rather than a capital expense) up to 100 percent of the cost of the property in the taxable year it is placed in service. The bonus depreciation provision has been extended or expanded 10 times since 2002, including by the TCJA.³⁷ The TCJA generally increased the bonus rate for property acquired and placed in service after September 27, 2017, to 100 percent for property placed in service in 2017 through 2022, 80 percent in 2023, 60 percent in 2024, 40 percent in 2025, and 20 percent in 2026.³⁸

³¹ 26 U.S.C. s. 163(j)(10).

³² 26 U.S.C. s. 167(a).

³³ 26 C.F.R. ss. 1.167(a)-1(a), 1.167(a)-10(b).

³⁴ 26 C.F.R. s. 1.167(a)-1(a).

³⁵ 26 U.S.C. s. 168; 26 C.F.R. 1.168(a)-1, *et seq.*

³⁶ 26 U.S.C. s. 168(k). See Congressional Research Service, *The Section 179 and Section 168(k) Expensing Allowances: Current Law and Economic Effects* (Updated May 1, 2018), available at <https://crsreports.congress.gov/product/pdf/RL/RL31852> (last visited April 11, 2021).

³⁷ *Id.* at 10.

³⁸ 26 U.S.C. s. 168(k)(6)(A).

The TCJA also made changes to the depreciation deduction of certain improvements that leaseholders or owners make to the interior space of nonresidential buildings. Improvement property can take many forms, with some examples being: installing new lighting and carpet in a leased office, adding new woodwork and windows to the dining room of a restaurant, and painting the walls and upgrading the sound system of a retail store.³⁹ Before the TCJA, the Internal Revenue Code contained four categories of such improvement property, each with different criteria and cost recovery requirements.⁴⁰ The TCJA combined the four categories into a single category called qualified improvement property (QIP) and set forth conditions to be satisfied for QIP treatment, which is an accelerated 15-year cost recovery period.⁴¹

Due to a drafting error, the TCJA left QIP off the list of assets eligible for a 15-year cost recovery period under the MACRS.⁴² As a result, the cost of QIP had to be recovered over 39 years under MACRS (or 40 years under an alternative depreciation system) and was ineligible for the bonus depreciation allowance because such improvement property must have a recovery period of 20 years or less to qualify for bonus depreciation.⁴³ The CARES Act corrected the omission by designating QIP as 15-year property under the MACRS and 20-year property under the alternative depreciation system, if the qualified improvement is done by the taxpayer.⁴⁴ This is referred to as the “retail glitch fix.” The CARES Act provides that the retail glitch fix shall take effect as if included in the TCJA (i.e., applies retroactively).⁴⁵

Florida has decoupled from federal bonus depreciation since 2008.⁴⁶ Since 2009, Florida requires a taxpayer to add back to its taxable income the full amount deducted for bonus depreciation for federal purposes and then apply a straight-line seven-year depreciation schedule beginning with the year of the addback.⁴⁷ The schedule applies notwithstanding any sale or disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.⁴⁸

Effect of Proposed Change: The bill adopts the CARES Act’s retail glitch fix to the extent that QIP is eligible for the straight-line seven-year depreciation schedule for Florida corporate income tax purposes. A Florida taxpayer who placed QIP in service in taxable years beginning in 2018, 2019, or 2020 and filed a Florida return for any of those years could amend such return(s) with the department for a refund. According to the department, a taxpayer that amends its

³⁹ See Congressional Research Service, *Tax Depreciation of Qualified Improvement Property: Current Status and Legislative History* (updated June 24, 2020), available at <https://crsreports.congress.gov/product/pdf/IF/IF11187> (last visited April 11, 2021).

⁴⁰ Qualified leasehold improvement property, qualified restaurant improvement property, qualified retail improvement property, and qualified improvement property. See *id.*

⁴¹ *Id.*

⁴² *Supra* note 39.

⁴³ *Id.*

⁴⁴ Pub. L. No. 116-136, s. 2307 (2020).

⁴⁵ Pub. L. No. 116-136, s. 2307(b) (2020).

⁴⁶ Ch. 2008-206, ss. 1-2, Laws of Fla.

⁴⁷ Section 220.13(1)(e)1., F.S.; ch. 2009-18, s. 2, Laws of Fla.

⁴⁸ Section 220.13(1)(e)1., F.S.

2018 federal return to take bonus depreciation for its QIP must file an amended Florida return to apply the straight-line seven-year depreciation schedule.⁴⁹

Paycheck Protection Program (Exclusion of Forgiven Loans from Gross Income)

Present Situation: The Paycheck Protection Program (PPP), established by the CARES Act, is implemented by the Small Business Administration with support from the United States Department of the Treasury.⁵⁰ This program provides small businesses with funds to pay up to eight weeks of payroll costs including benefits.⁵¹ Funds can also be used to pay interest on mortgages, rent, and utilities.⁵² The funds were provided in the form of loans guaranteed under the federal Small Business Act, which are fully forgivable if the borrower maintains employee and compensation levels, spends loan proceeds on eligible expenses, and spends at least 60 percent of the proceeds on payroll costs.⁵³ The CARES Act provided that for purposes of the Internal Revenue Code, any amount of PPP loans which would be included as gross income of the eligible recipient by reason of forgiveness is excluded from gross income.⁵⁴

Effect of Proposed Change: The bill adopts the CARES Act's treatment of excluding forgiven PPP loans from gross income for purposes of determining federal taxable income, and such amounts would not be subject to the Florida corporate income tax.

Charitable Contribution Deduction

Present Situation: The CARES Act raised the limitation on deductions for charitable contributions by corporations who made cash contributions in 2020, from 10 percent of taxable income to 25 percent of taxable income.⁵⁵ To qualify for the increased limit, contributions must be made to a public charity or private operating foundation⁵⁶, but does not include contributions to a supporting organization or a donor-advised fund. In addition, the deduction limitation for certain donations of food inventory in 2020 was increased from 15 percent to 25 percent.

Effect of Proposed Change: The bill adopts the CARES Act's increased limitation on the charitable contribution deduction for 2020, in that any increased charitable contribution deduction taken by a taxpayer for federal income tax purposes would flow through to Florida when calculating its Florida net income.

⁴⁹ Florida Department of Revenue, *Impact of the Tax Cuts and Jobs Act and Review of the Coronavirus Aid, Relief, and Economic Security Act and Consolidated Appropriations Act, 2021: A Supplemental Report*, 10, Jan. 15, 2021 (on file with the Senate Committee on Finance and Tax).

⁵⁰ United States Department of the Treasury, *The CARES Act Provides Assistance to Small Businesses*, available at <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses> (last visited April 11, 2021).

⁵¹ *Id.*

⁵² *Id.*

⁵³ United States Small Business Administration, *PPP Loan Forgiveness*, available at <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program/ppp-loan-forgiveness> (last visited April 11, 2021).

⁵⁴ Pub. L. No. 116-136, s. 1106(i) (2020)

⁵⁵ Pub. L. No. 116-136, s. 2205 (2020)

⁵⁶ See 26 U.S.C. s. 170(b)(1)(A) for the list of eligible entities.

Consolidated Appropriations Act, 2021

The federal Consolidated Appropriations Act, 2021 (CAA), was signed into law on December 27, 2020.⁵⁷ Provisions relating to corporate income tax included providing for the deductibility of expenses paid with PPP loans, a temporary 100 percent deduction for business meals, and the extension of various other tax incentives and provisions.

Deductibility of Expenses Paid with PPP Loans

Present Situation: The exclusion of forgiven PPP loans from gross income under the CARES Act, as discussed above, raised a related question as to whether a taxpayer could deduct otherwise allowable expenses that were paid with PPP loan proceeds. On May 2, 2020, the Internal Revenue Service (IRS) released a notice stating that an existing prohibition against deductions that are allocable to tax-exempt income⁵⁸ applied, and therefore a taxpayer could not claim the double tax benefit.⁵⁹

The CAA overturned the IRS' position, expressly providing that "no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income" for both original and subsequent PPP loans,⁶⁰ meaning that a taxpayer may deduct PPP-funded expenses from their income.⁶¹

Effect of Proposed Change: The bill adopts the CAA's construction that PPP-funded expenses are deductible, so any additional deductions taken by a taxpayer for federal income tax purposes would flow through to Florida when calculating its Florida net income.

Business Meal Expense Deduction

Present Situation: Before the enactment of the CAA, a taxpayer was generally allowed to deduct up to 50 percent of business meal expenses (food and beverages).⁶² To qualify for the deduction, the food or beverage expense may not be "lavish or extravagant under the circumstances" and the taxpayer or the taxpayer's employee must be present at the furnishing of the food or beverages, except under certain circumstances.⁶³

The CAA provided that the 50 percent limitation does not apply to meal expenses for food or beverages provided by a restaurant and paid or incurred before January 1, 2023, allowing a 100 percent deduction for such expenses.⁶⁴

⁵⁷ Pub. L. 116-260 (2020).

⁵⁸ 26 U.S.C. s. 265(a)(1).

⁵⁹ Internal Revenue Service, Notice 2020-32, available at <https://www.irs.gov/pub/irs-drop/n-20-32.pdf> (last visited April 11, 2021). It reaffirmed its conclusion on June 29, 2020, in IRS Revenue Ruling 2020-27, available at <https://www.irs.gov/pub/irs-drop/rr-20-27.pdf> (last visited April 11, 2021).

⁶⁰ Pub. L. 116-260, s. 276 (2020).

⁶¹ The IRS subsequently issued IRS Revenue Ruling 2021-2, obsoleting the Notice and Revenue Ruling referenced in *supra* note 59. Available at <https://www.irs.gov/pub/irs-drop/rr-21-02.pdf> (last visited April 11, 2021).

⁶² 26 U.S.C. s. 274(n) (2018).

⁶³ 26 U.S.C. s. 274(k) (2018).

⁶⁴ Pub. L. 116-260, Division EE, s. 210 (2020); 26 U.S.C. s. 274(n)(2)(D) (2021).

Effect of Proposed Change: The bill adopts the CAA’s modification of the business meal expense deduction before 2023, in that any increased business meal expense deduction taken by a taxpayer for federal income tax purposes would flow through to Florida when calculating its Florida net income.

Tax Extenders and Miscellaneous Provisions

Present Situation: The CAA extended or modified a number of tax provisions relating to the federal income tax for corporations, including:

- Providing 5-year extensions for:
 - The “look-thru” treatment of dividends, interest, rents, and royalties received or accrued from related controlled foreign corporations.⁶⁵
 - The 7-year recovery period for motorsports entertainment complexes.⁶⁶
 - Special expensing rules for certain film, television, and live theatrical productions, which allows a taxpayer to expense the first \$15 million of production costs for qualified film and television productions and live theatrical productions (or \$20 million for productions in low-income communities or distressed areas).⁶⁷
 - Empowerment zone designations under s. 1391(d) of the Internal Revenue Code.⁶⁸
 - The exclusion from gross income of certain employer payments of employee student loans.⁶⁹
- Providing a 1-year extension for:
 - The classification of certain race horses as 3-year property.⁷⁰
 - Accelerated depreciation for business property on Indian reservations.⁷¹
 - The increased limitation on deductions for charitable contributions by corporations under the CARES Act, as discussed above.⁷² The increased limitation applies for 2021.

The CAA also extended or modified a number of federal tax credits affecting the federal corporate income tax.⁷³

Effect of Proposed Changes: The bill adopts the above extensions, except for federal tax credits,⁷⁴ in that they may flow through to Florida when calculating Florida net income.

⁶⁵ Pub. L. 116-260, Division EE, s. 111 (2020).

⁶⁶ Pub. L. 116-260, Division EE, s. 115 (2020).

⁶⁷ Pub. L. 116-260, Division EE, s. 116 (2020); 26 U.S.C. s. 181. The Revenue Estimating Conference’s estimated fiscal impact for adopting this extension is described in Section V below.

⁶⁸ Pub. L. 116-260, Division EE, s. 118 (2020).

⁶⁹ Pub. L. 116-260, Division EE, s. 120 (2020).

⁷⁰ Pub. L. 116-260, Division EE, s. 137 (2020).

⁷¹ Pub. L. 116-260, Division EE, s. 138 (2020).

⁷² Pub. L. 116-260, Division EE, s. 213 (2020).

⁷³ See Pub. L. 116-260, Division EE, ss. 102, 105, 112, 113, 119, 121, 131, 132, 135, 136, 139, 140, 142, 143, 144, 145, 203, 204, and 305 (2020).

⁷⁴ Florida does not allow any adjustment to income for federal credits unless specifically stated in the Florida Statutes. Section 220.13(1)(b)3., F.S., allows a deduction for wages and salaries paid in Florida when a federal deduction is not allowed pursuant to s. 280C(a) of the Internal Revenue Code, which was not amended by the CAA. However, for other federal credits, a Florida deduction is not included in the Florida Statutes and therefore not allowed. See, e.g., Florida Dep’t of Revenue, *Florida Corporate Income Tax, Adoption of 2020 Internal Revenue Code*, No. 20C01-01, Sept. 24, 2020, available at https://floridarevenue.com/taxes/tips/documents/TIP-123151_TIP_20C01-01_Final_RLL.pdf (last visited April 11, 2021).

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

The bill does not require counties or municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the Florida Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

Based on Revenue Estimating Conference estimates, the bill will reduce General Revenue Fund receipts by approximately \$211.9 million in Fiscal Year 2021-2022 with a recurring negative impact of \$108.3 million. The REC adopted estimates for selected areas described above.⁷⁵ The following table summarizes the REC's estimates, including total impact for all changes for the out years, and the total impact without the BIE deduction impact:⁷⁶

⁷⁵ Revenue Estimating Conference, *Corporate Income Tax Piggyback*, March 12, 2021, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page250-275.pdf (last visited April 11, 2021).

⁷⁶ *Id.* at 256-257. See *id.* at 262-264 for the REC's PPP estimate, which was not included in the total impact, but was adopted to be used as a consensus adjustment to the CIT baseline.

\$ millions

Numbers in parentheses indicate a negative impact

	FY 2021-22		FY 2022-23		FY 2023-24		FY 2024-25		FY 2025-26	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
Charitable contributions and business meal expense deduction	(32.1)	0	(23.4)	0	(3.8)	0	0.2	0	0.2	0
Net operating loss deduction	(0.1)	0	0.1	0	*	0	*	0	0	0
Business interest expense deduction	(41.7)	0	20.8	0	10.4	0	10.4	0	0	0
Film and entertainment - expensing	*	(2.6)	(2.0)	(1.5)	(0.5)	0.1	0.8	1.4	1.7	2.4
Qualified improvement property - retail glitch fix	(179.6)	(105.7)	(93.2)	(105.7)	(110.6)	(105.7)	(123.6)	(105.7)	(117.9)	(105.7)
Total impact including BIE CARES change	(253.6)	(108.3)	(97.6)	(107.1)	(104.5)	(105.5)	(112.2)	(104.2)	(116.0)	(103.2)
Total impact with BIE CARES change decoupled	(211.9)	(108.3)	(118.4)	(107.1)	(114.9)	(105.5)	(122.6)	(104.2)	(116.0)	(103.2)

*Insignificant fiscal impact

B. Private Sector Impact:

Taxpayers will generally use the same calculations to determine both their federal and state taxable income.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends sections 220.03 and 220.13 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

FOR CONSIDERATION By the Committee on Finance and Tax

593-03876A-21

20217082pb

1 A bill to be entitled
 2 An act relating to the corporate income tax; amending
 3 s. 220.03, F.S.; adopting the 2021 version of the
 4 Internal Revenue Code and other federal statutes
 5 relating to federal income taxes for purposes of the
 6 state corporate income tax code; providing for
 7 retroactive operation; amending s. 220.13, F.S.;
 8 requiring the addition to adjusted federal income of
 9 certain amounts of business interest expense
 10 deductible in certain taxable years; providing an
 11 effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (n) of subsection (1) and paragraph
 16 (c) of subsection (2) of section 220.03, Florida Statutes, are
 17 amended to read:
 18 220.03 Definitions.—
 19 (1) SPECIFIC TERMS.—When used in this code, and when not
 20 otherwise distinctly expressed or manifestly incompatible with
 21 the intent thereof, the following terms shall have the following
 22 meanings:
 23 (n) “Internal Revenue Code” means the United States
 24 Internal Revenue Code of 1986, as amended and in effect on
 25 January 1, 2021 ~~2020~~, except as provided in subsection (3).
 26 (2) DEFINITIONAL RULES.—When used in this code and neither
 27 otherwise distinctly expressed nor manifestly incompatible with
 28 the intent thereof:
 29 (c) Any term used in this code has the same meaning as when

Page 1 of 5

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

593-03876A-21

20217082pb

30 used in a comparable context in the Internal Revenue Code and
 31 other statutes of the United States relating to federal income
 32 taxes, as such code and statutes are in effect on January 1,
 33 2021 ~~2020~~. However, if subsection (3) is implemented, the
 34 meaning of a term shall be taken at the time the term is applied
 35 under this code.
 36 Section 2. The amendment to s. 220.03, Florida Statutes,
 37 made by this act operates retroactively to January 1, 2021.
 38 Section 3. Paragraph (e) of subsection (1) of section
 39 220.13, Florida Statutes, is amended to read:
 40 220.13 “Adjusted federal income” defined.—
 41 (1) The term “adjusted federal income” means an amount
 42 equal to the taxpayer’s taxable income as defined in subsection
 43 (2), or such taxable income of more than one taxpayer as
 44 provided in s. 220.131, for the taxable year, adjusted as
 45 follows:
 46 (e) Adjustments related to federal acts.—Taxpayers shall be
 47 required to make the adjustments prescribed in this paragraph
 48 for Florida tax purposes with respect to certain tax benefits
 49 received pursuant to the Economic Stimulus Act of 2008, the
 50 American Recovery and Reinvestment Act of 2009, the Small
 51 Business Jobs Act of 2010, the Tax Relief, Unemployment
 52 Insurance Reauthorization, and Job Creation Act of 2010, the
 53 American Taxpayer Relief Act of 2012, the Tax Increase
 54 Prevention Act of 2014, the Consolidated Appropriations Act,
 55 2016, and the Tax Cuts and Jobs Act of 2017, and the Coronavirus
 56 Aid, Relief, and Economic Security Act of 2020.
 57 1. There shall be added to such taxable income an amount
 58 equal to 100 percent of any amount deducted for federal income

Page 2 of 5

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

593-03876A-21

20217082pb

59 tax purposes as bonus depreciation for the taxable year pursuant
 60 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
 61 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
 62 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
 63 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.
 64 113-295, s. 143 of Division Q of Pub. L. No. 114-113, and s.
 65 13201 of Pub. L. No. 115-97, for property placed in service
 66 after December 31, 2007, and before January 1, 2027. For the
 67 taxable year and for each of the 6 subsequent taxable years,
 68 there shall be subtracted from such taxable income an amount
 69 equal to one-seventh of the amount by which taxable income was
 70 increased pursuant to this subparagraph, notwithstanding any
 71 sale or other disposition of the property that is the subject of
 72 the adjustments and regardless of whether such property remains
 73 in service in the hands of the taxpayer.

74 2. There shall be added to such taxable income an amount
 75 equal to 100 percent of any amount in excess of \$128,000
 76 deducted for federal income tax purposes for the taxable year
 77 pursuant to s. 179 of the Internal Revenue Code of 1986, as
 78 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
 79 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
 80 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
 81 No. 113-295, for taxable years beginning after December 31,
 82 2007, and before January 1, 2015. For the taxable year and for
 83 each of the 6 subsequent taxable years, there shall be
 84 subtracted from such taxable income one-seventh of the amount by
 85 which taxable income was increased pursuant to this
 86 subparagraph, notwithstanding any sale or other disposition of
 87 the property that is the subject of the adjustments and

Page 3 of 5

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

593-03876A-21

20217082pb

88 regardless of whether such property remains in service in the
 89 hands of the taxpayer.

90 3. There shall be added to such taxable income an amount
 91 equal to the amount of deferred income not included in such
 92 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
 93 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
 94 shall be subtracted from such taxable income an amount equal to
 95 the amount of deferred income included in such taxable income
 96 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
 97 as amended by s. 1231 of Pub. L. No. 111-5.

98 4. For taxable years beginning after December 31, 2018, and
 99 before January 1, 2021, there shall be added to such taxable
 100 income an amount equal to the excess, if any, of:

101 a. One hundred percent of any amount deducted for federal
 102 income tax purposes as business interest expense for the taxable
 103 year pursuant to s. 163(j) of the Internal Revenue Code of 1986,
 104 as amended by s. 2306 of Pub. L. No. 116-136; over

105 b. One hundred percent of the amount that would be
 106 deductible for federal income tax purposes as business interest
 107 expense for the taxable year if calculated pursuant to s. 163(j)
 108 of the Internal Revenue Code of 1986, as amended by s. 13301 of
 109 Pub. L. No. 115-97.

110 5. Subtractions available under this paragraph may be
 111 transferred to the surviving or acquiring entity following a
 112 merger or acquisition and used in the same manner and with the
 113 same limitations as specified by this paragraph.

114 ~~6.5-~~ The additions and subtractions specified in this
 115 paragraph are intended to adjust taxable income for Florida tax
 116 purposes, and, notwithstanding any other provision of this code,

Page 4 of 5

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

593-03876A-21

20217082pb

117 such additions and subtractions shall be permitted to change a
118 taxpayer's net operating loss for Florida tax purposes.
119 Section 4. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/14/21

Meeting Date

7082

Bill Number (if applicable)

Topic Corporate Income Tax

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address 126 N. Mills Ave

Street

Phone _____

Orlando FL 32801

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Rising

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/14/21

Meeting Date

7082

Bill Number (if applicable)

Topic Corp. Income Tax

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 106 E College Ave, Ste 1200

Phone 850-455-0992

Street

Tallahassee FL

City

State

Zip

Email fbrown@gmail.com

Speaking: For Against Information

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

Representing FLORIDA RETAIL FEDERATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

4/14/2021
Meeting Date

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

SPB 7082
Bill Number (if applicable)

Topic Corporate Income Tax

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.
Street

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fcfep@woodall.com

Speaking: For Against Information

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

Representing FI Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1358

INTRODUCER: Senator Gruters

SUBJECT: Valuation of Timeshare Real Property

DATE: April 13, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Unfavorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1358 provides that upon an appeal of a property appraiser’s valuation of timeshare property, the number of resales is deemed to be adequate if the taxpayer provides a reasonable number of resales as supported by the Uniform Standards of Professional Appraisal Practice.

Current law requires a property appraiser to first look to the resale market to value timeshare property. If there is an inadequate number of resales for arriving at the value, the property appraiser must use the original purchase price of the timeshare and deduct “usual and reasonable fees and costs of the sale.”

The Revenue Estimating Conference determined that the bill will reduce local government revenues by at least \$169.9 million beginning in Fiscal Year 2022-2023. See Section V., Fiscal Impact Statement.

The bill is effective July 1, 2021.

II. Present Situation:

Timeshares

A timeshare interest is a form of ownership of real and personal property.¹ In a timeshare, multiple parties hold the right to use a condominium unit or a cooperative unit. Each owner of a timeshare interest is allotted a period of time during which the owner has the exclusive right to use the property.

¹ See s. 721.05(36), F.S.

The Florida Vacation Plan and Timesharing Act, ch. 721, F.S., establishes requirements for the creation, sale, exchange, promotion, and operation of timeshare plans, including requirements for full and fair disclosure to purchasers and prospective purchasers.² Chapter 721, F.S., applies to all timeshare plans consisting of more than seven timeshare periods over a period of at least three years in which the accommodations and facilities are located within this state or offered within this state.³ Part I of ch. 721, F.S., relates to vacation plans and timesharing, and Part II of chapter 721, F.S., relates to multisite vacation and timeshare plans that are also known as vacation clubs.

A timeshare unit is an accommodation of a timeshare plan which is divided into timeshare periods or a condominium unit in which timeshare estates have been created.⁴

A “timeshare estate” is a right to occupy a timeshare unit, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof.⁵ The term also includes an interest in a condominium unit, a cooperative unit, or a trust. Whether the term includes both direct and indirect interests in trusts is not specified. An example of an indirect interest in a trust is the interest of a trust beneficiary’s spouse or other dependent.

The “managing entity” for a timeshare property is the person who operates or maintains the timeshare plan pursuant to s. 721.13(1), F.S., which defines the managing entity as either the developer, a separate manager or management firm, or an owners' association.⁶

Tax Assessments

Section 192.037, F.S., governs the ad valorem taxation of fee timeshare real property.⁷ The managing entity responsible for operating and maintaining fee timeshare real property is considered the taxpayer as an agent of the timeshare period titleholder.⁸

The managing entity responsible for operating and maintaining the timesharing plan and each person having a fee interest in a timeshare unit or timeshare period may contest or appeal an ad valorem tax assessment in the same manner as other property owners under ch. 194, F.S., which relates to the administrative and judicial review of property taxes assessed by the property appraiser.⁹

The managing entity is required to collect and remit the taxes and special assessments due on fee timeshare real property. In allocating taxes, special assessments, and common expenses to

² Section 721.02(2) and (3), F.S.

³ Section 721.03, F.S.

⁴ See ss. 721.05(41) and 718.103(26), F.S.

⁵ Section 721.05(34), F.S.

⁶ See s. 721.02(22), F.S., defining the term “managing entity.”

⁷ Section 192.001(14), F.S., defines the term “fee timeshare real property” to mean “the land and buildings and other improvements to land that are subject to timeshare interests which are sold as a fee interest in real property.”

⁸ Section 192.001(15), F.S., defines the term “timeshare period titleholder” to mean “the purchaser of a timeshare period sold as a fee interest in real property, whether organized under ch. 718, F.S., relating to condominium associations, or ch. 721, F.S., relating to timeshares and vacation plans.

⁹ Section 192.037(4), F.S.

individual timeshare period titleholders, the managing entity must clearly label the portion of any amounts due which are attributable to ad valorem taxes and special assessments.¹⁰

A property appraiser must first look to the resale market for determining the value of timeshare property.¹¹ If the property appraiser finds an inadequate number of resales exists for such a determination, the property appraiser must determine the value by deducting the “usual and reasonable fees and costs of the sale” from the original purchase price.¹²

The term “usual and reasonable fees and costs of the sale” for timeshare real property includes all marketing costs, atypical financing costs, and those costs attributable to the right of a timeshare unit owner or user to participate in an exchange network of resorts.¹³ For timeshare real property, the “usual and reasonable fees and costs of the sale” is presumed to be 50 percent of the original purchase price, but that presumption is rebuttable.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 192.037, F.S., to require the property appraiser to defer to the taxpayer for the determination of whether the number of resales is adequate if, on appeal of the tax assessment, the taxpayer asserts that there is an adequate number of resales to provide a basis for arriving at a value and provides a reasonable number of resales as would be supported by the Uniform Standards of Professional Appraisal Practice.¹⁵

The bill provides that this method meets the requirement of just valuation of all property, including timeshare real property, as required under Art. VII, s. 4, of the State Constitution.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a 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 cities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate

¹⁰ Section 192.037(5), F.S.

¹¹ Section 192.037(10), F.S.

¹² Section 192.037(11), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ The Uniform Standards of Professional Appraisal Practice provide ethical and performance standards for the appraisal profession in the United States. See The Appraisal Foundation, What is UPAP?, available at: https://www.appraisalfoundation.org/imis/TAF/Standards/Appraisal_Standards/Uniform_Standards_of_Professional_Appraisal_Practice/TAF/USPAP.aspx (last visited Mar. 26, 2021).

requirement does not apply to laws having an insignificant impact,^{16,17} which for Fiscal Year 2021-2022, is forecast at \$2.2 million.¹⁸

The Revenue Estimating Conference determined that the bill will reduce local government property tax revenues by \$169.9 million beginning in Fiscal Year 2022-2023. Therefore, this bill may be a mandate subject to the requirements of Art. VII, s. 18(b) of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce local government revenue by at least \$169.9 million beginning in Fiscal Year 2022-2023. The REC noted that the fiscal impact may likely be greater because the Uniform Standards of Professional Appraisal Practice appear to provide minimal guidance regarding the adequate number of timeshare property resales.¹⁹

B. Private Sector Impact:

Persons having an interest in a timeshare unit or timeshare period may benefit from a reduction in assessed ad valorem taxes.

¹⁶ FLA. CONST. art. VII, s. 18(d).

¹⁷ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$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 Feb. 03, 2021).

¹⁸ Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

¹⁹ Office of Economic and Demographic Research, *2021 Revenue Estimating Conference for HB 1007 and SB 1358* (Mar. 12, 2021).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Two recent appeals of a property appraiser's valuation of timeshare properties highlight that the timeshare resale market may not be sufficiently robust to use as the basis of an appraisal for ad valorem valuation.²⁰

The appeals involved four timeshare developments. For each development, the property appraiser determined that the resale market for the timeshare developments was insufficient to produce an adequate number of resales for valuation purposes. Consequently, the property appraiser deducted from the original purchase price the usual and reasonable fees and costs of the sale. The property appraiser prevailed in both appeals. There may be additional, related appeals pending that challenge the property appraiser's valuation of time share properties.²¹

The resale valuation and the original purchase price valuation may produce significantly different results. In these court cases, the resale price valuation method resulted in values that were between 75 percent and 40 percent lower than the purchase price method.²²

VIII. Statutes Affected:

This bill substantially amends section 192.037 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

²⁰ See *Cypress Palms Condominium Association, Inc. v. Scarborough*, Final Judgment, case no. 2012-CA-1293-OC (Fla. 9th Jud. Cir. 2016) (on file with the Senate Committee on Finance and Tax); and *Star Island Vacation Ownership Association, Inc. v. Scarborough*, Final Judgment, case no. 2016-CA-1006-OC (Fla. 9th Jud. Cir. 2019), *aff'd per curiam* 2021 WL 646806 (Fla. 5th DCA) (on file with the Senate Committee on Finance and Tax).

²¹ See *Star Island Vacation Ownership Association, Inc.*, n. 1.

²² *Supra* n. 16.

By Senator Gruters

23-00872B-21

20211358__

A bill to be entitled

An act relating to valuation of timeshare real property; amending s. 192.037, F.S.; providing a condition for the adequacy of the number of resales for the purposes of certain tax appeals; providing that this condition meets the constitutional mandate for just valuation; providing an effective date.

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

Section 1. Present subsection (12) of section 192.037, Florida Statutes, is redesignated as subsection (13) and amended, and a new subsection (12) is added to that section, to read:

192.037 Fee timeshare real property; taxes and assessments; escrow.—

(12) In all tax appeals regarding timeshare real property where the taxpayer asserts that there is an adequate number of resales to provide a basis for arriving at value conclusions, the number of resales is deemed to be adequate when a reasonable number of resales is provided by the taxpayer as supported by the Uniform Standards of Professional Appraisal Practice. This meets the requirement of just valuation of all property, including timeshare real property, as required under s. 4, Art. VII of the State Constitution.

~~(13)-(12)~~ Subsections (10), ~~and~~ (11), and (12) apply to fee and non-fee timeshare real property.

Section 2. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations Subcommittee on Education
Banking and Insurance
Commerce and Tourism
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JOE GRUTERS

23rd District

April 8, 2021

The Honorable Ana Maria Rodriguez, Chair
Committee on Finance and Tax
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Rodriguez:

I am writing to request that Senate Bill 1358, Valuation of Timeshare Real Property to be placed on the agenda of the next Finance and Tax committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Robert Babin, Staff Director

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/14/21

Meeting Date

SB 1358

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla.

Address 1828 Riggs Rd

Phone _____

Street

Tallahassee

City

FL

State

32308

Zip

Email llevy@levylawtax.com

Speaking: For Against Information

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

Representing Property Appraisers' Ass'n of Fla.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1390

INTRODUCER: Finance and Tax Committee; Commerce and Tourism Committee; and Senator Gruters

SUBJECT: Capital Investment Tax Credit

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1390 amends s. 220.191, F.S., to expand an existing credit under the Capital Investment Tax Credit (CITC) to include certain projects for the development or creation of intellectual property, and to create three additional tax credits under the CITC relating to intellectual property projects.

Additionally, the bill creates a new state corporate income tax credit, s. 220.197, F.S., for certain taxpayers in the passenger car rental and leasing industry.

Capital Investment Tax Credit

The bill amends an existing credit under the CITC to include a project or projects that involve the development or creation of intellectual property and that meet a certain average wage requirement. For intellectual property projects only, the bill includes in the basis for calculating the credit certain wages, salaries, employer-paid taxes and benefits, or other compensation paid, as well as certain direct production costs.

The bill creates three new tax credits for qualifying businesses relating to intellectual property projects:

- A credit for projects where the qualifying business makes one of three levels of cumulative intellectual property investment (\$50 million per year for 3 consecutive years, \$150 million

over 3 years, or \$500 million over 3 years). The credit is calculated as 20 to 26 percent of certain costs, depending on the investment level.

- A credit for projects that incur eligible production infrastructure costs, which are costs of property intended to be used for the development of multiple intellectual property projects, and which exceed \$100 million during a period of up to 10 years.
- A credit for qualifying businesses establishing strategic priority projects, which are intellectual property projects that demonstrate the potential for measurable value to Florida, and for which the eligible capital costs are at least \$75 million. The credit is calculated as 20 percent of the eligible capital costs generated by the project.

The three new credits are granted against the state corporate income tax, the state sales tax, or both. The bill provides requirements and limitations for the use and transfer of credits and other administrative provisions.

Creation of Tax Credit for Certain Passenger Car Rental and Leasing Businesses

The bill creates a new state corporate income tax credit, in the amount of \$2 million and against a taxpayer's liability in its 2018 taxable year, if:

- The taxpayer's business classification is in passenger car rental and leasing;
- The taxpayer deferred gains on the sale of personal property assets for federal income purposes under s. 1031 of the Internal Revenue Code during its taxable year beginning on or after August 1, 2016, but before August 1, 2017; and
- The taxpayer's final tax liability for its taxable year beginning on or after August 1, 2017, and before August 1, 2018, before application of the new credit, is greater than \$15 million and is at least 700 percent greater than its final tax liability for its taxable year beginning on or after August 1, 2016, and before August 1, 2017.

The credit applies retroactively to January 1, 2018.

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. Staff estimates that the bill will significantly reduce state tax revenues.

The bill takes effect July 1, 2021.

II. Present Situation:

Select State Taxes

The following describes select Florida taxes, which the bill provides credits against.

Corporate Income Tax

Florida imposes a tax on the taxable income of certain corporations and financial institutions doing business in Florida.¹ The current rate is 4.458 percent² of a taxpayer's net income for its taxable year (the calendar or fiscal year or period upon which its net income is computed).³

The calculation of Florida corporate income tax starts with a corporation's federal taxable income.⁴ Taxable income earned by corporations operating in more than one state is taxed in Florida on an apportioned basis using a formula based 25 percent on property, 25 percent on payroll, and 50 percent on sales.⁵ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt, effective with taxable years beginning January 1, 2013.⁶

Corporate income tax net collections in Fiscal Year 2019-2020 were \$1.7 billion.⁷

Insurance Premium Tax

Florida imposes on insurers a tax on insurance premiums. For the tax imposed by s. 624.509(1), F.S., tax is due on:

- Insurance premiums;
- Premiums for title insurance;
- Assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements; and
- Annuity premiums or considerations.

The general tax rate is 1.75 percent of gross receipts on account of life and health insurance policies covering Florida residents and on account of all other types of policies and contracts covering property, subjects, or risks located, resident, or to be performed in Florida, minus reinsurance and return premiums.⁸ Annuity policies or contracts held in Florida are taxed at 1 percent of gross receipts, and direct written premiums for bail bonds are taxed at 1.75 percent, excluding any amounts retained by licensed bail bond agents or appointed managing general agents.⁹ The insurance premium tax is collected by the DOR and distributed to the General Revenue Fund.¹⁰ Total insurance premium tax collections in Fiscal Year 2019-2020 were \$893.7 million.¹¹

¹ Chapter 220, F.S.

² The tax rate was adjusted downward to 4.458 percent pursuant to s. 220.1105, F.S., for taxable years beginning on or after January 1, 2019. Pursuant to s. 220.1105(5), F.S., the rate is scheduled to return to 5.5 percent for taxable years beginning on or after January 1, 2022.

³ Sections 220.11(2) and 220.63(2), F.S.

⁴ Section 220.12, F.S.

⁵ Section 220.15, F.S.

⁶ Section 220.14, F.S.

⁷ Revenue Estimating Conference, *General Revenue Consensus Estimating Conference Comparison Report* (December 21, 2020), 27, available at <http://www.edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 11, 2021).

⁸ Section 624.509(1), F.S.

⁹ *Id.*

¹⁰ Section 624.509(3), F.S.

¹¹ *Supra* note 7, at 34.

Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹² transient rentals,¹³ and a limited number of services, and a 5.5 percent sales and use tax on commercial real estate rentals¹⁴ (state sales tax). Chapter 212, F.S., authorizes the levy and collection of the state sales tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances.¹⁵ Florida requires a dealer to add the tax to the sales price of the taxable good or service and collect it from the purchaser at the time of sale.¹⁶ Total sales tax collections in Fiscal Year 2019-2020 were estimated at \$29.3 billion.¹⁷

In addition to the state sales tax, county and municipal governments and school districts are authorized to levy certain local discretionary sales surtaxes (also referred to as local option sales taxes), subject to certain requirements and limitations.¹⁸

Capital Investment Tax Credit

The Capital Investment Tax Credit (CITC) was established by the Legislature in 1998 to attract and grow capital-intensive industries in the state.¹⁹ The CITC is currently comprised of two tax credits—one that is available for three categories of qualifying projects and that provides a credit against the state corporate income tax or insurance premium tax²⁰, and a second that is limited to certain headquarters facilities and that provides a credit against the corporate income tax.²¹ Both credits are granted to qualified businesses certified by the Department of Economic Opportunity (DEO).

Credit under s. 220.191(2), F.S.

The first credit under the CITC is available for three categories of qualifying projects:²²

- A new or expanded Florida facility that is in a designated high-impact sector²³ and that creates at least 100 new jobs in Florida (high-impact sector facilities).

¹² Section 212.04, F.S.

¹³ Section 212.03, F.S.

¹⁴ Section 212.031, F.S.

¹⁵ Section 212.02(14)(a), F.S.

¹⁶ See ss. 212.07(2) and 212.06(3)(a), F.S.

¹⁷ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 159 (2020), available at <http://www.edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited April 11, 2021).

¹⁸ See ss. 212.054 and 212.055, F.S.

¹⁹ Chapter 98-61, Laws of Fla.

²⁰ Section 220.191(2), F.S.

²¹ Section 220.191(3), F.S.

²² Section 220.191(1)(g) and (2)(a), F.S.

²³ The sectors currently designated as high impact are clean energy, life sciences, financial services, information technology, semi-conductors, transportation equipment manufacturing, advanced manufacturing, or a corporate headquarters facility. See Department of Economic Opportunity, *2020 Annual Incentives Report*, 53-54, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited April 11, 2021).

- A new or expanded Florida facility that is in a qualified target industry²⁴ and that creates or retains at least 1,000 jobs in Florida, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area, and result in a cumulative capital investment of at least \$100 million (QTI facilities).
- A new or expanded Florida headquarters facility that is located in an enterprise zone and brownfield area; that creates at least 1,500 jobs, which on average pay at least 200 percent of the statewide average annual private sector wage; and that makes a cumulative capital investment in this state of at least \$250 million (headquarters facilities).

The annual credit amount is 5 percent of the eligible capital costs generated by the qualifying project for up to 20 years,²⁵ beginning with the commencement of operations of the project.²⁶ The credit is granted against state corporate income tax liability or premium tax liability generated by, or arising out of, the qualifying project. Annual limits for the tax credit apply, depending on the type of qualifying project:

- For a QTI facility, annual credits against the state corporate income tax may not exceed 50 percent of the increased annual corporate income tax liability or the premium tax liability generated by, or arising out of, the qualifying project.²⁷
- For high-impact sector facilities and headquarters facilities, the annual credit limits depend on the amount of cumulative capital investment resulting from the qualifying project:
 - For a qualifying project resulting in a cumulative capital investment of at least \$100 million, the annual credit may not exceed 100 percent of the annual corporate income tax liability or premium tax liability generated by, or arising out of, the qualifying project.
 - For a qualifying project resulting in a cumulative capital investment of at least \$50 million to under \$100 million, the annual credit may not exceed 75 percent of the annual corporate income tax liability or premium tax liability generated by, or arising out of, the qualifying project.
 - For a qualifying project resulting in a cumulative capital investment of at least \$25 million to under \$50 million, the annual credit may not exceed 50 percent of the annual corporate income tax liability or premium tax liability generated by, or arising out of, the qualifying project.

A qualifying project with less than a \$25 million cumulative capital investment is not eligible for the credit.

²⁴ The current qualified target industries are aviation and aerospace; corporate headquarters; clean technology; defense and homeland security; financial and professional services; global logistics and trade; information technology; life sciences; manufacturing; and research and development. See Department of Economic Opportunity, *2020 Annual Incentives Report*, 12, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited April 11, 2021).

²⁵ For qualified target industry facilities, the tax credit period is limited to 5 years. See s. 220.191(1)(g)2., F.S.

²⁶ Section 220.191(2)(a), F.S. Eligible capital costs include all expenses incurred in the acquisition, construction, installation, and equipping of a project from the beginning of construction to the commencement of operations. They do not include the cost of any property previously owned or leased by the qualifying business.

²⁷ Section 220.191(1)(g)2., F.S.

Generally, an unused credit may not be carried backward or forward to apply to tax liabilities in previous or subsequent years, respectively.²⁸ However, a business with a qualifying project resulting in a cumulative capital investment of at least \$100 million may apply unused credits beginning with the 21st year after the commencement of the project's operations and ending the 30th year after the commencement of the project's operations.²⁹

The credit may not be assigned or transferred, except by a qualifying business establishing a qualifying project that includes locating a new solar panel manufacturing facility in Florida and that generates a minimum of 400 jobs within 6 months after commencement of operations, with an average salary of at least \$50,000. Such business may assign or transfer its annual credit or any portion thereof to any other business, subject to certain limitations and conditions.³⁰

Credit under s. 220.191(3), F.S.

The second credit under the CITC is limited to qualifying businesses that establish a headquarters facility qualifying project. The annual credit amount is the lesser of \$15 million or 5 percent of the eligible capital costs made in connection with a qualifying project for up to 20 years, beginning with the commencement of the project.³¹ The credit is granted against the state corporate income tax liability of the qualifying business. The total tax credit is limited to 100 percent of the qualifying project's eligible capital costs.

Unused credits may be carried forward for up to 20 years after the commencement of the project's operations.³² The credit may be used by certain related entities of the qualifying business.³³

Certification of Qualifying Businesses and Issuance of Tax Credits

The DEO must certify a business as eligible to receive either of the CITC tax credits before the commencement of operations of a qualifying project. If a business is certified, the DEO will enter into an agreement with the business that specifies the planned commencement date of operations and the total amount of credit the business can expect if the project proceeds as planned. Agreements are drafted so that a qualified business's annual credit amount begins on the date of commencement of operations, beginning the 20-year credit period. If for some reason operations do not commence on time, the 20-year window is not adjusted.³⁴ Before receiving a tax credit each year, a qualifying business must achieve and maintain its minimum employment goals beginning with the commencement of operations of a qualifying project.³⁵ Qualifying businesses must also affirmatively demonstrate to the Department of Revenue (DOR) that they meet job creation and capital investment requirements.³⁶

²⁸ Section 220.191(2)(a), F.S.

²⁹ Section 220.191(2)(d), F.S.

³⁰ Section 220.191(2)(c), F.S.

³¹ Section 220.191(3)(a), F.S.

³² Section 220.191(3)(b), F.S.

³³ Section 220.191(3)(c), F.S.

³⁴ Florida Senate Committee on Finance and Tax, *Issue Brief 2012-2014: Review of the Capital Investment Tax Credit* (September 2011), available at <https://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-204ft.pdf> (last visited April 11, 2021). See also s. 220.191(5), F.S.

³⁵ Section 220.191(4), F.S.

³⁶ Section 220.191(7), F.S.

Economic Impact

According to the DEO, there were 61 active CITC awardees with 32 reporting performance as of Fiscal Year 2019-2020; the DEO confirmed 2,887 jobs created and over \$308 million in capital investment in said fiscal year.³⁷ Over \$67 million in tax credits were approved to be claimed by qualified business in calendar year 2019.³⁸

Section 1031 of the Internal Revenue Code, Federal Changes, and Florida Impacts

Generally, federal income tax is due on the gain from the sale of business or investment property. Section 1031 of the Internal Revenue Code (IRC) provides an exception and allows a taxpayer to postpone paying tax on the gain if it reinvests the proceeds as part of a qualifying “like-kind exchange,” i.e., the property is exchanged solely for other business or investment property of like kind.³⁹ For exchanges that were completed before 2018, like-kind exchanges could involve personal property or real property.

Thus, a business that was regularly exchanging old business equipment for new business equipment might avoid having to recognize any relevant income for federal tax purposes by exchanging the old equipment for new equipment, rather than selling the old equipment and buying new equipment in separate transactions. For example, this type of transaction could be used by a rental car company that regularly updates its rental fleet.⁴⁰ A company using like-kind exchanges and not recognizing income for federal tax purposes would also not recognize that income for Florida income tax purposes, because Florida net income is based on federal taxable income and Florida follows the federal treatment of the issue.

The Tax Cuts and Jobs Act of 2017 (TCJA) amended s. 1031 of the IRC to limit like-kind exchanges to real property only, for exchanges after 2017.⁴¹ Therefore, a taxpayer that previously used like-kind exchanges for personal property was required to report any gain or loss as part of its income. The effect of losing this ability to use like-kind exchanges may be mitigated at the federal level because the TCJA provides a 100-percent bonus depreciation deduction on the new equipment purchase.⁴² Essentially, the bonus depreciation deduction allows the taxpayer to expense (or deduct as a current rather than a capital expense) up to the entire cost of the property in the taxable year it is placed in service.

However, Florida’s treatment of bonus depreciation requires a taxpayer to add back to its taxable income the full amount deducted for bonus depreciation for federal purposes and then apply a

³⁷ Department of Economic Opportunity, *2020 Annual Incentives Report*, 8, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited April 11, 2021).

³⁸ *Id.* at 49.

³⁹ 26 U.S.C. s. 1031; Internal Revenue Service, *Like-Kind Exchanges Under IRC Section 1031*, FS-2008-18, Feb. 2008, available at <https://www.irs.gov/pub/irs-news/fs-08-18.pdf> (last visited April 14, 2021).

⁴⁰ Gerald Auten, David Joulfaian, and Romen Mookerjee, *Recent Trends in Like-kind Exchanges*, 1 (August 1, 2017), available at <https://ssrn.com/abstract=3049029> or <http://dx.doi.org/10.2139/ssrn.3049029>. “Indeed, the most common like-kind exchanges are now those involving the ‘trade-in’ of vehicles and replacement vehicles and vehicle fleets, e.g., by rental car companies, farmers, and businesses.”

⁴¹ Pub. L. No. 115-97, s. 13303 (2017).

⁴² 26 U.S.C. s. 168(k).

straight-line seven-year subtraction schedule beginning with the year of the addback.⁴³ The schedule applies notwithstanding any sale or disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.⁴⁴ For Florida tax purposes, a taxpayer that used like-kind exchanges for personal property before 2018 is now required to report their gains as income and then “spread” the bonus depreciation amount over seven years.

III. Effect of Proposed Changes:

Capital Investment Tax Credit

The bill amends s. 220.191, F.S., to expand the credit under s. 220.191(2), F.S., to add certain projects involving the development or creation of intellectual property to the list of eligible categories, and to create three new tax credits under the CITC.

Expansion of the Credit under s. 220.191(2), F.S.

The bill expands the credit by adding to the categories of qualifying projects a project involving the development or creation of intellectual property, which may consist of one or more projects with different start and completion dates, provided that the project’s jobs in Florida pay at least 150 percent of the annual average private sector wage in the area (intellectual property project).

The bill defines “intellectual property” as a copyrightable project for which the eligible capital costs are principally paid directly or indirectly for the development or creation of the project.

The bill provides examples of “copyrightable projects,” including:

- A copyrightable software or multimedia application and its expansion content made available to an end user, including technological activities relating to updating the project.
- Internal development platforms that support the production of multiple applications.
- Cloud-based services that support the functionality of multiple applications.
- Digital visualization and sound synchronization technologies for digital media.
- Copyrightable projects that are necessary for the production of scripted content intended for theatrical, streaming, or television distribution.

The bill also expands the definition of “eligible capital costs” to include:

- Expenses incurred by a qualifying business in connection with a qualifying project for the development or creation of intellectual property during the period from the start date to the completion of the project; and
- For intellectual property development, the wages, salaries, employer-paid taxes and benefits, or other compensation paid to legal residents of Florida, including amounts paid through a loan-out company, an employee leasing company, or a payroll service company; and the direct production costs paid to any business authorized to do business in Florida.

The bill defines “employer-paid taxes and benefits” to include social security tax; Medicare tax; federal unemployment and state reemployment assistance taxes; workers’ compensation premiums and benefits; vacation pay, holiday pay, and sick pay; payroll-handling fees; mileage;

⁴³ Section 220.13(1)(e)1., F.S.

⁴⁴ *Id.*

car allowances; housing allowances; and per diem. “Direct production costs” is defined to mean direct expenses related to the preproduction, development or filming, and postproduction of intellectual property, but does not include the distribution and marketing of intellectual property.

A qualifying business establishing an intellectual property project would be eligible for a corporate income tax credit or an insurance premium tax credit for 5 percent of the above expenses.

The current requirements, limitations, and other provisions of the s. 220.191(2), F.S., credit, as discussed above, apply to intellectual property projects. The applicable annual credit limits for intellectual property projects is the same as for high-impact sector facilities and headquarters facilities.

Creation of Credit for Intellectual Property Investment (new s. 220.191(3), F.S.)

The bill creates a tax credit for qualifying businesses establishing intellectual property projects that meet certain levels of cumulative intellectual property investment (IP investment credit).

The bill defines “cumulative intellectual property investment” as the total investment for the development of intellectual property during the period from the start date of the project to the completion of the project in buildings or equipment; in wages, salaries, or other compensation paid to employees, including amounts paid through an employee leasing company and any employer-paid taxes and benefits; and in the direct production costs paid to any business, regardless of location.

Unlike existing CITC credits, the IP investment credit is granted against the state corporate income tax, the state sales tax, or a stated combination of the two.

To qualify for the credit, a qualifying business must elect to make a cumulative intellectual property investment for one or more projects of at least:

- Fifty million dollars per year for 3 consecutive years (1.a.);
- An aggregate of \$150 million over a 3-year period (1.b.); or
- An aggregate of \$500 million over a 3-year period (1.c.).

For the 1.a. and 1.b. options, the tax credit is calculated as 20 percent of the eligible capital costs generated by the qualifying project. As stated above, the definition of “eligible capital costs” is expanded under the bill to include wages, salaries, employer-paid taxes and benefits, or other compensation paid to legal residents of Florida and certain direct production costs. For the 1.c. option, the tax credit is calculated as 26 percent of the eligible wages, salaries, employer-paid taxes and benefits, or other compensation paid to any individual, including amounts paid through an employee leasing company, and the direct production costs paid to any business, regardless of the location, generated by the qualifying project.

The credit may be used by an affiliated corporation of the qualifying business and may be transferred to any third party. Certain requirements and limitations apply to the transfer of credits and the use of transferred credits. A qualifying business that elects to use the credit may use it in

any year or years beginning with the project's commencement and ending the second year after the project's completion.

The DEO must grant tax credits as it certifies costs. In any year in which the qualifying business fails to meet the required cumulative intellectual property investment level, any previously granted IP investment credit must be revoked and rescinded for the 1.a. and 1.b. options, and for the 1.c. option, the portion of any previously granted IP investment credit that exceeds 20 percent of the eligible wages, salaries, employer-paid taxes and benefits, or other compensation paid to any individual, including amounts paid through an employee leasing company, and the direct production costs paid to any business, regardless of the location, which were generated by the qualifying project, must be revoked and rescinded. A qualified business is subject to a 10 percent penalty and interest, along with repayment of the credit, if a revoked and rescinded credit has already been claimed on a return or transferred to another business.

Creation of Credit for Production Infrastructure Costs (new s. 220.191(4), F.S.)

The bill creates a tax credit for a qualifying business establishing a qualifying project that incurs eligible production infrastructure costs exceeding \$100 million during a period of up to 10 years, beginning with the commencement of the project's operations (production infrastructure credit).

The bill defines "production infrastructure costs" as the costs of property intended to be used for the development of multiple intellectual property projects, with examples of investment property being buildings, facilities, studios, soundstages, and any ancillary machinery and equipment used for the development of intellectual property, regardless of whether the property is a fixture or is otherwise affixed to or incorporated into real property. The term does not include direct production costs related to a specific intellectual property project.

The credit is granted against the state corporate income tax, the state sales tax, or a stated combination of the two. The bill does not specify how the credit is calculated, but specifies that the sum of all production infrastructure credits is limited to 100 percent of the eligible production infrastructure costs of the project.

Unused credit may not be carried forward or backward, except that unused amounts may be used in any given year or years beginning with the 11th year after the project's commencement of operations and ending the 20th year after the project's commencement of operations. The annual tax credit is limited to 100 percent of the sum of the qualifying business' annual corporate income tax liability and sales and use tax liability.

Creation of Credit for Strategic Priority Projects (new s. 220.191(5), F.S.)

The bill creates a tax credit for a qualifying business establishing a strategic priority project for which the eligible capital costs are at least \$75 million (strategic priority project credit).

A "strategic priority project" is an intellectual property project that "demonstrates the potential for measurable value to this state, including, but not limited to, marketing this state as a visitor destination, making improvements to infrastructure supporting future industry use, or providing measurable technology skills development for residents of this state." The bill amends the

definition of “qualifying business” to include a business that establishes a strategic priority project in Florida and that is certified by the DEO.

The credit is granted against the state corporate income tax, the state sales tax, or a stated combination of the two. The tax credit is calculated as 20 percent of the eligible capital costs generated by the qualifying project.

A qualifying business receiving the strategic priority project credit must elect to either use or transfer the credit at the time it is granted. Certain requirements and limitations apply to the transfer of credits and the use of transferred credits. A qualifying business that elects to use the credit may use the credit in any one year or years, beginning with the project’s commencement and ending the second year after the project’s completion.

Other Changes

The existing credit under s. 220.191(3), F.S., is maintained, but the subsection is redesignated to subsection (6).

The bill amends the requirement for qualifying businesses receiving a CITC to achieve and maintain minimum employment goals by adding the qualifying project’s completion date as an alternative starting date of such requirement. The bill amends the requirement for the DEO to certify a business as eligible for a CITC by adding the qualifying project’s completion date as an alternative deadline for such requirement.

The bill amends the definition of “cumulative investment” under the Innovation Incentive Program, s. 288.1089, F.S., to specify that the expanded definition of “eligible capital costs” for CITC made by the bill does not apply to that program, which incorporates the definition of “eligible capital costs” by reference.

Creation of Tax Credit for Certain Passenger Car Rental and Leasing Businesses

The bill creates a new state corporate income tax credit, in the amount of \$2 million and against a taxpayer’s liability in its 2018 taxable year, if:

- The taxpayer’s business classification under the North American Industry Classification System is in passenger car rental and leasing (code 53211);
- The taxpayer deferred gains on the sale of personal property assets for federal income purposes under s. 1031 of the IRC during its taxable year beginning on or after August 1, 2016, but before August 1, 2017; and
- The taxpayer's final tax liability for its taxable year beginning on or after August 1, 2017, and before August 1, 2018, before application of the new credit, is greater than \$15 million and is at least 700 percent greater than its final tax liability for its taxable year beginning on or after August 1, 2016, and before August 1, 2017.

The bill defines the term “NAICS.” The credit applies retroactively to January 1, 2018.

The bill takes effect July 1, 2021.

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

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. Staff estimates that the bill will reduce state revenues by a significant but indeterminate amount.

B. Private Sector Impact:

A qualified business establishing a qualifying project involving the development or creation of intellectual property or a strategic priority project, or a taxpayer transferred the credit by such business, may benefit from substantial reductions in state corporate income tax, insurance premium tax, or state sales tax liabilities through the credits amended and created by the bill.

A corporate income taxpayer that is in the passenger car rental and leasing industry and that meets the criteria of the bill may receive a refund of \$2 million from their 2018 taxable year tax liability.

C. Government Sector Impact:

The DOR will incur administrative costs to implement the bill.⁴⁵

VI. Technical Deficiencies:

- It appears that “of operations” should be added after “commencement” on lines 336 and 421, in reference to the defined term on lines 49-51.

VII. Related Issues:

- The bill makes several references to, but does not define, the start date and completion of an intellectual property project. For example, lines 75-77 amend the definition of “eligible capital costs” to include expenses incurred by an intellectual property project during the period from the start date of the project to the completion of the project. It is unclear if this period is intended to begin on the date the project planning begins or the date development work begins. Similarly, the completion of a project could be interpreted as the date the development of a project concludes or when the project is delivered to a client.
- Eligible capital costs for intellectual property projects include wages, salaries, or other compensation paid to legal residents of Florida, but the bill does not specify whether the wages and salaries are limited to wages and salaries of the project’s jobs.
- Under the bill, a project that creates or develops intellectual property may consist of one or more projects with different start and completion dates. It is unclear if all the jobs created by a business with multiple projects must pay the annual average wage requirement of 150 percent of the average private sector wage in that area. Additionally, it is unclear if a qualifying business with multiple projects would be eligible to claim a tax credit for each qualifying project.
- Lines 208-214 define a “strategic priority project” as an intellectual property project that demonstrates the potential for “measurable value” to the state, but it is unclear how and by whom “value to the state” will be measured.
- The bill provides for a tax credit for intellectual property projects, production infrastructure projects, and strategic priority projects in ss. 220.191(3)(a), (4), and (5)(a), F.S. Existing language for CITC tax credits offered to other projects requires projects to meet certain job creation goals in order to receive an annual tax credit for a period of 20 years; the bill does not require intellectual property projects to create a certain number of jobs in order to receive a tax credit.
- Lines 308-333 and 399-418 authorize businesses with qualified intellectual property projects or strategic priority projects that receive a tax credit to either use or transfer the tax credit.

⁴⁵ The DOR estimated it required a \$77,529 appropriation in Fiscal Year 2020-2021 to implement SB 1390. Florida Dep’t of Revenue, Agency Analysis of Senate Bill 1390, 9-10, March 9, 2021, (on file with the Senate Committee on Finance and Tax). An updated estimate for CS/SB 1390 is not available at this time.

However, the bill does not specify how many transfers may be made each year or how many taxpayers the credits may be transferred to.

- Lines 464-469 require a qualifying business to achieve and maintain the minimum employment goals beginning with the commencement of operations *or the completion date* of a qualifying project before receiving a tax credit. Lines 471-477 require the DEO to certify a business as eligible to receive a tax credit under the CITC before the commencement of operations *or the completion date* of a qualifying project. As written, it is unclear whether the option to use the completion date of a project for certification and to meet the minimum employment goals only applies to intellectual property projects. Section 220.191(2)(a), F.S., for example, provides that a tax credit shall be granted to a qualified business for a period of 20 years beginning with the commencement of operations of the project.
- Lines 296-298 and 305-307 require that the IP investment credit be granted against the tax liability of the qualifying business, but these appear to contradict lines 308-315 and 316-333, which allow the credit to be used by an affiliated corporation of the qualifying business or be transferred to a third party, respectively.
- Under the IP investment credit (lines 283-366), the 1.a. (\$50M/year for 3 consecutive years) and 1.b. (\$150M over 3 years) cumulative intellectual property investment options are provided the same credit and are subject to the same limitations. It is unclear under what circumstances a qualifying business would elect the 1.a. option.
- Lines 342-356 provide if, in any year, a qualifying business fails to meet the required level of cumulative intellectual property investment for the IP investment credit for that year, any previously granted tax in such year must be revoked and rescinded. However, the investment requirements in the 1.b. and 1.c. options are for an aggregated amount over a 3-year period. It appears that “year” should be replaced with “period” in these lines.
- The production infrastructure credit (lines 367-388) does not specify how the credit is calculated.
- The production infrastructure credit is available for qualifying businesses establishing qualifying projects that incur a certain level of eligible production infrastructure costs (lines 372 and 376), but the bill does not specify criteria for the eligibility of production infrastructure costs.
- Lines 397-398 require the strategic priority project credit to be granted against the tax liability of the qualifying business, but these appear to contradict lines 399-418, which allow the credit to be transferred to another taxpayer.
- Section 220.02(8), F.S., provides the order in which credits may be applied against a corporation’s income tax liability. The bill does not specify the order in which the like-kind exchange credit created in the bill is to be applied.

- The DOR requests emergency rulemaking authority to implement the bill, and recommends the following language⁴⁶:

“(1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purposes of administering this act.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section shall take effect upon this act becoming law and expires July 1, 2022.”

VIII. Statutes Affected:

This bill substantially amends sections 220.191 and 288.1089 of the Florida Statutes.

The bill creates section 220.197 of the Florida Statutes.

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 Finance and Tax on April 14, 2021:

The committee substitute adds a new state corporate income tax credit in the amount of \$2 million for taxpayers that are in the passenger car rental and leasing industry and that meet certain criteria.

CS by Commerce and Tourism on March 29, 2021:

The committee substitute:

- Defines “cumulative intellectual property investment,” “direct production costs,” “employer-paid taxes and benefits,” and “production infrastructure costs”;
- Expands the investment requirements that a business that establishes an intellectual property project must meet in order to receive a 20 percent tax credit;
- Creates a tax credit equal to 26 percent of a project’s wages and direct production costs for projects that meet certain investment requirements;
- Creates a tax credit equal to up to 100 percent of a project’s production infrastructure costs for projects that meet certain production infrastructure cost requirements;
- Provides that certain tax credits may be used by a business or any corporation affiliated with the business; and
- Provides conditions for the revocation and repayment of certain tax credits.

- B. **Amendments:**

None.

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

⁴⁶ *Id.* at 8.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Gruters) recommended the following:

Senate Amendment (with title amendment)

Before line 38

insert:

Section 1. Section 220.197, Florida Statutes, is created to read:

220.197 1031 exchange tax credit.-

(1) As used in this section, the term "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of



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11 Management and Budget, Executive Office of the President.
12 (2) A taxpayer is eligible for a \$2 million credit against
13 the tax imposed by this chapter for its 2018 taxable year if:
14 (a) The taxpayer is classified under NAICS industry group
15 code 53211;
16 (b) The taxpayer deferred gains on the sale of personal
17 property assets for federal income purposes under s. 1031 of the
18 Internal Revenue Code during its taxable year beginning on or
19 after August 1, 2016, and before August 1, 2017; and
20 (c) The taxpayer's final tax liability for its taxable year
21 beginning on or after August 1, 2017, and before August 1, 2018,
22 before application of the credit authorized by this section, is
23 greater than \$15 million and is at least 700 percent greater
24 than its final tax liability for its taxable year beginning on
25 or after August 1, 2016, and before August 1, 2017.
26 (3) This section operates retroactively to January 1, 2018.

27
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:
30 Delete line 2
31 and insert:
32 An act relating to tax credits; creating s. 220.197,
33 F.S.; defining the term "NAICS"; providing a credit
34 against the corporate income tax, for a specified
35 amount and for a specified taxable year, for taxpayers
36 classified in the passenger car rental or leasing
37 industry which meet certain criteria; providing for
38 retroactive operation;

By the Committee on Commerce and Tourism; and Senator Gruters

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1 A bill to be entitled
 2 An act relating to the capital investment tax credit;
 3 amending s. 220.191, F.S.; defining and redefining
 4 terms; providing a credit against the corporate income
 5 tax, the sales and use tax, or a stated combination of
 6 the two taxes to a qualifying business that
 7 establishes a qualifying project for the creation of
 8 intellectual property which meets certain capital
 9 investment criteria; specifying the calculation of the
 10 credit; authorizing use of the credit or portions of
 11 the credit by the business members of its affiliated
 12 group of corporations; authorizing the transfer of
 13 credits, subject to certain conditions; requiring
 14 credits to be granted as costs are certified by the
 15 Department of Economic Opportunity; providing for
 16 revocation and rescission of credits under certain
 17 circumstances; providing a credit against the
 18 corporate income tax, the sales and use tax, or a
 19 stated combination of the two taxes to a qualifying
 20 business that incurs eligible production
 21 infrastructure costs that exceed a certain threshold;
 22 specifying the calculation of the credit; prohibiting
 23 the carryover of credits; authorizing use of unused
 24 credits after a certain time period; providing a
 25 credit against the corporate income tax, the sales and
 26 use tax, or a stated combination of the two taxes to a
 27 qualifying business that establishes a strategic
 28 priority project that meets certain capital investment
 29 criteria; specifying the calculation of the credit;

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30 authorizing the carryover or transfer of credits,
 31 subject to certain conditions; conforming provisions
 32 to changes made by the act; amending s. 288.1089,
 33 F.S.; revising the definition of the term "cumulative
 34 investment"; providing an effective date.
 35

36 Be It Enacted by the Legislature of the State of Florida:
 37

38 Section 1. Section 220.191, Florida Statutes, is amended to
 39 read:

40 220.191 Capital investment tax credit.—

41 (1) DEFINITIONS.—~~As used in~~ For purposes of this section,
 42 the term:

43 (a) "Commencement of operations" means the beginning of
 44 active operations by a qualifying business of the principal
 45 function for which a qualifying project was constructed.

46 (b) "Cumulative capital investment" means the total capital
 47 investment in land, buildings, and equipment made in connection
 48 with a qualifying project during the period from the beginning
 49 of construction of the project to the commencement of
 50 operations.

51 (c) "Cumulative intellectual property investment" means the
 52 total investment for the development of intellectual property
 53 during the period from the start date of the project to the
 54 completion of the project in buildings or equipment; in wages,
 55 salaries, or other compensation paid to employees, including
 56 amounts paid through an employee leasing company and any
 57 employer-paid taxes and benefits; and in the direct production
 58 costs paid to any business, regardless of location.

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59 (d) "Direct production costs" means direct expenses related
 60 to the preproduction, development or filming, and postproduction
 61 of intellectual property. The term does not include the
 62 distribution and marketing of intellectual property.

63 ~~(e)1.(e)~~ "Eligible capital costs" means all expenses
 64 incurred by a qualifying business in connection with:

65 a. The acquisition, construction, installation, and
 66 equipping of a qualifying project during the period from the
 67 beginning of construction of the project to the commencement of
 68 operations; or

69 b. A qualifying project for the development or creation of
 70 intellectual property during the period from the start date of
 71 the project to the completion of the project.

72 2. The term includes, ~~including,~~ but is not limited to:

73 a.1. The costs of acquiring, constructing, installing,
 74 equipping, and financing a qualifying project, including all
 75 obligations incurred for labor and obligations to contractors,
 76 subcontractors, builders, and materialmen.

77 b.2. The costs of acquiring land or rights to land and any
 78 cost incidental thereto, including recording fees.

79 c.3. The costs of architectural and engineering services,
 80 including test borings, surveys, estimates, plans and
 81 specifications, preliminary investigations, environmental
 82 mitigation, and supervision of construction, as well as the
 83 performance of all duties required by or consequent to the
 84 acquisition, construction, installation, and equipping of a
 85 qualifying project.

86 d.4. The costs associated with the installation of fixtures
 87 and equipment; surveys, including archaeological and

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88 environmental surveys; site tests and inspections; subsurface
 89 site work and excavation; removal of structures, roadways, and
 90 other surface obstructions; filling, grading, paving, and
 91 provisions for drainage, storm water retention, and installation
 92 of utilities, including water, sewer, sewage treatment, gas,
 93 electricity, communications, and similar facilities; and offsite
 94 construction of utility extensions to the boundaries of the
 95 property.

96 e. For the development or creation of intellectual
 97 property, the wages, salaries, employer-paid taxes and benefits,
 98 or other compensation paid to legal residents of this state,
 99 including amounts paid through a loan-out company, an employee
 100 leasing company, or a payroll service company; and the direct
 101 production costs paid to any business authorized to do business
 102 in this state.

103
 104 Eligible capital costs do ~~shall~~ not include the cost of any
 105 property previously owned or leased by the qualifying business.

106 (f) "Employer-paid taxes and benefits" includes social
 107 security tax; Medicare tax; federal unemployment and state
 108 reemployment assistance taxes; workers' compensation premiums
 109 and benefits; vacation pay, holiday pay, and sick pay; payroll-
 110 handling fees; mileage; car allowances; housing allowances; and
 111 per diem.

112 ~~(g)(d)~~ "Income generated by or arising out of the
 113 qualifying project" means the qualifying project's annual
 114 taxable income as determined by generally accepted accounting
 115 principles and under s. 220.13.

116 ~~(h)(e)~~ "Intellectual property" means a copyrightable

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117 project for which the eligible capital costs are principally
 118 paid directly or indirectly for the development or creation of
 119 the project. As used in this paragraph, the term "copyrightable
 120 project" includes, but is not limited to, a copyrightable
 121 software or multimedia application and its expansion content
 122 made available to an end user, which includes, but is not
 123 limited to, technological activities relating to updating the
 124 project; internal development platforms that support the
 125 production of multiple applications; cloud-based services that
 126 support the functionality of multiple applications; and
 127 copyrightable projects that include, but are not limited to,
 128 digital visualization and sound synchronization technologies for
 129 digital media, or that are necessary for the production of
 130 scripted content intended for theatrical, streaming, or
 131 television distribution.

132 (i) "Jobs" means full-time equivalent positions, as that
 133 term is consistent with terms used by the Department of Economic
 134 Opportunity and the United States Department of Labor for
 135 purposes of reemployment assistance tax administration and
 136 employment estimation, resulting directly from a project in this
 137 state. The term does not include temporary construction jobs
 138 involved in the construction of the project facility.

139 (j) "Production infrastructure costs" means the costs of
 140 property intended to be used for the development of multiple
 141 intellectual property projects. Such investment property
 142 includes, but is not limited to, buildings, facilities, studios,
 143 soundstages, and any ancillary machinery and equipment used for
 144 the development of intellectual property, regardless of whether
 145 the property is a fixture or is otherwise affixed to or

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146 incorporated into real property. The term does not include the
 147 direct production costs related to a specific intellectual
 148 property project.

149 ~~(k)-(f)~~ "Qualifying business" means a business which
 150 establishes a qualifying project or strategic priority project
 151 in this state and which is certified by the Department of
 152 Economic Opportunity to receive tax credits pursuant to this
 153 section.

154 ~~(l)-(g)~~ "Qualifying project" means a facility or project in
 155 this state meeting one or more of the following criteria:

156 1. A new or expanding facility in this state which creates
 157 at least 100 new jobs in this state and is in one of the high-
 158 impact sectors identified by Enterprise Florida, Inc., and
 159 certified by the Department of Economic Opportunity pursuant to
 160 s. 288.108(6), including, but not limited to, aviation,
 161 aerospace, automotive, and silicon technology industries.
 162 However, between July 1, 2011, and June 30, 2014, the
 163 requirement that a facility be in a high-impact sector is waived
 164 for any otherwise eligible business from another state which
 165 locates all or a portion of its business to a Disproportionally
 166 Affected County. For purposes of this section, the term
 167 "Disproportionally Affected County" means Bay County, Escambia
 168 County, Franklin County, Gulf County, Okaloosa County, Santa
 169 Rosa County, Walton County, or Wakulla County.

170 2. A new or expanded facility in this state which is
 171 engaged in a target industry designated pursuant to the
 172 procedure specified in s. 288.106(2) and which is induced by
 173 this credit to create or retain at least 1,000 jobs in this
 174 state, provided that at least 100 of those jobs are new, pay an

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175 annual average wage of at least 130 percent of the average
 176 private sector wage in the area as defined in s. 288.106(2), and
 177 make a cumulative capital investment of at least \$100 million.
 178 Jobs may be considered retained only if there is significant
 179 evidence that the loss of jobs is imminent. Notwithstanding
 180 subsection (2), annual credits against the tax imposed by this
 181 chapter may not exceed 50 percent of the increased annual
 182 corporate income tax liability or the premium tax liability
 183 generated by or arising out of a project qualifying under this
 184 subparagraph. A facility that qualifies under this subparagraph
 185 for an annual credit against the tax imposed by this chapter may
 186 take the tax credit for a period not to exceed 5 years.

187 3. A new or expanded headquarters facility in this state
 188 which locates in an enterprise zone and brownfield area and is
 189 induced by this credit to create at least 1,500 jobs which on
 190 average pay at least 200 percent of the statewide average annual
 191 private sector wage, as published by the Department of Economic
 192 Opportunity, and which new or expanded headquarters facility
 193 makes a cumulative capital investment in this state of at least
 194 \$250 million.

195 4. A project involving the development or creation of
 196 intellectual property, provided that the project's jobs in this
 197 state pay an annual average wage of at least 150 percent of the
 198 average private sector wage in the area as defined in s.
 199 288.106. A project that qualifies under this subparagraph may
 200 consist of one or more projects with different start and
 201 completion dates.

202 (m) "Strategic priority project" means a qualifying project
 203 identified in subparagraph (1)4. which demonstrates the

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204 potential for measurable value to this state, including, but not
 205 limited to, marketing this state as a visitor destination,
 206 making improvements to infrastructure supporting future industry
 207 use, or providing measurable technology skills development for
 208 residents of this state.

209 (2) (a) An annual credit against the tax imposed by this
 210 chapter shall be granted to any qualifying business in an amount
 211 equal to 5 percent of the eligible capital costs generated by a
 212 qualifying project, for a period not to exceed 20 years
 213 beginning with the commencement of operations of the project.
 214 Unless assigned as described in this subsection, the tax credit
 215 shall be granted against only the corporate income tax liability
 216 or the premium tax liability generated by or arising out of the
 217 qualifying project, and the sum of all tax credits provided
 218 pursuant to this section shall not exceed 100 percent of the
 219 eligible capital costs of the project. In no event may any
 220 credit granted under this section be carried forward or backward
 221 by any qualifying business with respect to a subsequent or prior
 222 year. The annual tax credit granted under this section shall not
 223 exceed the following percentages of the annual corporate income
 224 tax liability or the premium tax liability generated by or
 225 arising out of a qualifying project:

226 1. One hundred percent for a qualifying project which
 227 results in a cumulative capital investment of at least \$100
 228 million.

229 2. Seventy-five percent for a qualifying project which
 230 results in a cumulative capital investment of at least \$50
 231 million but less than \$100 million.

232 3. Fifty percent for a qualifying project which results in

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233 a cumulative capital investment of at least \$25 million but less
234 than \$50 million.

235 (b) A qualifying project which results in a cumulative
236 capital investment of less than \$25 million is not eligible for
237 the capital investment tax credit. An insurance company claiming
238 a credit against premium tax liability under this program shall
239 not be required to pay any additional retaliatory tax levied
240 pursuant to s. 624.5091 as a result of claiming such credit.
241 Because credits under this section are available to an insurance
242 company, s. 624.5091 does not limit such credit in any manner.

243 (c) A qualifying business that establishes a qualifying
244 project that includes locating a new solar panel manufacturing
245 facility in this state that generates a minimum of 400 jobs
246 within 6 months after commencement of operations with an average
247 salary of at least \$50,000 may assign or transfer the annual
248 credit, or any portion thereof, granted under this section to
249 any other business. However, the amount of the tax credit that
250 may be transferred in any year shall be the lesser of the
251 qualifying business's state corporate income tax liability for
252 that year, as limited by the percentages applicable under
253 paragraph (a) and as calculated before ~~prior to~~ taking any
254 credit pursuant to this section, or the credit amount granted
255 for that year. A business receiving the transferred or assigned
256 credits may use the credits only in the year received, and the
257 credits may not be carried forward or backward. To perfect the
258 transfer, the transferor shall provide the department with a
259 written transfer statement notifying the department of the
260 transferor's intent to transfer the tax credits to the
261 transferee; the date the transfer is effective; the transferee's

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262 name, address, and federal taxpayer identification number; the
263 tax period; and the amount of tax credits to be transferred. The
264 department shall, upon receipt of a transfer statement
265 conforming to the requirements of this paragraph, provide the
266 transferee with a certificate reflecting the tax credit amounts
267 transferred. A copy of the certificate must be attached to each
268 tax return for which the transferee seeks to apply such tax
269 credits.

270 (d) If the credit granted under subparagraph (a)1. is not
271 fully used in any one year because of insufficient tax liability
272 on the part of the qualifying business, the unused amounts may
273 be used in any one year or years beginning with the 21st year
274 after the commencement of operations of the project and ending
275 the 30th year after the commencement of operations of the
276 project.

277 (3) (a)1. Notwithstanding subsection (2), a credit against
278 the tax imposed by this chapter, against state taxes collected
279 or accrued under chapter 212, or against a stated combination of
280 the two taxes must be granted to a qualifying business that
281 establishes a qualifying project identified in subparagraph
282 (1) (1)4. for which the cumulative intellectual property
283 investment of one or more projects is, at the election of the
284 qualifying business, at least:

285 a. Fifty million dollars per year for 3 consecutive years;
286 b. An aggregate of \$150 million over a 3-year period; or
287 c. An aggregate of \$500 million over a 3-year period.

288 2. For sub-subparagraphs 1.a. and b., the tax credit must
289 be granted in an amount equal to 20 percent of the eligible
290 capital costs generated by the qualifying project. The tax

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291 credit must be granted against the tax liability of the
 292 qualifying business.

293 3. For projects meeting the threshold of sub-subparagraph
 294 1.c., the tax credit must be granted in an amount equal to 26
 295 percent of the eligible wages, salaries, employer paid taxes and
 296 benefits, or other compensation paid to any individual,
 297 including amounts paid through an employee leasing company, and
 298 the direct production costs paid to any business, regardless of
 299 the location, generated by the qualifying project. The tax
 300 credit must be granted against the tax liability of the
 301 qualifying business.

302 (b)1. The credit granted under this subsection may be used
 303 in whole or in part by the qualifying business or any
 304 corporation that is a member of that qualifying business'
 305 affiliated group of corporations. Any credit may be used by any
 306 of the affiliated corporations to the same extent as it could
 307 have been used by the qualifying business. However, any such use
 308 may not operate to increase the amount of the credit or extend
 309 the period within which the credit must be used.

310 2. The credit granted under this subsection may be
 311 transferred to any third party. A qualifying business that
 312 elects to transfer the tax credit shall transfer the tax credit
 313 within 1 year after the date the tax credit is granted. A
 314 business receiving the transferred tax credit may use the credit
 315 only in the year received, and the credit may not be carried
 316 forward or backward. To perfect the transfer, the transferor
 317 shall provide the department with a written transfer statement
 318 of the transferor's intent to transfer the tax credits to the
 319 transferee; the date the transfer is effective; the transferee's

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320 name, address, and federal taxpayer identification number; the
 321 tax period to which the transfer applies; and the amount of tax
 322 credits to be transferred. The department shall, upon receipt of
 323 a transfer statement conforming to the requirements of this
 324 subparagraph, provide the transferee with a certificate
 325 reflecting the tax credit amounts transferred. A copy of the
 326 certificate must be attached to each tax return for which the
 327 transferee seeks to apply such tax credits.

328 (c) A qualifying business that elects to use the tax credit
 329 may use the tax credit in any one year or years beginning with
 330 the commencement of the project and ending the second year after
 331 the completion of the project.

332 (d) Notwithstanding the cumulative intellectual property
 333 investment thresholds under subparagraph (a)1., tax credits must
 334 be granted as costs described in that subparagraph are certified
 335 by the Department of Economic Opportunity.

336 (e)1. In any year in which the qualifying business fails to
 337 meet the level of cumulative intellectual property investment
 338 required by this subsection for that year:

339 a. For purposes of sub-subparagraph (a)1.a., any previously
 340 granted tax credit issued pursuant to this subsection in such
 341 year must be revoked and rescinded.

342 b. For purposes of sub-subparagraph (a)1.b., any previously
 343 granted tax credit issued pursuant to this subsection must be
 344 revoked and rescinded.

345 c. For purposes of sub-subparagraph (a)1.c., the portion of
 346 any previously granted tax credit that exceeds 20 percent of
 347 costs specified in subparagraph (a)3. which was issued pursuant
 348 to this subsection must be revoked and rescinded. However, if

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349 the total cumulative intellectual property investment is less
 350 than \$150 million, sub-subparagraph b. applies.

351 2. This paragraph may not result in the revocation or
 352 rescission of any credits or incentives awarded to a project
 353 outside of this subsection.

354 3. If such revoked and rescinded credit has already been
 355 claimed on a return, the business must repay the credit plus the
 356 interest applicable under s. 213.235 and a 10 percent penalty.

357 4. If such revoked and rescinded credit has already been
 358 transferred to another business, the transferor must repay the
 359 credit plus interest applicable under s. 231.235 and a 10
 360 percent penalty.

361 (4) Notwithstanding subsection (2), an annual credit
 362 against the tax imposed by this chapter, against state taxes
 363 collected or accrued under chapter 212, or against a stated
 364 combination of the two taxes must be granted to a qualifying
 365 business that establishes a qualifying project that incurs
 366 eligible production infrastructure costs in this state exceeding
 367 \$100 million during a period not to exceed 10 years, beginning
 368 with the commencement of operations of the project. The sum of
 369 all tax credits provided pursuant to this subsection may not
 370 exceed 100 percent of the eligible production infrastructure
 371 costs of the project. Any credit granted under this subsection
 372 may not be carried forward or backward by any qualifying
 373 business with respect to a subsequent or prior year. The annual
 374 tax credit granted under this section may not exceed 100 percent
 375 of the sum of the annual corporate income tax liability and the
 376 sales and use tax liability of the qualifying business. If the
 377 credit granted under this subsection is not fully used in any

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378 given year because of insufficient tax liability on the part of
 379 the qualifying business, the unused amounts may be used in any
 380 given year or years beginning with the 11th year after the
 381 commencement of operations of the project and ending the 20th
 382 year after the commencement of operations of the project.

383 (5) (a) Notwithstanding subsection (2), a credit against the
 384 tax imposed by this chapter, against state taxes collected or
 385 accrued under chapter 212, or against a stated combination of
 386 the two taxes must be granted to a qualifying business that
 387 establishes a strategic priority project as defined in paragraph
 388 (1) (i), for which the eligible capital costs are at least \$75
 389 million. The tax credit must be granted in an amount equal to 20
 390 percent of the eligible capital costs generated by the
 391 qualifying project. The tax credit must be granted against the
 392 tax liability of the qualifying business.

393 (b) At the time a tax credit is granted under this
 394 subsection, a qualifying business granted the credit shall elect
 395 to either use or transfer the tax credit.

396 1. A qualifying business that elects to transfer the tax
 397 credit shall transfer the tax credit within 1 year after the
 398 date the tax credit is granted. A business receiving the
 399 transferred tax credit may use the credit only in the year
 400 received, and the credit may not be carried forward or backward.
 401 To perfect the transfer, the transferor shall provide the
 402 department with a written transfer statement of the transferor's
 403 intent to transfer the tax credits to the transferee; the
 404 effective date of the transfer; the transferee's name, address,
 405 and federal taxpayer identification number; the tax period to
 406 which the transfer applies; and the amount of tax credits to be

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407 transferred. Upon receipt of a transfer statement conforming to
 408 the requirements of this subparagraph, the department shall
 409 provide the transferee with a certificate reflecting the tax
 410 credit amounts transferred. A copy of the certificate must be
 411 attached to each tax return for the period for which the
 412 transferee seeks to apply such tax credits.

413 2. A qualifying business that elects to use the tax credit
 414 may use the tax credit in any one year or years beginning with
 415 the commencement of the project and ending the second year after
 416 the completion of the project.

417 (6) (a) Notwithstanding subsection (2), an annual credit
 418 against the tax imposed by this chapter must ~~shall~~ be granted to
 419 a qualifying business which establishes a qualifying project
 420 pursuant to subparagraph (1) (1) 3. ~~(1) (g) 3.~~, in an amount equal
 421 to the lesser of \$15 million or 5 percent of the eligible
 422 capital costs made in connection with a qualifying project, for
 423 a period not to exceed 20 years beginning with the commencement
 424 of operations of the project. The tax credit must ~~shall~~ be
 425 granted against the corporate income tax liability of the
 426 qualifying business and as further provided in paragraph (c).
 427 The total tax credit provided pursuant to this subsection must
 428 ~~shall~~ be equal to no more than 100 percent of the eligible
 429 capital costs of the qualifying project.

430 (b) If the credit granted under this subsection is not
 431 fully used in any one year because of insufficient tax liability
 432 on the part of the qualifying business, the unused amount may be
 433 carried forward for a period not to exceed 20 years after the
 434 commencement of operations of the project. The carryover credit
 435 may be used in a subsequent year when the tax imposed by this

Page 15 of 18

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

577-03546-21 20211390c1

436 chapter for that year exceeds the credit for which the
 437 qualifying business is eligible in that year under this
 438 subsection after applying the other credits and unused
 439 carryovers in the order provided by s. 220.02(8).

440 (c) The credit granted under this subsection may be used in
 441 whole or in part by the qualifying business or any corporation
 442 that is either a member of that qualifying business's affiliated
 443 group of corporations, is a related entity taxable as a
 444 cooperative under subchapter T of the Internal Revenue Code, or,
 445 if the qualifying business is an entity taxable as a cooperative
 446 under subchapter T of the Internal Revenue Code, is related to
 447 the qualifying business. Any entity related to the qualifying
 448 business may continue to file as a member of a Florida-nexus
 449 consolidated group pursuant to a prior election made under s.
 450 220.131(1), Florida Statutes (1985), even if the parent of the
 451 group changes due to a direct or indirect acquisition of the
 452 former common parent of the group. Any credit can be used by any
 453 of the affiliated companies or related entities referenced in
 454 this paragraph to the same extent as it could have been used by
 455 the qualifying business. However, any such use shall not operate
 456 to increase the amount of the credit or extend the period within
 457 which the credit must be used.

458 ~~(7) (4) Before~~ Prior to receiving tax credits pursuant to
 459 this section, a qualifying business must achieve and maintain
 460 the minimum employment goals beginning with the commencement of
 461 operations or the completion date of ~~at~~ a qualifying project and
 462 continuing each year thereafter during which tax credits are
 463 available pursuant to this section.

464 (8) (5) Applications must ~~shall~~ be reviewed and certified

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577-03546-21

20211390c1

465 pursuant to s. 288.061. The Department of Economic Opportunity,
 466 upon a recommendation by Enterprise Florida, Inc., shall first
 467 certify a business as eligible to receive tax credits pursuant
 468 to this section ~~before~~ prior to the commencement of operations
 469 or the completion date of a qualifying project, and such
 470 certification ~~must~~ shall be transmitted to the Department of
 471 Revenue. Upon receipt of the certification, the Department of
 472 Revenue shall enter into a written agreement with the qualifying
 473 business specifying, at a minimum, the method by which income
 474 generated by or arising out of the qualifying project will be
 475 determined.

476 (9) ~~(6)~~ The Department of Economic Opportunity, in
 477 consultation with Enterprise Florida, Inc., is authorized to
 478 develop the necessary guidelines and application materials for
 479 the certification process described in subsection (8) ~~(5)~~.

480 (10) ~~(7)~~ It shall be the responsibility of the qualifying
 481 business to affirmatively demonstrate to the satisfaction of the
 482 Department of Revenue that such business meets the job creation
 483 and capital investment requirements of this section.

484 (11) ~~(8)~~ The Department of Revenue may specify by rule the
 485 methods by which a project's pro forma annual taxable income is
 486 determined.

487 Section 2. Paragraph (d) of subsection (2) of section
 488 288.1089, Florida Statutes, is amended to read:

489 288.1089 Innovation Incentive Program.—

490 (2) As used in this section, the term:

491 (d) "Cumulative investment" means cumulative capital
 492 investment and all eligible capital costs, as defined in s.
 493 220.191, Florida Statutes (2020).

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577-03546-21

20211390c1

494 Section 3. This act shall take effect July 1, 2021.

Page 18 of 18

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The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: April 1, 2021

I respectfully request that **Senate Bill #1390**, relating to Capital Investment Tax Credit, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

Cc: Robert Babin, Staff Director
Stephanie Bell-Parke, Committee Administrative Assistant

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21

Meeting Date

1390

Bill Number (if applicable)

Topic Capital Investment Tax Credit

Amendment Barcode (if applicable)

Name Angela Dempsey

Job Title _____

Address 106 E. College Ave., Suite 1100

Phone (850) 681-1980

Street

Tallahassee

FL

32301

Email angela@poolemckinley.com

City

State

Zip

Speaking: For Against Information

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

Representing Entertainment Software Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

F&T

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021

Meeting Date

1390

Bill Number (if applicable)

Topic Capital Investment Tax Credit

Amendment Barcode (if applicable)

Name B.D. Jogerst

Job Title

Address 516 N Adams St

Phone 850-224-7173

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32301

Email bjogerst@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21

Meeting Date

1390

Bill Number (if applicable)

Topic Capital Investment Tax Credit

Amendment Barcode (if applicable)

Name Will McKinley

Job Title _____

Address 106 E. College Ave., Suite 1100

Phone (850) 681-1980

Street

Tallahassee

FL

32301

Email will@poolemckinley.com

City

State

Zip

Speaking: For Against Information

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

Representing Motion Picture Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1584

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Gruters

SUBJECT: Taxation of Real Property Platform Transactions

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1584 limits the documentary stamp tax to the difference between the price the seller paid and the price the subsequent purchaser paid for a single-family residence or condominium, if the seller sells the property:

- To an unrelated purchaser in an arm's length transaction within 75 calendar days after the date the seller bought the property; and
- For a price that is 110 percent or less than what the seller paid for the property.

The Revenue Estimating Conference has not yet reviewed CS/CS/SB 1584. Staff estimates the bill will have a significant but indeterminate negative impact on state revenues.

The bill takes effect July 1, 2021.

II. Present Situation:

Documentary Stamp Tax

Chapter 201, F.S., levies an excise tax (called the documentary stamp tax) on documents such as deeds, stocks and bonds, notes and written obligations to pay money, mortgages, liens, and other evidences of indebtedness. The Florida Department of Revenue (DOR) administers the

provisions of that chapter,¹ including provisions governing the collection of documentary stamp taxes, which are distributed each fiscal year to the General Revenue Fund and various other trust funds.

The DOR classifies the documentary stamp taxes as two taxes imposed on different bases at different tax rates.² The first tax rate is 70 cents on each \$100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interest that are granted, assigned, transferred, conveyed or vested in a purchaser.³ The second tax rate is 35 cents per each \$100 of consideration, capped at \$2,450, for certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements.⁴

After certain required payments on debt service on bonds, documentary stamp taxes are deposited into various trust funds⁵ including the Land Acquisition Trust Fund, State Transportation Trust Fund, Grants and Donations Trust Fund, and the State Housing Trust Fund. All documentary stamp tax revenues, except those which are transferred to the Land Acquisition Trust Fund in compliance with the Florida Constitution, are subject to an 8 percent service charge,⁶ which is transferred to the General Revenue Fund.⁷ Additionally, the DOR is permitted to deduct the amount necessary to pay for the cost it incurs in collecting the revenues.

Miami-Dade County is authorized to charge a local surtax on documents except for those involving the sale or transfer of a single family home.⁸ The surtax must be used to fund local affordable housing plans. In Miami-Dade County the documentary stamp tax is 60 cents on each \$100, paid to the state, and a 45 cent per \$100 surtax on transactions other than those involving single family homes, paid to Miami-Dade County.

III. Effect of Proposed Changes:

The bill provides a limitation on the documentary stamp tax to the difference between the price the seller paid and the price the subsequent purchaser paid for residential property, if the seller sells the property:

- To an unrelated purchaser in an arm's length transaction within 75 calendar days after the date the seller bought the property; and
- For a price that is 110 percent or less than what the seller paid for the property.

The bill defines "residential property" as a property classified as single family or condominium for property tax assessment purposes, which is a single dwelling unit.

The bill takes effect July 1, 2021.

¹ Section 201.11, F.S.

² Florida Revenue Estimating Conference, *2020 Florida Tax Handbook*, at 77 (2020) available at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited April 9, 2021).

³ *Id.* See also s. 201.02(1), F.S.

⁴ *Id.*

⁵ Section 201.15, F.S.

⁶ Section 201.15, F.S.

⁷ Section 215.20, F.S.

⁸ Section 201.031, F.S.

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

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference has not yet reviewed CS/CS/SB 1584. Staff estimates the bill will have a significant but indeterminate negative impact on state revenues.

B. Private Sector Impact:

Sellers and purchasers of single-family residences or condominiums whose transactions meet the bill's criteria will benefit from reduced documentary stamp taxes.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

- One reading of lines 20-24 is that the tax is calculated by subtracting the seller's purchase price from the subsequent purchaser's purchase price. Adding "The consideration upon which" at the beginning of line 20 may provide clarification.
- The relating-to clause of the bill on lines 2-3 should be expanded beyond taxation of real property platform transactions.

VIII. Statutes Affected:

This bill substantially amends section 201.02 of the Florida Statutes.

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 Finance and Tax on April 14, 2021:

The CS:

- Provides that sales by any original purchaser of real property may be eligible, rather than limiting eligibility to sales by real property platforms and their affiliated groups of corporations.
- Reduces the timeframe in which the seller must purchase and sell the property from 180 days to 75 days.
- Removes a restriction against the seller using the property for certain purposes while the seller owns it.
- Defines "residential property" and removes the definitions of "affiliated group of corporations" and "real property platform."

CS by Community Affairs on March 30, 2021:

The CS:

- Narrows the term "real property platform" to require it be a publically traded company;
- Provides that the tax exemption only applies to arm's length deals for single dwelling units;
- Provides that the tax exemption applies to sales as well as other forms of property interest transfer; and
- Otherwise clarifies the exemption without changing the substantive effect of the bill.

- B. **Amendments:**

None.



210520

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Gruters) recommended the following:

Senate Amendment (with title amendment)

Delete lines 19 - 65
and insert:
"residential property" means a property classified as single family or condominium pursuant to s. 195.073(1) (a)1. or 4., respectively, which is a single dwelling unit.

(b) The tax imposed by this section shall be limited to the difference between the consideration paid by an original purchaser of a residential property and the consideration paid



210520

11 by an unrelated subsequent purchaser of the same residential
12 property in an arm's length transaction within 75 calendar days
13 immediately following the date on which the property was
14 conveyed to, or an interest in such property was vested in, the
15 original purchaser.

16 (c) The tax limitation under paragraph (b) does not apply
17 if the consideration paid by the subsequent purchaser for the
18 residential property exceeds 110 percent of the consideration
19 paid by the original purchaser for the same residential
20 property.

21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete lines 4 - 9

25 and insert:

26 term "residential property"; providing a methodology
27 to be used in determining documentary stamp taxes due
28 for certain transactions involving residential
29 property; providing applicability; providing an
30 effective

By the Committee on Community Affairs; and Senator Gruters

578-03612-21

20211584c1

A bill to be entitled

An act relating to taxation of real property platform transactions; amending s. 201.02, F.S.; defining the terms "affiliated group of corporations" and "real property platform"; providing a methodology to be used in determining documentary stamp taxes due for certain transactions by real property platforms or affiliated groups of corporations involving residential property which meet specified criteria; providing an effective date.

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

Section 1. Subsection (12) is added to section 201.02, Florida Statutes, to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(12) (a) For purposes of this subsection, the term "affiliated group of corporations" has the same meaning as in s. 220.03(1) (b), regardless of whether such group elects to file a consolidated return pursuant to s. 220.131.

(b) For purposes of this subsection, the term "real property platform" means a corporation whose shares are publicly traded on a recognized stock exchange located in the United States and that operates an Internet website or Internet application that:

1. Disseminates residential property information to consumers through the website or application; and
2. Facilitates real property transactions to enable

Page 1 of 3

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578-03612-21

20211584c1

consumers to purchase and sell residential property.

(c) For the conveyance of or vesting of interest in a residential property that was previously conveyed to, or an interest in which was vested in, a real property platform or an affiliated group of corporations of the real property platform, to or in an unrelated subsequent purchaser in an arm's length transaction, the consideration for the tax imposed by this section shall be limited to the difference between the consideration paid by the real property platform or an affiliated group of corporations of the real property platform for such residential property and the consideration paid to the real property platform or an affiliated group of corporations of the real property platform by the subsequent purchaser for the property, if the real property platform or an affiliated group of corporations of the real property platform does all of the following:

1. Conveys or vests an interest in the residential property classified as single family or condominium pursuant to s. 195.073(1) (a)1. or 4. which is a single dwelling unit.

2. Conveys or vests an interest in the residential property to the unrelated subsequent purchaser within 180 calendar days immediately following the date on which such property was conveyed to, or interest in such property was vested in, the real property platform or an affiliated group of corporations of the real property platform.

3. Does not use the residential property as a home, residence, or sleeping place or as a dwelling unit as defined in s. 83.43(2) while it owns the real property, other than to allow a short-term seller holdover arrangement incidental to the sale

Page 2 of 3

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578-03612-21

20211584c1

59 of the residential property.

60 4. Receives consideration for conveyance of, or for vesting
61 of interest in, the residential property from the unrelated
62 subsequent purchaser in an amount no greater than 110 percent of
63 the amount of the consideration paid by the real property
64 platform or an affiliated group of corporations of the real
65 property platform for the residential property.

66 Section 2. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations Subcommittee on Education
Banking and Insurance
Commerce and Tourism
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JOE GRUTERS

23rd District

April 8, 2021

The Honorable Ana Maria Rodriguez, Chair
Committee on Finance and Tax
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Rodriguez:

I am writing to request that Senate Bill 1584, Taxation of Real Property Platform Transactions to be placed on the agenda of the next Finance and Tax committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Robert Babin, Staff Director

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/21

Meeting Date

1584

Bill Number (if applicable)

Topic

DOC STAMP TAX

Amendment Barcode (if applicable)

Name

RYAN PATMINTERA

Job Title

GOV RELATIONS

Address

307 W. PARK AVE

Phone

813-534-4827

Street

JALAHASSEE

FL

32301

Email

RYANPA@ZILLOWGROUP.COM

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing

ZILLOW

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

4/14/2021

Meeting Date

SB 1584

Bill Number (if applicable)

210520

Topic Taxation of Real Property Platform Transactions (Finance & Tax)

Amendment Barcode (if applicable)

Name French Brown

Job Title Lobbyist

Address 106 East College Avenue, Suite 1200

Phone 850-459-0992

Street

Tallahassee

FL

32301

Email fbrown@deanmead.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Realtors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SJR 1182

INTRODUCER: Senator Brandes

SUBJECT: Limitation on the Assessment of Real Property/Residential Purposes

DATE: April 13, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SJR 1182 proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential property as a result of any change or improvement made to improve the property's resistance to flood damage.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

The Revenue Estimating Conference determined that the joint resolution is not self-executing, and thus, does not have a fiscal impact. If the joint resolution is adopted by the electors, the implementing bill (CS/SB 1186) will reduce local government revenue by \$5.8 million beginning in Fiscal Year 2023-2024, with a recurring \$25.1 million reduction.

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 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 jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵ For example, the Legislature may prohibit from increasing the assessed value of residential property those improvements made to enhance the property’s resistance to wind damage or installations of solar or renewable energy source devices.⁶ Currently, the Legislature has implemented the assessment limitation for the installation of renewable energy source devices.⁷

Resistance to Flood Damage

Hurricanes and severe storms cause flooding throughout Florida and sea-level rise may increase the potency of flood damage over time.⁸ As of 2019, Florida held over one-third of the flood insurance policies issued by the National Flood Insurance Program (NFIP), a federal entity created in 1968 to provide standardized flood insurance.⁹ According to the Federal Emergency Management Agency (FEMA), 1,719,376 properties in Florida are at risk of flooding in a 100-year storm.¹⁰

Flood damage can be mitigated via multiple strategies. These might include large structural mitigation public works projects, such as dams, seawalls, levees.¹¹ Mitigation can also include

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 FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ FLA. CONST. art. VII, s. 4(i).

⁷ Section 193.624, F.S.

⁸ Rebecca Lindsey, *Climate Change: Global Sea Level*, National Oceanic and Atmospheric Administration, (Jan. 25, 2021), available at: <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited April 8, 2021).

⁹ *Facts + Statistics: Flood Insurance*, Insurance Information Institute, available at: <https://www.iii.org/fact-statistic/facts-statistics-flood-insurance> (last visited April 8, 2021).

¹⁰ Emily Mahoney and Zachary Sampson, *Florida has thousands more properties with high flood risk than FEMA says, according to new study*, Tampa Bay Times, (Jun. 29, 2020) available at: <https://www.tampabay.com/news/environment/2020/06/29/florida-has-thousands-more-properties-with-high-flood-risk-than-fema-says-according-to-new-study/> (last visited April 9, 2021).

¹¹ Beverly Cigler, *U.S. Floods: The Necessity of Mitigation*, State and Local Government Review, Volume 49 Issue 2, (Sept. 22, 2017), available at: https://www.napawash.org/uploads/Standing_Panel_Blogs/cigler-floods-and-mitigation-Sept-20172.pdf (last visited April 9, 2021).

improvements made to individual properties, such as elevating structures, filling basements, and waterproofing.¹² They might also include non-structural mitigation as well, such as maintaining land to allow for storm water runoff, waterproofing basements, installing check valves capable of preventing water backup, and elevating furnaces, heaters, and electrical panels.¹³

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential property as a result of any change or improvement made to improve the property's resistance to flood damage.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2022.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Art. VII, s. 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None identified.

E. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election¹⁴ held more than 90 days after the proposal has been filed with the Secretary of State or at a

¹² *Id.*

¹³ *Id.*

¹⁴ Section 97.021(16), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.¹⁵

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the joint resolution is not self-executing, and thus, does not have a fiscal impact. If the joint resolution is adopted by the electors, the implementing bill (CS/SB 1186) will reduce local government revenues by \$5.8 million beginning in Fiscal Year 2023-2024, with a \$25.1 million recurring reduction.¹⁶

B. Private Sector Impact:

None.

C. Government Sector Impact:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the sixth week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State paid approximately \$351,834.45 to advertise six constitutional amendments in 2020.¹⁷ Full publication costs for advertising a single constitutional amendment, on average, was approximately \$58,639.08. This cost was paid from non-recurring General Revenue funds.¹⁸ Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are

¹⁵ Section 101.161(1), F.S.

¹⁶ See Revenue Estimating Impact Conference, *Elevated Properties, CS/HB 1379*, (April 9, 2021), available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page365-376.pdf (last visited April 10, 2021).

¹⁷ E-mail from Legislative Affairs Director, Department of State, to staff of Senate Committee on Health Policy (Feb. 1, 2021) (on file with Senate Committee on Finance and Tax).

¹⁸ See Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.

obtained from newspapers.¹⁹ The statewide average cost to the division to advertise constitutional amendments, in English and Spanish,²⁰ in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document.²¹

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This resolution substantially amends section 4, Article VII of the Florida Constitution.

This resolution also creates section 42, Article XII of the Florida Constitution.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁹ *Id.*

²⁰ Pursuant to Section 203 of the *Voting Rights Act* (52 U.S.C.A. § 10503).

²¹ *Supra*, note 14.

²² Section 100.371(13)(e)4., F.S. *See also* Chapter 2019-64, s. 3, Laws of Fla.

By Senator Brandes

24-01298-21

20211182__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII and the creation of Section 42 of Article XII of the State Constitution, effective January 1, 2023, to authorize the Legislature, by general law, to prohibit the consideration of any change or improvement made to real property used for residential purposes to improve the property's resistance to flood damage in determining the assessed value of such property for ad valorem taxation purposes.

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

That the following amendment to Section 4 of Article VII and the creation of Section 42 of Article XII of the State Constitution are 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

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

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(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value

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59 as of January 1st of the year following the establishment of the
60 homestead, unless the provisions of paragraph (8) apply. That
61 assessment shall only change as provided in this subsection.

62 (5) Changes, additions, reductions, or improvements to
63 homestead property shall be assessed as provided for by general
64 law; provided, however, after the adjustment for any change,
65 addition, reduction, or improvement, the property shall be
66 assessed as provided in this subsection.

67 (6) In the event of a termination of homestead status, the
68 property shall be assessed as provided by general law.

69 (7) The provisions of this amendment are severable. If any
70 of the provisions of this amendment shall be held
71 unconstitutional by any court of competent jurisdiction, the
72 decision of such court shall not affect or impair any remaining
73 provisions of this amendment.

74 (8)a. A person who establishes a new homestead as of
75 January 1 and who has received a homestead exemption pursuant to
76 Section 6 of this Article as of January 1 of any of the three
77 years immediately preceding the establishment of the new
78 homestead is entitled to have the new homestead assessed at less
79 than just value. The assessed value of the newly established
80 homestead shall be determined as follows:

81 1. If the just value of the new homestead is greater than
82 or equal to the just value of the prior homestead as of January
83 1 of the year in which the prior homestead was abandoned, the
84 assessed value of the new homestead shall be the just value of
85 the new homestead minus an amount equal to the lesser of
86 \$500,000 or the difference between the just value and the
87 assessed value of the prior homestead as of January 1 of the

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88 year in which the prior homestead was abandoned. Thereafter, the
89 homestead shall be assessed as provided in this subsection.

90 2. If the just value of the new homestead is less than the
91 just value of the prior homestead as of January 1 of the year in
92 which the prior homestead was abandoned, the assessed value of
93 the new homestead shall be equal to the just value of the new
94 homestead divided by the just value of the prior homestead and
95 multiplied by the assessed value of the prior homestead.
96 However, if the difference between the just value of the new
97 homestead and the assessed value of the new homestead calculated
98 pursuant to this sub-subparagraph is greater than \$500,000, the
99 assessed value of the new homestead shall be increased so that
100 the difference between the just value and the assessed value
101 equals \$500,000. Thereafter, the homestead shall be assessed as
102 provided in this subsection.

103 b. By general law and subject to conditions specified
104 therein, the legislature shall provide for application of this
105 paragraph to property owned by more than one person.

106 (e) The legislature may, by general law, for assessment
107 purposes and subject to the provisions of this subsection, allow
108 counties and municipalities to authorize by ordinance that
109 historic property may be assessed solely on the basis of
110 character or use. Such character or use assessment shall apply
111 only to the jurisdiction adopting the ordinance. The
112 requirements for eligible properties must be specified by
113 general law.

114 (f) A county may, in the manner prescribed by general law,
115 provide for a reduction in the assessed value of homestead
116 property to the extent of any increase in the assessed value of

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117 that property which results from the construction or
 118 reconstruction of the property for the purpose of providing
 119 living quarters for one or more natural or adoptive grandparents
 120 or parents of the owner of the property or of the owner's spouse
 121 if at least one of the grandparents or parents for whom the
 122 living quarters are provided is 62 years of age or older. Such a
 123 reduction may not exceed the lesser of the following:

124 (1) The increase in assessed value resulting from
 125 construction or reconstruction of the property.

126 (2) Twenty percent of the total assessed value of the
 127 property as improved.

128 (g) For all levies other than school district levies,
 129 assessments of residential real property, as defined by general
 130 law, which contains nine units or fewer and which is not subject
 131 to the assessment limitations set forth in subsections (a)
 132 through (d) shall change only as provided in this subsection.

133 (1) Assessments subject to this subsection shall be changed
 134 annually on the date of assessment provided by law; but those
 135 changes in assessments shall not exceed ten percent (10%) of the
 136 assessment for the prior year.

137 (2) No assessment shall exceed just value.

138 (3) After a change of ownership or control, as defined by
 139 general law, including any change of ownership of a legal entity
 140 that owns the property, such property shall be assessed at just
 141 value as of the next assessment date. Thereafter, such property
 142 shall be assessed as provided in this subsection.

143 (4) Changes, additions, reductions, or improvements to such
 144 property shall be assessed as provided for by general law;
 145 however, after the adjustment for any change, addition,

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146 reduction, or improvement, the property shall be assessed as
 147 provided in this subsection.

148 (h) For all levies other than school district levies,
 149 assessments of real property that is not subject to the
 150 assessment limitations set forth in subsections (a) through (d)
 151 and (g) shall change only as provided in this subsection.

152 (1) Assessments subject to this subsection shall be changed
 153 annually on the date of assessment provided by law; but those
 154 changes in assessments shall not exceed ten percent (10%) of the
 155 assessment for the prior year.

156 (2) No assessment shall exceed just value.

157 (3) The legislature must provide that such property shall
 158 be assessed at just value as of the next assessment date after a
 159 qualifying improvement, as defined by general law, is made to
 160 such property. Thereafter, such property shall be assessed as
 161 provided in this subsection.

162 (4) The legislature may provide that such property shall be
 163 assessed at just value as of the next assessment date after a
 164 change of ownership or control, as defined by general law,
 165 including any change of ownership of the legal entity that owns
 166 the property. Thereafter, such property shall be assessed as
 167 provided in this subsection.

168 (5) Changes, additions, reductions, or improvements to such
 169 property shall be assessed as provided for by general law;
 170 however, after the adjustment for any change, addition,
 171 reduction, or improvement, the property shall be assessed as
 172 provided in this subsection.

173 (i) The legislature, by general law and subject to
 174 conditions specified therein, may prohibit the consideration of

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175 the following in the determination of the assessed value of real
 176 property:

177 (1) Any change or improvement to real property used for
 178 residential purposes made to improve the property's resistance
 179 to wind damage or to flood damage.

180 (2) The installation of a solar or renewable energy source
 181 device.

182 (j)(1) The assessment of the following working waterfront
 183 properties shall be based upon the current use of the property:

184 a. Land used predominantly for commercial fishing purposes.
 185 b. Land that is accessible to the public and used for
 186 vessel launches into waters that are navigable.
 187 c. Marinas and drystacks that are open to the public.
 188 d. Water-dependent marine manufacturing facilities,
 189 commercial fishing facilities, and marine vessel construction
 190 and repair facilities and their support activities.

191 (2) The assessment benefit provided by this subsection is
 192 subject to conditions and limitations and reasonable definitions
 193 as specified by the legislature by general law.

194 ARTICLE XII
 195 SCHEDULE

196 SECTION 42. Limitation on the assessment of real property
 197 used for residential purposes.--This section and the amendment to
 198 Section 4 of Article VII, authorizing the legislature to
 199 prohibit an increase in the assessed value of real property used
 200 for residential purposes as a result of any change or
 201 improvement made to improve the property's resistance to flood
 202 damage, shall take effect January 1, 2023.

203 BE IT FURTHER RESOLVED that the following statement be

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204 placed on the ballot:

205 CONSTITUTIONAL AMENDMENT
 206 ARTICLE VII, SECTION 4
 207 ARTICLE XII, SECTION 42

208 LIMITATION ON THE ASSESSMENT OF REAL PROPERTY USED FOR
 209 RESIDENTIAL PURPOSES.--Proposing an amendment to the State
 210 Constitution, effective January 1, 2023, to authorize the
 211 Legislature, by general law, to prohibit the consideration of
 212 any change or improvement made to real property used for
 213 residential purposes to improve the property's resistance to
 214 flood damage in determining the assessed value of such property
 215 for ad valorem taxation purposes.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez ,Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 15, 2021

I respectfully request that **SJR # 1182**, relating to Limitation on the Assessment of Real Property/Residential Purposes, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1186

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Brandes

SUBJECT: Property Assessments for Elevated Properties

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.	Gross	Babin	FT	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1186 is the implementing bill for SJR 1182, which proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential property as a result of any change or improvement made to improve the property's resistance to flood damage.

The bill provides that the assessed value of residential property may not increase if the property is voluntarily elevated to meet National Flood Insurance Program and Florida Building Code elevation requirements.

The Revenue Estimating Conference determined that the bill will reduce local government revenue by \$5.8 million beginning in Fiscal Year 2023-2024, with a \$25.1 million recurring reduction.

The bill will take effect on the effective date of the amendment proposed by SJR 1182 or a similar joint resolution having substantially the same specific intent and purpose. If approved by the electors, the proposed amendment (SJR 1182) and CS/CS/SB 1186 will take effect on January 1, 2023.

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 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 jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵ For example, the Legislature may prohibit from increasing the assessed value of residential property those improvements made to enhance the property’s resistance to wind damage or installations of solar or renewable energy source devices.⁶ Currently, the Legislature has implemented the assessment limitation for the installation of renewable energy source devices.⁷

Changes, Additions, and Improvements to Real Property

In general, changes, additions, or improvements to real property are assessed at just value as of the first January 1 after they are substantially completed.⁸ However, when property is damaged or destroyed by calamity or misfortune, the property may be repaired or replaced without the change, addition, or improvement being assessed at just value; rather, the change, addition, or improvement is assigned the taxable value and other tax characteristics (i.e. assessment limitation) that the damaged or replaced property had before being damaged or destroyed. This treatment has certain limitations. For instance, the change, addition, or improvement may not exceed 110 percent of the square footage of the property before it was damaged or destroyed.⁹ Any square footage greater than 110 percent of the replaced property is assessed at just value. For residential property, the 110 percent limitation does not apply if the change, addition, or improvement is made to property no larger than 1,500 square feet.¹⁰

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 FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ FLA. CONST. art. VII, s. 4(i).

⁷ Section 193.624, F.S.

⁸ Sections 193.155(4)(a), 193.1554(6)(a), and 193.1555(6)(a), F.S.

⁹ Sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

¹⁰ Sections 193.155(4)(b), F.S.

Rebuilding of damaged property must commence within 3 years of the damage (or 5 years for damage caused by Hurricane Michael) to qualify for the assessment limitation described above.

Resistance to Flood Damage

Hurricanes and severe storms cause flooding throughout Florida and sea-level rise may increase the potency of flood damage over time.¹¹ As of 2019, Florida held over one-third of the flood insurance policies issued by the National Flood Insurance Program (NFIP), a federal entity created in 1968 to provide standardized flood insurance.¹² According to the Federal Emergency Management Agency (FEMA), 1,719,376 properties in Florida are at risk of flooding in a 100-year storm.¹³

Flood damage can be mitigated via multiple strategies. These might include large structural mitigation public works projects, such as dams, seawalls, levees.¹⁴ Mitigation can also include improvements made to individual properties, such as elevating structures, filling basements, and waterproofing.¹⁵ They might also include non-structural mitigation as well, such as maintaining land to allow for storm water runoff, waterproofing basements, installing check valves capable of preventing water backup, and elevating furnaces, heaters, and electrical panels.¹⁶

Voluntary Property Elevation

Surveyors and architects use Flood Insurance Rate Maps, maps produced by FEMA which delineate base flood elevations,¹⁷ to determine minimum building height. Buildings constructed before a community was under elevation regulations or before FEMA produced the area's first flood map may now be considered below safe elevation, and at high risk for flood damage.

Buildings may be raised after construction either by lifting an existing house and constructing a new foundation below, or by leaving the house in place and building an elevated floor within the house or adding an upper story.¹⁸ When a house is lifted, its new foundation may be made of

¹¹ Rebecca Lindsey, *Climate Change: Global Sea Level*, National Oceanic and Atmospheric Administration, (Jan. 25, 2021), available at: <https://www.climate.gov/news-features/understanding-climate/climate-change-global-sea-level> (last visited April 8, 2021).

¹² *Facts + Statistics: Flood Insurance*, Insurance Information Institute, available at: <https://www.iii.org/fact-statistic/facts-statistics-flood-insurance> (last visited April 8, 2021).

¹³ Emily Mahoney and Zachary Sampson, *Florida has thousands more properties with high flood risk than FEMA says, according to new study*, Tampa Bay Times, (Jun. 29, 2020) available at: <https://www.tampabay.com/news/environment/2020/06/29/florida-has-thousands-more-properties-with-high-flood-risk-than-fema-says-according-to-new-study/> (last visited April 9, 2021).

¹⁴ Beverly Cigler, *U.S. Floods: The Necessity of Mitigation*, State and Local Government Review, Volume 49 Issue 2, (Sept. 22, 2017), available at: https://www.napawash.org/uploads/Standing_Panel_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf (last visited April 9, 2021).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The "base flood elevation" is the elevation of surface water resulting from a flood that has a 1 percent chance of happening annually. See *Base Flood Elevation (BFE)*, FEMA, (Mar. 5, 2020), available at: <https://www.fema.gov/node/404233> (last visited April 8, 2021).

¹⁸ *Chapter 5: Elevating Your House*, Homeowner's Guide to Retrofitting, FEMA, available at: <https://www.fema.gov/pdf/rebuild/mat/sec5.pdf> (last visited April 8, 2021).

continuous walls, or columns or pilings which would allow access to the area below the newly elevated house.¹⁹

NFIP Elevation Certificate

An NFIP Elevation Certificate is a form produced by FEMA used to provide information which can ensure compliance with community floodplain ordinances, determine a property's insurance rate, and be used as evidence to have a FEMA flood plain map altered.²⁰ An elevation certificate must in most cases be completed by a licensed land surveyor, engineer, architect, or designated local official.²¹ The completed document includes location and elevation data from the property, the corresponding Flood Insurance Rate Map, community information, and photographic proof elevation certificates that are typically required when new construction or substantial improvements occur on a property resting at least in part or below a limit set by local authorities. Nationwide, the average cost for having an elevation certificate completed is on average \$600.²²

Florida Building Code Elevation Requirements

The Florida Building Code requires the construction or reconstruction of residential properties follow specific guidelines to mitigate potential damage that might be caused by flood waters in areas designated as "flood hazard areas" and "coastal high-hazard areas." For example, buildings in flood hazard areas must have their lowest floors elevated above the base flood elevation plus one foot, or the design flood elevation, whichever is higher.²³

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 193.155 and 193.1554, F.S., respectively, to provide that the assessed value of a residential property may not increase if the property is voluntarily elevated to meet NFIP and Florida Building Code elevation requirements and the square footage of the property, as improved, does not exceed 110 percent of the original square footage.

The area below an elevated structure that is created as a result of elevating the property may not be included in the property's 110 percent calculation when it is solely designated for parking, storage, or access and does not exceed 110 percent of the original property's square footage.

In addition, the assessed value may not increase if the total square footage of the property as elevated does not exceed 1,500 square feet.

The portions of property in excess of these limits are subject to assessment at just value.

To qualify for this assessment limitation, the owner must provide the property appraiser with elevation certificates for both the original and elevated property.

¹⁹ *Id.*

²⁰ *Elevation Certificate and Instructions*, FEMA National Flood Insurance Program, available at: https://www.pinellascounty.org/drs/PDF/FEMA_Elevation_Certificate_086-0-33.pdf (last visited April 8, 2021).

²¹ *Id.*

²² Josh Price, *What Does an Elevation Certificate Cost?*, MassiveCert.com, available at: <https://www.massivecert.com/blog/what-does-elevation-certificate-cost> (last visited April 8, 2021).

²³ International Code Council, Inc., *2020 Florida Building Code, Residential, 7th Edition*, (July 2020), Section 322.2.1, available at: https://floridabuilding.org/bc/bc_default.aspx (last visited April 8, 2021).

The bill defines “voluntary elevation” to mean the elevation of an existing nonconforming property or the removal and rebuilding of a nonconforming property.

Section 3 Makes conforming changes to the provision that allows owners to commence the rebuilding of property within 5 years of the damage caused by Hurricane Michael.

Section 4 provides that the bill takes effect on the effective date of SJR 1182 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the Florida Constitution is approved at the general election²⁴ held in November 2022, or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a 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, 26} which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.²⁷

The Revenue Estimating Conference determined that the bill will reduce local government revenues by \$5.8 million beginning in Fiscal Year 2023-2024 and by \$25.1 million thereafter. Therefore, this bill may be a mandate subject to the requirements of Art. VII, s. 18(b) of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁴ Section 97.021(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

²⁵ FLA. CONST. art. VII, s. 18(d).

²⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$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 Feb. 03, 2021).

²⁷ Based on the Demographic Estimating Conference’s April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference analyzed the impact of a substantively identical House Bill (CS/HB 1379) and determined that the provisions of the bill will reduce local government revenue by \$5.8 million beginning in Fiscal Year 2023-2024, with a \$25.1 million recurring reduction.²⁸

B. Private Sector Impact:

If the proposed amendment (SJR 1182) is approved by 60 percent of voters in November 2022, homeowners will be able to voluntarily elevate their residential property without increasing the property's assessed value.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 193.155 and 193.1554 of the Florida Statutes.

This bill reenacts section 193.1557 of the Florida Statutes.

²⁸ Revenue Estimating Impact Conference, *Elevated Properties, CS/HB 1379*, (April 10, 2021), available at: <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/page365-376.pdf> (last visited April 9, 2021).

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

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

CS by Finance and Tax on April 14, 2021:

The committee substitute:

- Removes the requirement that changes, additions, or improvements commence within 3 years of a voluntary elevation. This is a technical amendment needed because the new provisions of the bill are being inserted into a statute that currently applies to damaged property. Under current law, the repairs of damaged property must commence within 3 years of the damage (or 5 years for damage caused by Hurricane Michael). This “3-year” provision was inadvertently made applicable to voluntary elevations, but the intent of the bill is that those improvements can begin at any time.
- Makes conforming changes to the 5-year provision for damage caused by Hurricane Michael.

CS by Community Affairs on March 10, 2021:

The committee substitute inserts the bill number for the senate joint resolution to which this bill is linked.

B. Amendments:

None.



476708

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 79 - 173
and insert:
pursuant to subsection (5).

(d) For changes, additions, or improvements made to replace property that was damaged or destroyed by misfortune or calamity, this subsection ~~paragraph~~ applies to the changes, additions, or improvements commenced within 3 years after the January 1 following the qualifying damage or destruction of the



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11 homestead property.

12 (e)~~(e)~~ Changes, additions, or improvements that replace all
13 or a portion of real property that was damaged, ~~or~~ destroyed, or
14 voluntarily elevated ~~by misfortune or calamity~~ shall be assessed
15 upon substantial completion as if such qualifying damage, ~~or~~
16 destruction, or voluntary elevation had not occurred and in
17 accordance with paragraph (b) if the owner of such property:

18 1. Was permanently residing on such property when the
19 qualifying damage, ~~or~~ destruction, or voluntary elevation
20 occurred;

21 2. Was not entitled to receive homestead exemption on such
22 property as of January 1 of that year; and

23 3. Applies for and receives homestead exemption on such
24 property the following year.

25 (f)~~(d)~~ Changes, additions, or improvements include
26 improvements made to common areas or other improvements made to
27 property other than to the homestead property by the owner or by
28 an owner association, which improvements directly benefit the
29 homestead property. Such changes, additions, or improvements
30 shall be assessed at just value, and the just value shall be
31 apportioned among the parcels benefiting from the improvement.

32 Section 2. Subsection (6) of section 193.1554, Florida
33 Statutes, is amended to read:

34 193.1554 Assessment of nonhomestead residential property.-

35 (6) (a) Except as provided in paragraph (b) and s. 193.624,
36 changes, additions, or improvements to nonhomestead residential
37 property shall be assessed at just value as of the first January
38 1 after the changes, additions, or improvements are
39 substantially completed.



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40 (b) Changes, additions, or improvements that replace all or
41 a portion of nonhomestead residential property ~~damaged or~~
42 ~~destroyed by misfortune or calamity~~ shall not increase the
43 property's assessed value when the square footage of the
44 property as changed or improved does not exceed 110 percent of
45 the square footage of the property before ~~the damage, or~~
46 destruction, or voluntary elevation of the property if:

47 1. The property was damaged or destroyed by misfortune or
48 calamity; or

49 2. Before the voluntary elevation, the property did not
50 comply with the Federal Emergency Management Agency's National
51 Flood Insurance Program requirements and Florida Building Code
52 elevation requirements and was elevated in compliance with such
53 requirements. The property owner must provide elevation
54 certificates for both the original and the elevated property.
55 For purposes of this subsection, the term "voluntary elevation"
56 or "voluntarily elevated" means the elevation of an existing
57 nonconforming nonhomestead residential property or the removal
58 and rebuilding of a nonconforming nonhomestead residential
59 property. Conforming areas below an elevated structure
60 designated only for parking, storage, or access may not be
61 included in the 110 percent calculation unless the area exceeds
62 110 percent of the square footage before the voluntary
63 elevation.

64
65 Additionally, the property's assessed value may ~~shall~~ not
66 increase if the total square footage of the property as changed,
67 ~~or~~ improved, or elevated does not exceed 1,500 square feet.

68 (c) Changes, additions, or improvements that do not cause



476708

69 the total to exceed 110 percent of the total square footage of
70 the property before the qualifying damage, ~~or~~ destruction, or
71 voluntary elevation or that do not cause the total to exceed
72 1,500 total square feet shall be reassessed as provided under
73 subsection (3). The property's assessed value shall be increased
74 by the just value of that portion of the changed or improved
75 property which is in excess of 110 percent of the square footage
76 of the property before the qualifying damage, ~~or~~ destruction, or
77 voluntary elevation or of that portion exceeding 1,500 square
78 feet. Property damaged, ~~or~~ destroyed, or voluntarily elevated by
79 ~~misfortune or calamity~~ which, after being changed or improved,
80 has a square footage of less than 100 percent of the property's
81 total square footage before the qualifying damage, ~~or~~
82 destruction, or voluntary elevation shall be assessed pursuant
83 to subsection (8).

84 (d) For changes, additions, or improvements made to replace
85 property that was damaged or destroyed by misfortune or
86 calamity, this subsection paragraph applies to the changes,
87 additions, or improvements commenced within 3 years after the
88 January 1 following the qualifying damage or destruction of the
89 property.

90 (e) ~~(e)~~ Changes, additions, or improvements include
91 improvements made to common areas or other improvements made to
92 property other than to the nonhomestead residential property by
93 the owner or by an owner association, which improvements
94 directly benefit the property. Such changes, additions, or
95 improvements shall be assessed at just value, and the just value
96 shall be apportioned among the parcels benefiting from the
97 improvement.



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98 Section 3. Section 193.1557, Florida Statutes, is amended
99 to read:

100 193.1557 Assessment of certain property damaged or
101 destroyed by Hurricane Michael.—For property damaged or
102 destroyed by Hurricane Michael in 2018, s. 193.155(4)(b),
103 Florida Statutes (2020), s. 193.1554(6)(b), Florida Statutes
104 (2020), or s. 193.1555(6)(b) Florida Statutes (2020), applies to
105 changes,
106

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

108 And the title is amended as follows:

109 Delete lines 11 - 16

110 and insert:

111 included in square footage calculation; revising
112 applicability; making clarifying revisions; amending
113 s. 193.1557, F.S.; revising applicability; providing a

By the Committee on Community Affairs; and Senator Brandes

578-02663-21

20211186c1

A bill to be entitled

An act relating to property assessments for elevated properties; amending ss. 193.155 and 193.1554, F.S.; specifying that changes to elevate certain homestead and nonhomestead residential property, respectively, do not increase the assessed value of the property under certain circumstances; requiring property owners to provide certification for such property; defining the terms "voluntary elevation" and "voluntarily elevated"; prohibiting certain areas from being included in square footage calculation; making clarifying revisions; reenacting s. 193.1557, F.S., relating to assessment of certain property damaged or destroyed by Hurricane Michael, to incorporate amendments made by this act to ss. 193.155 and 193.1554, F.S., in references thereto; providing a contingent effective date.

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

Section 1. Subsection (4) of section 193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8) apply.

(4) (a) Except as provided in paragraph (b) and s. 193.624,

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

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changes, additions, or improvements to homestead property shall be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed.

(b) Changes, additions, or improvements that replace all or a portion of homestead property ~~damaged or destroyed by misfortune or calamity~~ shall not increase the homestead property's assessed value when the square footage of the homestead property as changed or improved does not exceed 110 percent of the square footage of the homestead property before the damage, or destruction, or voluntary elevation of the homestead property if:

1. The homestead property was damaged or destroyed by misfortune or calamity; or

2. Before the voluntary elevation, the homestead property did not comply with the Federal Emergency Management Agency's National Flood Insurance Program requirements and Florida Building Code elevation requirements and was elevated in compliance with such requirements. The property owner shall provide elevation certificates for both the original and the elevated homestead property. For purposes of this subsection, the term "voluntary elevation" or "voluntarily elevated" means the elevation of an existing nonconforming homestead property or the removal and rebuilding of a nonconforming homestead property. Conforming areas below an elevated structure designated only for parking, storage, or access may not be included in the 110 percent calculation unless the area exceeds 110 percent of the square footage before the voluntary elevation.

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59 Additionally, the homestead property's assessed value may shall
60 not increase if the total square footage of the homestead
61 property as changed, ~~or improved,~~ or elevated does not exceed
62 1,500 square feet.

63 (c) Changes, additions, or improvements that do not cause
64 the total to exceed 110 percent of the total square footage of
65 the homestead property before the qualifying damage, ~~or~~
66 destruction, or voluntary elevation or that do not cause the
67 total to exceed 1,500 total square feet shall be reassessed as
68 provided under subsection (1). The homestead property's assessed
69 value shall be increased by the just value of that portion of
70 the changed or improved homestead property which is in excess of
71 110 percent of the square footage of the homestead property
72 before the qualifying damage, ~~or~~ destruction, or voluntary
73 elevation or of that portion exceeding 1,500 square feet.
74 Homestead property damaged, ~~or destroyed,~~ or voluntarily
75 elevated by misfortune or calamity which, after being changed or
76 improved, has a square footage of less than 100 percent of the
77 homestead property's total square footage before the qualifying
78 damage, ~~or~~ destruction, or voluntary elevation shall be assessed
79 pursuant to subsection (5). This subsection paragraph applies to
80 changes, additions, or improvements commenced within 3 years
81 after the January 1 following the qualifying damage, ~~or~~
82 destruction, or voluntary elevation of the homestead property.

83 (d)(e) Changes, additions, or improvements that replace all
84 or a portion of real property that was damaged, ~~or destroyed,~~ or
85 voluntarily elevated by misfortune or calamity shall be assessed
86 upon substantial completion as if such qualifying damage, ~~or~~
87 destruction, or voluntary elevation had not occurred and in

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88 accordance with paragraph (b) if the owner of such property:

89 1. Was permanently residing on such property when the
90 qualifying damage, ~~or~~ destruction, or voluntary elevation
91 occurred;

92 2. Was not entitled to receive homestead exemption on such
93 property as of January 1 of that year; and

94 3. Applies for and receives homestead exemption on such
95 property the following year.

96 (e)(d) Changes, additions, or improvements include
97 improvements made to common areas or other improvements made to
98 property other than to the homestead property by the owner or by
99 an owner association, which improvements directly benefit the
100 homestead property. Such changes, additions, or improvements
101 shall be assessed at just value, and the just value shall be
102 apportioned among the parcels benefiting from the improvement.

103 Section 2. Subsection (6) of section 193.1554, Florida
104 Statutes, is amended to read:

105 193.1554 Assessment of nonhomestead residential property.—

106 (6) (a) Except as provided in paragraph (b) and s. 193.624,
107 changes, additions, or improvements to nonhomestead residential
108 property shall be assessed at just value as of the first January
109 1 after the changes, additions, or improvements are
110 substantially completed.

111 (b) Changes, additions, or improvements that replace all or
112 a portion of nonhomestead residential property ~~damaged or~~
113 ~~destroyed by misfortune or calamity~~ shall not increase the
114 property's assessed value when the square footage of the
115 property as changed or improved does not exceed 110 percent of
116 the square footage of the property before ~~the damage,~~ ~~or~~

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117 destruction, or voluntary elevation of the property if:
 118 1. The property was damaged or destroyed by misfortune or
 119 calamity; or
 120 2. Before the voluntary elevation, the property did not
 121 comply with the Federal Emergency Management Agency's National
 122 Flood Insurance Program requirements and Florida Building Code
 123 elevation requirements and was elevated in compliance with such
 124 requirements. The property owner must provide elevation
 125 certificates for both the original and the elevated property.
 126 For purposes of this subsection, the term "voluntary elevation"
 127 or "voluntarily elevated" means the elevation of an existing
 128 nonconforming nonhomestead residential property or the removal
 129 and rebuilding of a nonconforming nonhomestead residential
 130 property. Conforming areas below an elevated structure
 131 designated only for parking, storage, or access may not be
 132 included in the 110 percent calculation unless the area exceeds
 133 110 percent of the square footage before the voluntary
 134 elevation.

135

136 Additionally, the property's assessed value may ~~shall~~ not
 137 increase if the total square footage of the property as changed,
 138 ~~or improved, or elevated~~ does not exceed 1,500 square feet.

139 (c) Changes, additions, or improvements that do not cause
 140 the total to exceed 110 percent of the total square footage of
 141 the property before the qualifying damage, ~~or~~ destruction, or
 142 voluntary elevation or that do not cause the total to exceed
 143 1,500 total square feet shall be reassessed as provided under
 144 subsection (3). The property's assessed value shall be increased
 145 by the just value of that portion of the changed or improved

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146 property which is in excess of 110 percent of the square footage
 147 of the property before the qualifying damage, ~~or~~ destruction, or
 148 voluntary elevation or of that portion exceeding 1,500 square
 149 feet. Property damaged, ~~or~~ destroyed, or voluntarily elevated by
 150 ~~misfortune or calamity~~ which, after being changed or improved,
 151 has a square footage of less than 100 percent of the property's
 152 total square footage before the qualifying damage, ~~or~~
 153 destruction, or voluntary elevation shall be assessed pursuant
 154 to subsection (8). This subsection ~~paragraph~~ applies to changes,
 155 additions, or improvements commenced within 3 years after the
 156 January 1 following the qualifying damage, ~~or~~ destruction, or
 157 voluntary elevation of the property.

158 (d) ~~(e)~~ Changes, additions, or improvements include
 159 improvements made to common areas or other improvements made to
 160 property other than to the nonhomestead residential property by
 161 the owner or by an owner association, which improvements
 162 directly benefit the property. Such changes, additions, or
 163 improvements shall be assessed at just value, and the just value
 164 shall be apportioned among the parcels benefiting from the
 165 improvement.

166 Section 3. For the purpose of incorporating the amendments
 167 made by this act to sections 193.155 and 193.1554, Florida
 168 Statutes, in references thereto, section 193.1557, Florida
 169 Statutes, is reenacted to read:

170 193.1557 Assessment of certain property damaged or
 171 destroyed by Hurricane Michael.—For property damaged or
 172 destroyed by Hurricane Michael in 2018, s. 193.155(4)(b), s.
 173 193.1554(6)(b), or s. 193.1555(6)(b) applies to changes,
 174 additions, or improvements commenced within 5 years after

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578-02663-21

20211186c1

175 January 1, 2019. This section applies to the 2019-2023 tax rolls
176 and shall stand repealed on December 31, 2023.

177 Section 4. This act shall take effect on the effective date
178 of the amendment to the State Constitution proposed by SJR 1182
179 or a similar joint resolution having substantially the same
180 specific intent and purpose, if such amendment to the State
181 Constitution is approved at the general election held in
182 November 2022 or at an earlier special election specifically
183 authorized by law for that purpose.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez ,Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 15, 2021

I respectfully request that **CS/SB # 1186**, relating to Property Assessments for Elevated Properties, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/14/21
Meeting Date

CS/SB 1186
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla.

Address 1828 Higgins Ave

Phone 850-219-0220

Street

Tallahassee FL 32308

City

State

Zip

Email llevy@levylawtax.com

Speaking: For Against Information

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

Representing Property Appraisers' Ass'n of Fla.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1246

INTRODUCER: Finance and Tax Committee and Senator Rodrigues

SUBJECT: Capital Investment Tax Credit

DATE: April 14, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

I. Summary:

CS/SB 1246 amends s. 220.191, F.S., to authorize certain qualifying travel agency or passenger car rental businesses to carry over 50 percent of their unused capital investment tax credits in their taxable year beginning in 2020 if the business's gross receipts between April 1 and December 31, 2020, were 50 percent lower than its receipts from the same period in 2019.

A business may transfer its tax credits to another taxpayer, use its tax credits against amounts payable for sales and use tax liability, or apply its unused tax credits against corporate income tax payments in taxable years beginning after January 1, 2021, and ending before December 31, 2025. The bill also authorizes the Department of Revenue (DOR) to adopt emergency rules.

The Revenue Estimating Conference determined the bill will reduce General Revenue Fund receipts by \$1.7 million and reduce local government receipts by \$600,000 in Fiscal Year 2021-2022.

The bill takes effect July 1, 2021, except for the DOR's emergency rulemaking authority, which takes effect upon the act becoming a law.

II. Present Situation:

Capital Investment Tax Credit

The Capital Investment Tax Credit (CITC) was established by the Legislature in 1998 to attract and grow capital-intensive industries in the state.¹ The CITC is currently comprised of two tax credits—one that is available for three categories of qualifying projects and that provides a credit

¹ Chapter 98-61, Laws of Fla.

against the state corporate income tax or insurance premium tax², and a second that is limited to certain headquarters facilities and that provides a credit against the corporate income tax.³ Both credits are granted to qualified businesses certified by the Department of Economic Opportunity (DEO).

Credit under s. 220.191(2), F.S.

The first credit under the CITC is available for three categories of qualifying projects:⁴

- A new or expanded Florida facility that is in a designated high-impact sector⁵ and that creates at least 100 new jobs in Florida (high-impact sector facilities).
- A new or expanded Florida facility that is in a qualified target industry⁶ and that creates or retains at least 1,000 jobs in Florida, provided that at least 100 of those jobs are new, pay an annual average wage of at least 130 percent of the average private sector wage in the area, and result in a cumulative capital investment of at least \$100 million (QTI facilities).
- A new or expanded Florida headquarters facility that is located in an enterprise zone and brownfield area; that creates at least 1,500 jobs, which on average pay at least 200 percent of the statewide average annual private sector wage; and that makes a cumulative capital investment in this state of at least \$250 million (headquarters facilities).

The annual credit amount is 5 percent of the eligible capital costs generated by the qualifying project for up to 20 years,⁷ beginning with the commencement of operations of the project.⁸ The credit is granted against state corporate income tax liability or premium tax liability generated by, or arising out of, the qualifying project. Annual limits for the tax credit apply, depending on the type of qualifying project:

- For a QTI facility, annual credits against the state corporate income tax may not exceed 50 percent of the increased annual corporate income tax liability or the premium tax liability generated by, or arising out of, the qualifying project.⁹
- For high-impact sector facilities and headquarters facilities, the annual credit limits depend on the amount of cumulative capital investment resulting from the qualifying project:
 - For a qualifying project resulting in a cumulative capital investment of at least \$100 million, the annual credit may not exceed 100 percent of the annual corporate

² Section 220.191(2), F.S.

³ Section 220.191(3), F.S.

⁴ Section 220.191(1)(g) and (2)(a), F.S.

⁵ The sectors currently designated as high impact are clean energy, life sciences, financial services, information technology, semi-conductors, transportation equipment manufacturing, advanced manufacturing, or a corporate headquarters facility. See Department of Economic Opportunity, *2020 Annual Incentives Report*, 53-54, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited April 8, 2021).

⁶ The current qualified target industries are aviation and aerospace; corporate headquarters; clean technology; defense and homeland security; financial and professional services; global logistics and trade; information technology; life sciences; manufacturing; and research and development. See Department of Economic Opportunity, *2020 Annual Incentives Report*, 12, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited April 8, 2021).

⁷ For qualified target industry facilities, the tax credit period is limited to 5 years. See s. 220.191(1)(g)2., F.S.

⁸ Section 220.191(2)(a), F.S. Eligible capital costs include all expenses incurred in the acquisition, construction, installation, and equipping of a project from the beginning of construction to the commencement of operations. They do not include the cost of any property previously owned or leased by the qualifying business.

⁹ Section 220.191(1)(g)2., F.S.

- income tax liability or premium tax liability generated by, or arising out of, the qualifying project.
- For a qualifying project resulting in a cumulative capital investment of at least \$50 million to under \$100 million, the annual credit may not exceed 75 percent of the annual corporate income tax liability or premium tax liability generated by, or arising out of, the qualifying project.
 - For a qualifying project resulting in a cumulative capital investment of at least \$25 million to under \$50 million, the annual credit may not exceed 50 percent of the annual corporate income tax liability or premium tax liability generated by, or arising out of, the qualifying project.

A qualifying project with less than a \$25 million cumulative capital investment is not eligible for the credit.

Generally, an unused credit may not be carried backward or forward to apply to tax liabilities in previous or subsequent years, respectively.¹⁰ However, a business with a qualifying project resulting in a cumulative capital investment of at least \$100 million may apply unused credits beginning with the 21st year after the commencement of the project's operations and ending the 30th year after the commencement of the project's operations.¹¹

The credit may not be assigned or transferred, except by a qualifying business establishing a qualifying project that includes locating a new solar panel manufacturing facility in Florida and that generates a minimum of 400 jobs within 6 months after commencement of operations, with an average salary of at least \$50,000. Such business may assign or transfer its annual credit or any portion thereof to any other business, subject to certain limitations and conditions.¹²

Credit under s. 220.191(3), F.S.

The second credit under the CITC is limited to qualifying businesses that establish a headquarters facility qualifying project. The annual credit amount is the lesser of \$15 million or 5 percent of the eligible capital costs made in connection with a qualifying project for up to 20 years, beginning with the commencement of the project.¹³ The credit is granted against the state corporate income tax liability of the qualifying business. The total tax credit is limited to 100 percent of the qualifying project's eligible capital costs.

Unused credits may be carried forward for up to 20 years after the commencement of the project's operations.¹⁴ The credit may be used by certain related entities of the qualifying business.¹⁵

¹⁰ Section 220.191(2)(a), F.S.

¹¹ Section 220.191(2)(d), F.S.

¹² Section 220.191(2)(c), F.S.

¹³ Section 220.191(3)(a), F.S.

¹⁴ Section 220.191(3)(b), F.S.

¹⁵ Section 220.191(3)(c), F.S.

Certification of Qualifying Businesses and Issuance of Tax Credits

The DEO must certify a business as eligible to receive either of the CITC tax credits before the commencement of operations of a qualifying project. If a business is certified, the DEO will enter into an agreement with the business that specifies the planned commencement date of operations and the total amount of credit the business can expect if the project proceeds as planned. Agreements are drafted so that a qualified business's annual credit amount begins on the date of commencement of operations, beginning the 20-year credit period. If for some reason operations do not commence on time, the 20-year window is not adjusted.¹⁶ Before receiving a tax credit each year, a qualifying business must achieve and maintain its minimum employment goals beginning with the commencement of operations of a qualifying project.¹⁷ Qualifying businesses must also affirmatively demonstrate to the DOR that they meet job creation and capital investment requirements.¹⁸

Economic Impact

According to the DEO, there were 61 active CITC awardees with 32 reporting performance as of Fiscal Year 2019-2020; the DEO confirmed 2,887 jobs created and over \$308 million in capital investment in said fiscal year.¹⁹ Over \$67 million in tax credits were approved to be claimed by qualified business in calendar year 2019.²⁰

Select State Taxes

The following describes select Florida taxes, which the CITC or the bill provides credits against.

Corporate Income Tax

Florida imposes a tax on the taxable income of certain corporations and financial institutions doing business in Florida.²¹ The current rate is 4.458 percent²² of a taxpayer's net income for its taxable year (the calendar or fiscal year or period upon which its net income is computed).²³

The calculation of Florida corporate income tax starts with a corporation's federal taxable income.²⁴ Taxable income earned by corporations operating in more than one state is taxed in Florida on an apportioned basis using a formula based 25 percent on property, 25 percent on payroll, and 50 percent on sales.²⁵ Income that is apportioned to Florida using this formula is

¹⁶ Florida Senate Committee on Finance and Tax, *Issue Brief 2012-2014: Review of the Capital Investment Tax Credit* (September 2011), available at <https://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-204ft.pdf> (last visited April 8, 2021). See also s. 220.191(5), F.S.

¹⁷ Section 220.191(4), F.S.

¹⁸ Section 220.191(7), F.S.

¹⁹ Department of Economic Opportunity, *2020 Annual Incentives Report*, 8, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited April 8, 2021).

²⁰ *Id.* at 49.

²¹ Chapter 220, F.S.

²² The tax rate was adjusted downward to 4.458 percent pursuant to s. 220.1105, F.S., for taxable years beginning on or after January 1, 2019. Pursuant to s. 220.1105(5), F.S., the rate is scheduled to return to 5.5 percent for taxable years beginning on or after January 1, 2022.

²³ Sections 220.11(2) and 220.63(2), F.S.

²⁴ Section 220.12, F.S.

²⁵ Section 220.15, F.S.

then subject to the Florida income tax. The first \$50,000 of net income is exempt, effective with taxable years beginning January 1, 2013.²⁶

Corporate income tax net collections in Fiscal Year 2019-2020 were \$1.7 billion.²⁷

Insurance Premium Tax

Florida imposes on insurers a tax on insurance premiums. For the tax imposed by s. 624.509(1), F.S., tax is due on:

- Insurance premiums;
- Premiums for title insurance;
- Assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements; and
- Annuity premiums or considerations.

The general tax rate is 1.75 percent of gross receipts on account of life and health insurance policies covering Florida residents and on account of all other types of policies and contracts covering property, subjects, or risks located, resident, or to be performed in Florida, minus reinsurance and return premiums.²⁸ Annuity policies or contracts held in Florida are taxed at 1 percent of gross receipts, and direct written premiums for bail bonds are taxed at 1.75 percent, excluding any amounts retained by licensed bail bond agents or appointed managing general agents.²⁹ The insurance premium tax is collected by the DOR and distributed to the General Revenue Fund.³⁰ Total insurance premium tax collections in Fiscal Year 2019-2020 were \$893.7 million.³¹

Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,³² transient rentals,³³ and a limited number of services, and a 5.5 percent sales and use tax on commercial real estate rentals.³⁴ Chapter 212, F.S., authorizes the levy and collection of the state sales tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances.³⁵ Florida requires a dealer to add the tax to the sales price

²⁶ Section 220.14, F.S.

²⁷ Revenue Estimating Conference, *General Revenue Consensus Estimating Conference Comparison Report* (December 21, 2020), 27, available at <http://www.edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 8, 2021).

²⁸ Section 624.509(1), F.S.

²⁹ *Id.*

³⁰ Section 624.509(3), F.S.

³¹ *Supra* note 27, at 34.

³² Section 212.04, F.S.

³³ Section 212.03, F.S.

³⁴ Section 212.031, F.S.

³⁵ Section 212.02(14)(a), F.S.

of the taxable good or service and collect it from the purchaser at the time of sale.³⁶ Total sales tax collections in Fiscal Year 2019-2020 were estimated at \$29.3 billion.³⁷

In addition to the state sales tax, county and municipal governments and school districts are authorized to levy certain local discretionary sales surtaxes (also referred to as local option sales taxes), subject to certain requirements and limitations.³⁸

III. Effect of Proposed Changes:

The bill authorizes a qualifying business to carry over unused credits under the CITC which were generated in its 2020 taxable year, if:

- The qualifying business operated a company within the standard classification codes of 4724 (travel agencies) or 7514 (passenger car rentals); and
- The qualifying business' total gross receipts between April 1, 2020, and December 31, 2020, were 50 percent less when compared to the same period in 2019.

Such qualifying business may use up to 50 percent of such unused tax credits in the tax year beginning January 1, 2021, by:

- Transferring its unused tax credits to another taxpayer subject to the state corporate income tax, as long as the business receiving the transferred credits uses the credits only in the year received;
- Using its unused tax credits against amounts payable to the DOR, either as consumer or dealer, for sales and use tax liability; or
- Applying its unused tax credits against corporate income tax payments for tax years beginning January 1, 2021, and ending December 31, 2025.

The bill authorizes the DOR to adopt emergency rules to administer the act. The authorization expires July 1, 2023.

The bill takes effect July 1, 2021, except for the DOR's emergency rulemaking authority, which takes effect upon the act becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the State Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of Art. VII, s. 18 of the State Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the

³⁶ See ss. 212.07(2) and 212.06(3)(a), F.S.

³⁷ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 159 (2020), available at <http://www.edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited April 8, 2021).

³⁸ See ss. 212.054 and 212.055, F.S.

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,³⁹ which is \$2.2 million or less for Fiscal Year 2021-2022.⁴⁰

The Revenue Estimating Conference determined that the bill will reduce local government receipts by \$600,000 in Fiscal Year 2021-2022 only.⁴¹ Therefore, the mandate provisions of Art. VII, s. 18 of the State Constitution may not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$1.7 million and reduce local government receipts by \$600,000 in Fiscal Year 2021-2022 only.⁴² The estimate assumes that the credit will be taken against sales tax liability.

³⁹ FLA. CONST. art. VII, s. 18(d).

⁴⁰ Neither the State Constitution nor the Florida Statutes define “insignificant fiscal impact” for purposes of s. 18(d), Art. VII of the State Constitution. Joint Senate and House guidelines define “insignificant” as an amount not greater than the average statewide population for the applicable fiscal year times \$0.10. *Senate President Margolis and Speaker of the House Wetherell, County and Municipality Mandates Analysis* (1991), cited at Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited April 8, 2021). The \$2.2 million figure is based on the Florida Demographic Estimating Conference’s Nov. 13, 2020, population forecast for 2021 of 21,893,919. The conference packet is available at <http://www.edr.state.fl.us/Content/conferences/population/archives/201113demographic.pdf> (last visited April 8, 2021).

⁴¹ Office of Economic and Demographic Research, The Florida Legislature, *Analysis of SB 1246/HB 863*, March 19, 2021, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page203-204.pdf (last visited April 8, 2021).

⁴² *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOR estimates that it will require a \$93,990 appropriation in Fiscal Year 2020-2021 to implement the bill.⁴³

VI. Technical Deficiencies:

On lines 25-26, “in the tax year beginning January 1, 2021” should read “in its taxable year beginning in 2021”.

VII. Related Issues:

On lines 36-37, “beginning after January 1, 2021, and ending before December 31, 2025” may exclude a taxpayer whose taxable year begins on January 1 from using the credit in its taxable years beginning in 2021 and 2025. If the intent is to include such years, the following change may be considered: “beginning on or after January 1, 2021, and ending on or before December 31, 2025.”

VIII. Statutes Affected:

This bill substantially amends section 220.191 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.)

CS by Finance and Tax on April 14, 2021:

The CS:

- Specifies that a business that is transferred unused tax credits by a qualifying business must use the credits only in the year received.
- Authorizes the DOR to adopt emergency rules.
- Makes technical and clarifying changes.

B. Amendments:

None.

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

⁴³ Florida Dep’t of Revenue, *Agency Analysis of Senate Bill 1246*, 6, March 3, 2021, (on file with the Senate Committee on Finance and Tax).



945154

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2021	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (9) is added to section 220.191,
Florida Statutes, to read:

220.191 Capital investment tax credit.—

(9) In addition to any methods authorized to carry forward
unused tax credits in this section and for taxable years
beginning in 2020 only, any qualifying business whose primary



945154

11 business activity is within the standard industrial
12 classification codes of 4724 or 7514 which ended the taxable
13 year beginning in 2020 with unused tax credits as otherwise
14 authorized under this section, and whose total gross receipts
15 between April 1, 2020, and December 31, 2020, were 50 percent
16 less when compared to the same period in 2019, may use up to 50
17 percent of the unused tax credits in the tax year beginning
18 January 1, 2021, by:

19 (a) Transferring its unused tax credits to another business
20 subject to the tax imposed under this chapter, as long as the
21 business receiving the transferred credits uses the credits only
22 in the year received;

23 (b) Using its unused tax credits against amounts payable to
24 the department, either as consumer or dealer, for sales or use
25 taxes imposed under chapter 212; or

26 (c) Applying its unused tax credits against its corporate
27 income tax payments for a single taxable year or a combination
28 of taxable years beginning after January 1, 2021, and ending
29 before December 31, 2025.

30 Section 2. (1) The Department of Revenue is authorized, and
31 all conditions are deemed met, to adopt emergency rules pursuant
32 to s. 120.54(4), Florida Statutes, for the purpose of
33 administering this act.

34 (2) Notwithstanding any other law, emergency rules adopted
35 pursuant to subsection (1) are effective for 6 months after
36 adoption and may be renewed during the pendency of procedures to
37 adopt permanent rules addressing the subject of the emergency
38 rules.

39 (3) This section shall take effect upon this act becoming a



945154

40 law and expires July 1, 2023.

41 Section 3. Except as otherwise expressly provided in this
42 act and except for this section, which shall take effect upon
43 this act becoming a law, this act shall take effect July 1,
44 2021.

45
46 ===== T I T L E A M E N D M E N T =====

47 And the title is amended as follows:

48 Delete everything before the enacting clause
49 and insert:

50 A bill to be entitled

51 An act relating to capital investment tax credit;
52 amending s. 220.191, F.S.; authorizing passenger car
53 rental companies and travel agencies that meet certain
54 criteria in a specified year to use unused tax credits
55 for certain purposes; authorizing the Department of
56 Revenue to adopt emergency rules; providing for
57 expiration of such authority; providing effective
58 dates.

By Senator Rodrigues

27-01848-21

20211246__

1 A bill to be entitled
 2 An act relating to capital investment tax credit;
 3 amending s. 220.191, F.S.; authorizing passenger car
 4 rental companies and travel agencies that meet certain
 5 criteria in a specified year to use unused tax credits
 6 for certain purposes; providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Subsection (9) is added to section 220.191,
 11 Florida Statutes, to read:
 12 220.191 Capital investment tax credit.—
 13 (9) In addition to any methods authorized to carry forward
 14 unused tax credits in this section and for the 2020 calendar
 15 year only, any qualifying business that operated a company
 16 within the standard industrial classification codes of 4724 or
 17 7514 which ended the year with unused tax credits as otherwise
 18 authorized under this section, and whose total gross receipts
 19 between April 1, 2020, and December 31, 2020, were 50 percent
 20 less when compared to the same period in 2019, may use up to 50
 21 percent of the unused tax credits in the tax year beginning
 22 January 1, 2021, by:
 23 (a) Transferring its unused tax credits to another taxpayer
 24 subject to the tax imposed under this chapter;
 25 (b) Using its unused tax credits against amounts payable to
 26 the department, either as consumer or dealer, for sales or use
 27 taxes imposed under chapter 212; or
 28 (c) Applying its unused tax credits against corporate
 29 income tax payments for tax years beginning January 1, 2021, and

Page 1 of 2

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

27-01848-21

20211246__

30 ending December 31, 2025.
 31 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR RAY WESLEY RODRIGUES

27th District

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Committee on Public Counsel Oversight

March 29, 2021

The Honorable Ana Maria Rodriguez
Senate Finance and Tax, Chair
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 1246 – Capital Investment Tax Credit

Dear Madame Chair:

Please allow this letter to serve as my respectful request to place SB 1246, relating to the Capital Investment Tax Credit, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Ray Rodriguez".

Ray Rodrigues
Senate District 27

Cc: Robert Babin, Staff Director
Stephanie Bell-Parke, Administrative Assistant

REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 110
Caption: Senate Finance and Tax Committee

Case No.:

Type:
Judge:

Started: 4/14/2021 9:00:20 AM
Ends: 4/14/2021 10:29:34 AM Length: 01:29:15

9:00:19 AM Meeting called to order by Chair Rodriguez
9:00:22 AM Roll call by CAA Stephanie Bell-Parke
9:00:34 AM Quorum present
9:00:38 AM Comments from Chair Rodriguez
9:00:46 AM Introduction of Tab 7, SJR 1182 by Chair Rodriguez
9:01:37 AM Explanation of SJR 1182, Limitation on the Assessment of Real Property/Residential Purposes by Senator Brandes
9:01:54 AM Comments from Chair Rodriguez
9:02:09 AM Senator Berman in debate
9:02:26 AM Senator Hooper in debate
9:03:01 AM Senator Brandes in closure
9:03:08 AM Roll call by CAA
9:03:14 AM SJR 1182 reported favorably
9:03:34 AM Introduction of Tab 8, CS/SB 1186 by Senator Rodriguez
9:03:47 AM Explanation of CS/SB 1186, Property Assessments for Elevated Properties by Senator Brandes
9:03:49 AM Comments from Chair Rodriguez
9:03:53 AM Introduction of Amendment barcode 476708 by Chair Rodriguez
9:03:58 AM Explanation of Amendment by Senator Brandes
9:04:13 AM Comments from Chair Rodriguez
9:04:28 AM Closure waived
9:04:34 AM Amendment adopted
9:04:37 AM Comments from Chair Rodriguez
9:04:54 AM Closure waived
9:05:00 AM Roll call by CAA
9:05:04 AM CS/CS/SB 1186 reported favorably
9:05:16 AM Introduction of Tab 2, SB 1444 by Chair Rodriguez
9:05:48 AM Explanation of SB 1444, Florida Small Manufacturing Business Recovery Action by Senator Wright
9:06:24 AM Introduction of Amendment Barcode 779020 by Chair Rodriguez
9:06:29 AM Explanation of Amendment by Senator Wright
9:07:07 AM Comments from Chair Rodriguez
9:07:20 AM Closure waived
9:07:27 AM Amendment adopted
9:07:32 AM Comments from Chair Rodriguez
9:07:40 AM Question from Senator Berman
9:07:43 AM Response from Senator Wright
9:08:26 AM Follow-up question from Senator Berman
9:08:33 AM Response from Senator Wright
9:08:56 AM Comments from Chair Rodriguez
9:09:18 AM Senator Berman in debate
9:10:02 AM Comments from Chair Rodriguez

9:10:04 AM Closure by Senator Wright
9:10:17 AM Roll call by CAA
9:10:24 AM CS/SB 1444 reported favorably
9:10:35 AM Introduction of Tab 4, SB 1358 by Chair Rodriguez
9:10:51 AM Explanation of SB 1358, Valuation of Timeshare Real Property by Senator Gruters
9:13:27 AM Comments from Chair Rodriguez
9:13:34 AM Question from Senator Jones
9:13:58 AM Response from Senator Gruters
9:15:38 AM Follow-up question from Senator Jones
9:15:44 AM Response from Senator Gruters
9:16:56 AM Follow-up question from Senator Jones
9:17:02 AM Response from Senator Gruters
9:17:55 AM Follow-up question from Senator Jones
9:18:01 AM Response from Senator Gruters
9:19:26 AM Comments from Chair Rodriguez
9:19:30 AM Speaker Loren Levy, Property Appraisers' Association of Florida in opposition
9:25:11 AM Comments from Chair Rodriguez
9:25:18 AM Senator Jones in debate
9:26:43 AM Senator Wright in debate
9:27:12 AM Senator Gruters in closure
9:27:37 AM Roll call by CAA
9:28:38 AM SB 1358 is reported unfavorable
9:29:02 AM Introduction of Tab 5, CS/SB 1390 by Chair Rodriguez
9:29:12 AM Explanation of CS/SB 1390, Capital Investment Tax Credit by Senator Gruters
9:30:35 AM Introduction of Late-filed Amendment Barcode 275582 by Senator Rodriguez
9:31:09 AM Explanation of Amendment by Senator Gruters
9:31:47 AM Comments from Chair Rodriguez
9:31:52 AM Question from Senator Cruz
9:31:57 AM Response from Senator Gruters
9:32:11 AM Question from Senator Hooper
9:32:15 AM Response from Senator Gruters
9:32:43 AM Follow-up question from Senator Hooper
9:32:49 AM Response from Senator Gruters
9:33:18 AM Comments from Chair Rodriguez
9:33:36 AM Senator Gruters in closure
9:33:43 AM Amendment adopted
9:34:07 AM Comments from Chair Rodriguez
9:34:14 AM Question from Senator Harrell
9:34:22 AM Response from Senator Gruters
9:34:40 AM Follow-up question from Senator Harrell
9:35:00 AM Response from Senator Gruters
9:35:10 AM Follow-up question from Senator Harrell
9:35:37 AM Response from Senator Gruters
9:35:58 AM Follow-up question from Senator Harrell
9:36:28 AM Response from Senator Gruters
9:36:47 AM Follow-up question from Senator Harrell
9:37:01 AM Response from Senator Gruters
9:37:33 AM Question from Senator Jones
9:37:37 AM Response from Senator Gruters
9:38:10 AM Follow-up question from Senator Jones
9:39:06 AM Response from Senator Gruters
9:39:26 AM Follow-up question from Senator Jones

9:40:02 AM Response from Senator Gruters
9:40:56 AM Comments from Chair
9:41:08 AM Angela Dempsey, Entertainment Software Association waives in support
9:41:17 AM Will McKinley, Motion Picture Association waives in support
9:41:31 AM Comments from Chair Rodriguez
9:41:36 AM Senator Harrell in debate
9:42:53 AM Comments from Chair Rodriguez
9:42:56 AM Senator Gruters in closure
9:43:14 AM Roll call by CAA
9:43:52 AM CS/CS/SB 1390 reported favorably
9:44:04 AM Introduction of Tab 6, CS/SB 1584 by Chair Rodriguez
9:44:18 AM Explanation of CS/SB 1584, Taxation of Real Property Platform Transaction by Senator Gruters
9:45:11 AM Introduction of Amendment Barcode 210520 by Chair Rodriguez
9:45:13 AM Explanation of Amendment by Senator Gruters
9:45:21 AM Comments from Chair Rodriguez
9:45:26 AM Question from Senator Jones
9:45:29 AM Response from Senator Gruters
9:46:14 AM Question from Senator Hooper
9:46:19 AM Response from Senator Gruters
9:47:02 AM Comments from Chair
9:47:07 AM French Brown, Florida Realtors waives in support
9:47:14 AM Comments from Chair Rodriguez
9:47:26 AM Senator Gruters in closure
9:47:39 AM Amendment adopted
9:47:48 AM Comments from Chair Rodriguez
9:48:19 AM Speaker Ryan Patmintra, Zillow in support
9:48:23 AM Comments from Chair Rodriguez
9:48:29 AM Senator Gruters in closure
9:48:35 AM Roll call by CAA
9:48:42 AM CS/CS/SB1584 reported favorably
9:48:57 AM Introduction of Tab 9, SB 1246 by Chair Rodriguez
9:49:08 AM Explanation of SB 1246, Capital Investment Tax Credit by Senator Rodrigues
9:50:45 AM Comments from Chair Rodriguez
9:50:50 AM Introduction of Amendment Barcode 945154 by Chair Rodriguez
9:50:58 AM Explanation of Amendment by Senator Rodrigues
9:51:47 AM Comments from Chair Rodriguez
9:52:07 AM Closure waived
9:52:10 AM Amendment adopted
9:52:13 AM Comments from Chair Rodriguez
9:52:20 AM Question from Senator Berman
9:52:24 AM Response from Senator Rodrigues
9:53:01 AM Comments from Chair Rodriguez
9:53:17 AM Closure waived
9:53:19 AM Roll call by CAA
9:53:24 AM CS/SB 1246 reported favorably
9:53:45 AM Introduction of Tab 3, SPB 7082 by Chair Rodriguez
9:54:04 AM Explanation of SPB 7082, Corporate Income Tax by Staff Director Robert Babin
10:05:32 AM Comments from Chair Rodriguez
10:05:38 AM Question from Senator Cruz
10:05:45 AM Response from Mr. Babin
10:06:02 AM Follow-up question from Senator Cruz

10:06:54 AM Response from Mr. Babin
10:07:54 AM Follow-up question from Senator Cruz
10:08:42 AM Response from Mr. Babin
10:10:24 AM Comments from Chair Rodriguez
10:10:30 AM Speaker Karen Woodall, Florida Center for Fiscal & Economic Policy in opposition
10:13:57 AM Comments from Chair Rodriguez
10:14:05 AM Speaker Ida Eskamini, FL Rising in opposition
10:16:36 AM Speaker French Brown, Florida Retail Federation for information
10:19:51 AM Comments from Chair Rodriguez
10:20:03 AM Senator Berman in debate
10:20:19 AM Senator Jones in debate
10:22:40 AM Senator Hooper moves that SPB 7082 be reported as a Committee Bill
10:22:54 AM Roll call by CAA
10:22:58 AM SPB 7082 reported favorably as a Committee Bill
10:23:15 AM Chair passed to Vice Chair Cruz
10:23:29 AM Introduction of Tab 1, CS/SB 1330 by Chair Cruz
10:23:48 AM Explanation of CS/SB 1330, Ad Valorem tax Exemption for Nonprofit Homes for the Aged by Senator Rodriguez
10:24:51 AM Comments from Chair Cruz
10:25:23 AM Speaker Jeffrey Sharkey, Berkely Housing Initiative - Non Profit in support
10:27:16 AM Comments from Chair Cruz
10:28:16 AM Senator Rodriguez in closure
10:28:21 AM Roll call by CAA
10:28:33 AM CS/SB 1330 reported favorably
10:28:52 AM Chair returned to Senator Rodriguez
10:29:03 AM Comments from Chair Rodriguez
10:29:11 AM Senator Jones moves to adjourn
10:29:24 AM Meeting adjourned