

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 621 Tax Collectors and Their Approved Agents
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, Williamson
TIED BILLS: **IDEN./SIM. BILLS:** SB 342

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N, As CS	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

County tax collectors serve as the Department of Highway Safety and Motor Vehicles' (DHSMV) authorized agents for motor vehicle, mobile home, and vessel titles and registrations. Some counties have contracted with privately-owned license plate agents (LPAs) to perform title and registration services. Additionally, tax collectors and their LPAs have access to DHSMV's Florida Real Time Vehicle Information System (FRVIS).

The bill requires that each LPA protect customer privacy and data collection. The bill requires each tax collector and his or her approved LPAs to enter into a memorandum of understanding (MOU) with DHSMV regarding the use of FRVIS.

The bill provides that if a tax collector elects to exercise his or her authority to contract with a private LPA to provide motor vehicle, mobile home, or vessel title and registration services, the tax collector may determine additional service charges to be collected by the LPA. The additional service charges must be fully itemized and disclosed to the person paying the service charge. The LPA must enter into a contract with the tax collector regarding the disclosure of additional service charges.

The bill has an indeterminate fiscal impact on state and local government. See Fiscal Analysis section for details.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

License Plate Agencies and Fees

Under chs. 320 and 328, F.S. county tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMVs) authorized agents and may title and register motor vehicles, motor homes, and vessels.¹ When processing these transactions, tax collectors charge and collect fees specified in state law,² which are remitted to the state. However, chs. 319, 320, and 328, F.S., also require tax collectors to retain certain statutorily prescribed service fees and charges.³

Currently 65 counties have elected tax collectors who are constitutional officers. Currently, Broward and Miami-Dade Counties have appointed tax collectors under each county's charter government. However, pursuant to s. 1(d), Art. VIII of the State Constitution, these counties will have elected tax collectors effective January 7, 2025.⁴

Sixteen counties have, or until recently had, contracts with privately owned license plate agents (LPAs) to operate 57 offices to perform title and registration services for motor vehicles, mobile homes, and vessels. In counties with elected tax collectors, LPAs only charge the fees for those services as expressly authorized in statute. In these counties, the LPAs may retain all or a portion of the statutorily authorized service fee that tax collectors are allowed to collect for motor vehicle, mobile home, and vessel title and registration services, as provided in the contracts between the LPA and the tax collector.⁵ The LPAs in Broward and Miami-Dade Counties charge⁶ fees for motor vehicle, mobile home, and vessel title and registration fees *in addition* to the statutory fees authorized in chs. 319, 320, and 328, F.S. The additional fees levied in Broward and Miami-Dade Counties are levied pursuant to county ordinance and are retained by the LPAs.⁷

County tax collectors, as DHSMV's authorized agents, must issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants, and provide to applicants for each the option to register emergency contact information and the option to be contacted with information about state and federal benefits available as a result of military service, in accordance with DHSMV's rules.⁸

Florida Real Time Vehicle Information System (FRVIS)

The Florida Real Time Vehicle Information System (FRVIS) is a database application used to title and register all motor vehicles, mobile homes, and vessels in Florida. The database provides real-time access to information on every motor vehicle, mobile home, and vessel registered in Florida, including residential and electronic mailing addresses.⁹

Section 320.03(4)(b), F.S., requires that FRVIS be installed in every tax collector's and LPA's office according to a schedule established by DHSMV in consultation with the tax collectors and contingent upon the state providing funds for the system. FRVIS is administered by DHSMV in consultation with

¹ County tax collectors are expressly made agents of the state with respect to motor vehicle registration in s. 320.03(1), F.S., and with respect to vessel registration in s. 328.73(1), F.S.

² See s. 319.32, F.S., for motor vehicle title fees, s. 320.03, for motor vehicle registration fees, s. 320.04, F.S., as to motor vehicle service charges, and s. 328.72, F.S., as to vessel registration fees.

³ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 621, p 2. (February 4, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ Formerly the LPAs in Volusia County charged fees. An elected county tax collector took office on January 5, 2021, and the LPA offices closed by February 4, 2021. *Id.*

⁷ *Id.*

⁸ Section 320.03(1), F.S.

⁹ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 621, p 3. (February 4, 2021).

the Florida Tax Collectors, Inc., to ensure that each county tax collector's office is able to operate FRVIS. Only DHSMV, tax collectors, and LPAs have access to FRVIS. Access to FRVIS is governed by memoranda of understanding (MOUs) between DHSMV and each county tax collector. If a tax collector has contracted with an LPA, an additional MOU between DHSMV, the tax collector and the LPA is created.¹⁰

A fee of 50 cents is charged on each motor vehicle, mobile home, and vehicle registration to cover the cost of FRVIS.¹¹ These fees are deposited into the Highway Safety Operating Trust Fund to be used exclusively to fund FRVIS.¹²

Effect of the Bill

The bill amends s. 320.03, F.S., to require county tax collectors and their approved license tax agents to enter into an MOU with DHSMV regarding the use of FRVIS. This codifies existing practice.

The bill also amends ss. 319.32(2), 320.04(3), and 328.72(7), F.S., to provide that if a tax collector elects to exercise his or her authority to contract with an LPA, the tax collector may determine the additional service charges to be collected by the privately-owned LPAs approved by the tax collector for motor vehicle, mobile home and vessel title and registration services. The additional service charges must be fully itemized and disclosed to the person paying service charges to the license plate agent. The LPA is also required to enter into a contract with the tax collector regarding the disclosure of additional service changes.

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 319.32, F.S., relating to fees; service charge; disposition.

Section 2 Amends s. 320.03, F.S., relating to the registration duties of tax collectors.

Section 3 Amends s. 320.04, F.S., relating to the registration service charge.

Section 4 Amends s. 328.72, F.S., relating to classification, registration, fees and charges; disposition of fees; fines; marine turtle stickers.

Section 5 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. If the bill leads to more tax collectors using LPAs or additional LPA offices being established, DHSMV's recurring costs for replacing equipment in tax collectors' and LPAs' office may increase. This could potentially impact the ability of the Highway Safety Trust Fund to pay all of the costs for FRVIS and other trust fund purposes.¹³

¹⁰ *Id.* at 3-4. (January 14, 2021).

¹¹ *See* ss. 320.03(5) and 328.73(3), F.S.

¹² Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 621, pp. 3-4. (February 4, 2021).

¹³ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 HB 621 342, p. 5. (January 14, 2021).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. To the extent that a tax collector performs a smaller share of title and registration work in his or her county and an LPA performs a greater share, the tax collector may retain a larger share of the statutorily authorized fees for such work, if those fees are not shared with the LPA.¹⁴

2. Expenditures:

Indeterminate. To the extent that a county tax collector performs less title and registration work in his or her county and an LPA performs a greater share, the tax collector's expenditures for performing such work may decrease.¹⁵

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. County tax collectors will determine the additional service charges that must be collected from LPAs. Use of an LPA is optional to the consumer.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Fees

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. Art. VII, s. 19 of the Florida Constitution may apply if the provisions of the bill that authorize county tax collectors to establish additional service charges for LPAs are determined to authorize a new state fee.

While a county tax collector's office is not a state agency, in its role as DHSMV's authorized agent it is considered a "state agency" when acting pursuant to s. 320.03, F.S., providing motor vehicle and mobile home services.¹⁶ Additionally, a 1974 Attorney General Opinion concluded that tax collectors are under DHSMV's direction and control when providing motor vehicle and mobile home registrations and issuing driver licenses.¹⁷ Therefore, any fee that a tax collector authorizes an LPA to charge may be a state fee since they relate to a tax collector's duties pursuant to chs. 319, 320, and 328, F.S.¹⁸ However, the use of an LPA for title and registration services is optional to a consumer.

B. RULE-MAKING AUTHORITY:

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *See Dealer Tag Agency, Inc. v. First Hillsborough Auto Tag Agency, Inc.*, 14 So. 3d. 1238, 1240 (Fla 2d DCA 2009).

¹⁷ FL AGO 74-101 (Apr. 1, 1974).

¹⁸ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 SB 342, p. 6-7. (January 14, 2021).

The bill does not provide a grant of rulemaking, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

According to DHSMV, the bill does not address Off-Highway Vehicle titles, since those types of vehicle are not included in the definition of the term “motor vehicle” in ch. 322, F.S. The definition of “off-highway vehicles” and their associated fees are in ch. 317, F.S., DHSMV recommends similar provisions to the tax collector fee provision be added to the bill for off-highway vehicles.¹⁹

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 9, 2021, the Transportation, Infrastructure & Energy Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute.

- Clarifies that provisions authorizing a tax collector to contract with license plate agents are permissive.
- Provides that the tax collector may determine the additional service charges collected by license plate agents.
- Reorganizes the bill’s provisions to place them in statutory order.

This analysis is drafted to the committee substitute as approved by the Transportation, Infrastructure & Energy subcommittee.

¹⁹ *Id.*