

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7061 PCB WMC 21-01 Taxation

SPONSOR(S): Ways & Means Committee, Payne

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-------------------------------------|-----------|---------|------------------------------------------|
| Orig. Comm.: Ways & Means Committee | 15 Y, 1 N | Berg | Aldridge |

SUMMARY ANALYSIS

The proposed committee bill provides for several sales tax holidays and other tax-related modifications designed to directly impact both families and businesses.

For sales tax, the bill includes:

- Changes to ch. 212, F.S., that will allow businesses to pay sales tax on behalf of their customers in certain circumstances, and allows the businesses to advertise this ability;
- A 5-year extension of the deadline for a new data center to apply for an existing tax exemption;
- A permanent sales tax exemption for items used in independent living;
- A seven-day “back-to-school” tax holiday in early August for certain clothing, school supplies, and personal computers;
- A seven-day “disaster preparedness” tax holiday in late May and early June for specified disaster preparedness items; and
- A seven-day “recreation” tax holiday the first week of July for specified admissions and supplies used to enjoy the entertainment options and natural beauty Florida has to offer.

For property taxes, the bill:

- Increases a property tax discount from 50 percent to 100 percent for certain multifamily projects that provide affordable housing to low-income families;
- Clarifies the application of an exemption from ad valorem taxation for portions of property used for charitable, religious, scientific, or literary purposes;
- Requires the tax collector to accept late payments on the first installment of prepaid property taxes; and removes the late payment penalty.
- Exempts structures and equipment used in the production of aquaculture products from separate ad valorem assessment.

For tourist development and convention development taxes, the bill:

- Provides that each of the tourist development and convention development taxes can be used for flood mitigation projects at the discretion of local government; and
- Requires that all new or increased tourist development and convention development taxes must be approved by voters at a referendum.

For corporate income tax and other taxes, the bill:

- Creates the Strong Families Tax Credit Program, capped at \$5 million total annually, for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being.

The bill also makes a number of updates related to tax administration, provides that certain modifications to documents to update an interest rate are not subject to the documentary stamp tax, and repeals the Sports Development Program.

The total state and local government impact of the bill in fiscal year 2021-22 is

- -\$100.1 million (-\$50.0 million recurring). See Fiscal Comments section on pages 33-34 for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7061.WMC

DATE: 4/18/2021

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,¹ unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (79.0 percent for FY 2019-20)² and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Sales Tax Absorption

Current Situation

Generally, sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.³ Section 212.07(4), F.S., prohibits dealers from advertising, directly or indirectly, that they will absorb, pay, or refund the purchaser all or any part of the sales tax due with the sale of their property or services. A person who violates this provision, whether by advertising or refunding, is guilty of a misdemeanor of the second degree.⁴ A subsequent offense constitutes a misdemeanor of the first degree.⁵

Several states, including Arizona,⁶ California,⁷ Kentucky,⁸ and have similar laws that prohibit dealers from absorbing or refunding taxes to a purchaser.⁹ However, a growing number of states permit tax absorption, including Wisconsin,¹⁰ Pennsylvania,¹¹ and Georgia.¹²

¹ The Legislature reduced the sales tax rate on commercial rentals to 5.5% effective January 1, 2020. See s. 5, ch. 2019-42, L.O.F.

² Sources of General Revenue, p. 16 of the 2020 Florida Tax Handbook (2020), available on the Office of Economic and Demographic Research website at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited March 24, 2021).

³ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://floridarevenue.com/taxes/taxesfees/Pages/sales_tax.aspx (last visited April 5, 2021).

⁴ Section 775.082(4)(b), F.S., "For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days" and s. 775.083(1)(c), F.S., "\$500, when the conviction is of a misdemeanor of the second degree..."

⁵ Section 775.082(4)(a), F.S., "For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year" and s. 775.083(1)(d), F.S., "\$1,000, when the conviction is of a misdemeanor of the first degree."

⁶ AZ Rev. Stat. § 42-5165, available at

<https://www.azleg.gov/viewdocument/?docName=http%3A%2F%2Fwww.azleg.gov%2Fars%2F42%2F05165.htm> (last visited April 5, 2021).

⁷ CA Rev. & Tax Code § 6205 (2021), available at <https://www.cdtfa.ca.gov/lawguides/vol1/sutl/6205.html> (last visited April 5, 2021).

⁸ KY Rev. Stat. § 139.220 (2011), available at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47346#:~:text=139.220> (last visited April 5, 2021).

⁹ Gail Cole, *Absorbing Sales Tax* (Jul. 22, 2019), <https://www.avalara.com/us/en/blog/2015/11/absorbing-sales-tax-wacky-tax-wednesday.html> (last visited February 13, 2020).

¹⁰ WI Dep't. of Revenue, *Sales and Use Tax Report* at 2 (Jul. 2011), available at <https://www.revenue.wi.gov/SalesUseTaxReport/11-2.pdf> (last visited April 5, 2021).

¹¹ PA Act 2019-13 § 7 (eff. Jul. 1, 2019). See also, Pa. Dep't. of Revenue, *State Tax Summary* (Jul. 2019), available at https://www.revenue.pa.gov/GeneralTaxInformation/TaxLawPoliciesBulletinsNotices/TaxSummaries/Documents/2019_tax_summary.pdf (last visited April 5, 2021).

¹² GA Code. §48-8-36 (2015), available at <https://law.justia.com/codes/georgia/2015/title-48/chapter-8/article-1/part-2/section-48-8-36/> (last visited April 5, 2021).

Businesses cite various reasons for seeking to absorb sales tax, ranging from quickly moving customers through their lines¹³ to preventing confusion during state sales tax holidays when certain items are exempt from sales tax but others are not.¹⁴

Proposed Changes

The bill amends s. 212.07(4), F.S., to allow a dealer to advertise that the dealer will pay all or any part of the applicable sales tax on behalf of the purchaser, or refund the sales tax for the purchaser, subject to the following conditions:

- First, the dealer must expressly state on any charge ticket, sales slip, invoice, or other tangible evidence of sale provided to the purchaser that the dealer will pay the tax imposed in ch. 212, F.S. The dealer must not imply or state that the sale is exempt from taxes imposed in ch. 212, F.S.; and
- Second, the dealer must provide the amount of tax that was due on the charge ticket, sales slip, invoice, or other tangible evidence of sale given to the purchaser.

If a dealer violates this provision, they are guilty of a misdemeanor of the second degree. A subsequent offense constitutes a misdemeanor of the first degree.

The bill also amends s. 212.15, F.S., to expand the criminal offense of failure to remit collected taxes to the DOR to include taxes absorbed by the dealer. Depending on the amount of revenue stolen, and whether the dealer has prior offenses, he or she is subject to penalties ranging from a second-degree misdemeanor to a first-degree felony.¹⁵

Data Centers

Current Situation

A data center provides a central location for a business to house all of the necessary computer hardware—servers, server racks, cables and other infrastructure, and cooling components—and computer software required to, “organize, process, store and disseminate large amounts of data.”¹⁶ Currently, more than 100 data centers and colocation data centers are located in Florida. The majority of data centers located in Florida are in South Florida, Orlando, Tampa, and Jacksonville.¹⁷

In 2017, the legislature adopted a provision that exempts from the sales and use tax data center property purchased, rented, or leased by a data center’s owners and tenants when used to construct, maintain, and operate computer server equipment at a data center.¹⁸ The data center’s owners and tenants must make a cumulative capital investment of \$150 million and the data center must have at least 15 megawatts of total power capacity and at least 1 megawatt of power capacity dedicated to each individual owner and tenant of the data center. Additionally, a datacenter must meet the requisite investment requirements no later than June 30, 2022, must submit to subsequent periodic review by DOR to assure continued qualification, and is subject to revenue clawback provisions if it utilizes the tax

¹³ *MJR Group, LLC v. Mich. Dep’t. of Treasury*, No. 329119, 2016 WL 7611479 (Mich. Ct. App. Dec. 29, 2016), available at <https://law.justia.com/cases/michigan/court-of-appeals-unpublished/2016/329119.html> (last visited April 5, 2021).

¹⁴ Slim Smith, *Statewide ‘Sales Tax Holiday’ set for July 31-Aug. 1* (Jul. 22, 2015), <https://www.washingtontimes.com/news/2015/jul/22/statewide-sales-tax-holiday-set-for-july-31-aug-1/> (last visited April 5, 2021).

¹⁵ If a dealer fails to remit absorbed taxes totaling less than \$300, the offense is a misdemeanor in the second degree. If the total amount of stolen revenue is \$300 or more but less than \$20,000, the offense is a felony of the third degree. If the total amount of stolen revenue is \$20,000 or greater but less than \$100,000, the offense is a felony of the second degree. If the amount of stolen revenue is \$100,000 or greater, the offense is a felony of the first degree.

¹⁶ TechTarget, *Definition, data center*, <http://searchdatacenter.techtarget.com/definition/data-center> (last visited April 11, 2021).

¹⁷ *Florida Data Centers*, <https://www.datacenters.com/united-states/florida> (last visited April 11, 2021).

¹⁸ Section 26, ch. 2017-36 (HB 7109).

exemption and is not qualified. As of April 2, 2021, no data centers have yet applied for or received this exemption.¹⁹

Proposed Changes

The bill extends the deadline for a company to meet the initial requisite investment requirements from June 30, 2022, to June 30, 2027.

Independent Living

Current Situation

The term “independent living” is not defined in Florida Statutes. “Independent living” may refer to a living arrangement for people with disabilities who need supportive services.²⁰ It may also refer to a living arrangement for elderly persons with the physical and mental capacity to live independently but who wants companionship or otherwise needs supportive services.²¹

Independent living communities are communities in which healthy individuals may live on their own without daily assistance.²² Currently, there are over 400 independent living communities in Florida,²³ many of which offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.²⁴

Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.²⁵ A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202.”²⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered.²⁷

Proposed Changes

The bill amends s. 212.08, F.S., to exempt from the sales and use tax the following items when purchased for noncommercial home or personal use:

- Bed transfer handles selling for \$60 or less;
- Bed rails selling for \$110 or less;
- Grab bars selling for \$100 or less; and
- Shower seats selling for \$100 or less.

The exemption does not apply to purchases made by a business, including, but not limited to, a medical institution or an assisted living facility.

¹⁹ When adopting an impact for this proposed change, the Revenue Estimating Conference was informed by the Department of Revenue that no taxpayer has applied for or received this exemption. Impact available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page354-359.pdf (last visited April 11, 2021).

²⁰ The Disability Achievement Center, *What is Independent Living?* available at <http://www.disabilityachievementcenter.org/about-us-2/about-centers-for-independent-living/> (last visited March 19, 2021).

²¹ aPlaceforMom, *Independent Living in Florida*, available at <https://www.aplaceformom.com/independent-living/florida> (last visited March 19, 2021).

²² *Id.*

²³ *Id.*

²⁴ SeniorLiving.org, *Selecting an Independent Living Community*, February 25, 2021, available at <https://www.seniorliving.org/independent-living/> (last visited March 19, 2021).

²⁵ Section 212.055, F.S.

²⁶ Section 212.054(2)(a), F.S.

²⁷ The Handbook at p. 225.

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted more than two dozen temporary periods (commonly called “sales tax holidays”) during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday nineteen times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. The following table describes the history of back-to-school sales tax holidays in Florida.

| Dates | Length | TAX EXEMPTION THRESHOLDS | | | | |
|------------------------|---------|--------------------------|------------------|--------------|----------------------------------|--------------------|
| | | Clothing/ Footwear | Wallets/ Bags | Books | Computers | School Supplies |
| August 15-21, 1998 | 7 days | \$50 or less | N/A | N/A | N/A | N/A |
| July 31-August 8, 1999 | 9 days | \$100 or less | \$100 or less | N/A | N/A | N/A |
| July 29-August 6, 2000 | 9 days | \$100 or less | \$100 or less | N/A | N/A | N/A |
| July 28-August 5, 2001 | 9 days | \$50 or less | \$50 or less | N/A | N/A | \$10 or less |
| July 24-August 1, 2004 | 9 days | \$50 or less | \$50 or less | \$50 or less | N/A | \$10 or less |
| July 23-31, 2005 | 9 days | \$50 or less | \$50 or less | \$50 or less | N/A | \$10 or less |
| July 22-30, 2006 | 9 days | \$50 or less | \$50 or less | \$50 or less | N/A | \$10 or less |
| August 4-13, 2007 | 10 days | \$50 or less | \$50 or less | \$50 or less | N/A | \$10 or less |
| August 13-15, 2010 | 3 days | \$50 or less | \$50 or less | \$50 or less | N/A | \$10 or less |
| August 12-14, 2011 | 3 days | \$75 or less | \$75 or less | N/A | N/A | \$15 or less |
| August 3-5, 2012 | 3 days | \$75 or less | \$75 or less | N/A | N/A | \$15 or less |
| August 2-4, 2013 | 3 days | \$75 or less | \$75 or less | N/A | \$750 or less | \$15 or less |
| August 1-3, 2014 | 3 days | \$100 or less | \$100 or less | N/A | First \$750 of the sales price | \$15 or less |
| August 7-16, 2015 | 10 days | \$100 or less | \$100 or less | N/A | First \$750 of the sales price | \$15 or less |
| August 5-7, 2016 | 3 days | \$60 or less | \$60 or less | N/A | N/A | \$15 or less |
| August 4-6, 2017 | 3 days | \$60 or less | \$60 or less | N/A | \$750 or less | \$15 or less |
| August 3-5, 2018 | 3 days | \$60 or less | \$60 or less | N/A | N/A | \$15 or less |
| August 2-6, 2019 | 5 days | \$60 or less | \$60 or less | N/A | \$1,000 or less | \$15 or less |
| August 7-9, 2020 | 3 days | \$60 or less | \$60 or less | N/A | First \$1,000 of the sales price | \$15 or less |

For the 2019-20 school year, 66 districts (98 percent) had opening days during the second week of August (Aug. 12-16, 2019). The remaining county had its opening day on August 19, 2019. For the 2020-2021 school year, the first day of school changed in many counties as a result of the Covid-19 pandemic, and there was not a consistent opening day. All 67 counties did begin their 2020-2021 school year in August.

Hurricanes and Disasters in Florida--The Florida Office of Insurance Regulation estimated insured losses of over \$9.1 billion due to Hurricane Michael in 2018,²⁸ \$20.7 billion due to Hurricane Irma in 2017,²⁹ \$1 billion due to hurricanes Hermine and Mathew in 2016,³⁰ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four hurricanes in 2005.³¹ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.³² The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.³³

Recreation in Florida--According to the Florida Fish and Wildlife Conservation Commission, recreational fishing, hunting and wildlife-viewing in Florida generate an economic impact of \$10.1 billion annually.³⁴ Florida leads all states in economic impacts for its marine recreational fisheries,³⁵ and there are over two million Florida residents who are angler fisherman.³⁶ In addition, more than 29 million visitors used Florida's state parks and trails for swimming, nature watching, kayaking, and other outdoor activities in 2019,³⁷ and the Florida Fish and Wildlife Commission estimates that wildlife viewing alone contributes almost \$5 billion to the state's economy.³⁸

In addition, admissions to live events is a critical part of Florida's economy. For example, sports Florida's sports industry represents an estimated \$57.4 billion per year in economic impact to the state, representing 10 major professional sports franchises in five major sports leagues, as well as significant additional amateur, semi-professional, and recreational sports programs.³⁹ Live music is a significant part of Florida's economy as well – three of the top 100 arenas in the world are located in Florida, and their gross ticket sales alone for 2020 were estimated to be more than \$111m, not including related economic impact from hotels, food and beverage, and merchandise sales.⁴⁰ The pandemic hit live music and sporting events particularly hard – representative music companies saw earnings drop 95% in 2020,⁴¹ 90% of independent music venue owners believed they would go out of business by the end

²⁸ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited March 24, 2021).

²⁹ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited March 24, 2021).

³⁰ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> (last visited March 24, 2021).

³¹ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited March 24, 2021).

³² Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.floir.com/siteDocuments/HurricaneSummary2008.pdf> (last visited March 24, 2021).

³³ Florida Division of Emergency Management, *Disaster Supply Kit Checklist*, <https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/> (last visited March 24, 2021).

³⁴ Florida Fish and Wildlife Conservation Commission (FWC), *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation> (last visited April 3, 2021).

³⁵ Florida Fish and Wildlife Conservation Commission (FWC), *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation> (last visited April 3, 2021).

³⁶ FWC, *Overview – Fast Facts*, available at: <http://myfwc.com/about/overview> (last visited April 3, 2021).

³⁷ Florida State Parks Foundation, *Why Florida State Parks and Trails are Important to Florida's Economic Health*, available at: <https://www.floridastateparksfoundation.org/Impact> (last visited April 3, 2021).

³⁸ FWC, *Economics*, available at <https://myfwc.com/about/overview/economics/> (last visited April 3, 2021).

³⁹ Florida Sports Foundation, *Florida Sports Fast Facts*, available at https://playinflorida.com/wp-content/uploads/2019/06/01_01_2020-FastFacts-Sports-in-progress-temp-1.pdf (last visited April 10, 2021).

⁴⁰ *Worldwide Ticket Sales from Top One Hundred Arenas*, available at https://www.pollstar.com/Chart/2020/04/Q1Top100Arenas_822.pdf (last visited April 11, 2021).

⁴¹ "The Concert Business vs. COVID-19: The Road to a 2021 Recovery" (February 20, 2021) available at <https://edm.com/industry/concert-business-vs-covid-19> (last visited April 12, 2021).

of 2020 without significant financial intervention by the government,⁴² and most sports – if played in 2020 or early 2021 at all – were played in front of limited or no audience.⁴³

Proposed Changes

The bill establishes a temporary back-to-school sales tax holiday in early August 2021, a temporary disaster preparedness sales tax holiday in late May and early June 2021, and a temporary outdoor recreation sales tax holiday in early July 2021.

Back-to-School Holiday--A seven-day sales tax holiday would be authorized from August 6, 2021, through August 12, 2021. During the holiday, the following items that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

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

Additionally exempted would be personal computers and related accessories purchased for noncommercial home or personal use with a sales price of less than \$1,000. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

The “back to school” sales tax holiday would be allowed to apply at the option of the dealer if less than five percent of the dealer’s gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2021, the dealer must notify the DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

Disaster Preparedness Sales Tax Holiday-- The bill provides for a seven-day sales tax holiday from May 28, 2021, through June 3, 2021 for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less; and
- Reusable ice selling for \$10 or less.

⁴² “America’s Independent Music Venues Could Close Soon Due To Coronavirus” (June 9, 2020) available at <https://www.npr.org/sections/coronavirus-live-updates/2020/06/09/873196748/americas-independent-music-venues-could-close-soon-due-to-coronavirus> (last visited April 12, 2021).

⁴³ The Future of Sports: How the Roles of Athletes, Fans and Industry Businesses will Change after COVID-19 (October 2, 2020) available at <https://www.uschamber.com/on-demand/coronavirus-pandemic/the-future-of-sports-how-the-roles-of-athletes-fans-and-industry-businesses-will-change-after-covid-19> (last visited April 12, 2021).

Freedom Week Sales Tax Holiday-- The bill provides for a seven-day sales tax holiday from July 1, 2021 through July 7, 2021, for specified admissions and items related to recreational activities. During the holiday, the following admissions, if purchased during this week, are exempt from the state sales tax and county discretionary sales surtaxes⁴⁴:

- A live music event scheduled to be held July 1, 2021 through December 31, 2021;
- A live sporting event scheduled to be held July 1, 2021 through December 31, 2021;
- A movie shown in a movie theater between July 1, 2021 and December 31, 2021;
- Use of or access to state parks between July 1, 2021, and December 31, 2021; and
- Use of or access to gyms and physical fitness facilities between July 1, 2021 and December 31, 2021.

During the sales tax holiday, the following items are exempt from the state sales tax and county discretionary sales surtax:

- Boating and Water Activity Supplies
 - Life jackets selling for \$75 or less
 - Coolers selling for \$75 or less
 - Safety flares selling for \$50 or less
 - Recreational inflatable tubes or floats capable of being towed selling for \$150 or less
 - Snorkels, goggles, and swimming masks selling for \$25 or less
- Camping Supplies
 - Tents selling for \$100 or less
 - Sleeping bags selling for \$50 or less
 - Portable hammocks selling for \$50 or less
 - Camping stoves selling for \$50 or less
 - Collapsible camping chairs selling for \$40 or less
 - Camping lanterns or flashlights selling for \$30 or less
- Fishing Supplies⁴⁵
 - Rods and reels selling for \$75 or less if sold individually, or \$150 or less if sold as a set
 - Bait or fishing tackle sold for \$5 or less if sold per item, or \$10 or less if multiple items are sold together.
- General Outdoor Supplies
 - Sunscreen or insect repellent selling for \$15 or less
 - Sunglasses selling for \$75 or less
 - Binoculars selling for \$75 or less
 - Water bottles selling for \$30 or less
 - Hydration packs selling for \$50 or less.

The above sales tax holidays do not apply to the following sales:

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

Sports Development Program

Current Situation

Florida Sports and Facilities

⁴⁴ If an admission is purchased exempt under this section and is subsequently resold outside of the holiday period, tax will be collected on the resale price.

⁴⁵ The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.

Florida is home to many professional and semi-professional sports teams, organizations and facilities, including professional football, basketball, baseball, hockey, and soccer teams, National Association of Stock Car Racing (NASCAR) sanctioned tracks, and professional equestrian and rodeo events. Generally, team facilities are located on property leased by or purchased from local governments.

The following table provides basic information about the 10 professional sports franchises in Florida that could qualify for the Sports Development Program and their facilities:

| Franchise | Sport | League | Year Founded | Facility | Facility Opened | County |
|--------------------------------------|------------|--------|--------------|-------------------------------------------------------|-----------------|--------------|
| Miami Dolphins | Football | NFL | 1966 | Hard Rock Stadium (originally Joe Robbie Stadium) | 1987 | Miami-Dade |
| Tampa Bay Buccaneers | Football | NFL | 1976 | Raymond James Stadium | 1998 | Hillsborough |
| Miami Heat | Basketball | NBA | 1988 | American Airlines Arena | 1999 | Miami-Dade |
| Orlando Magic | Basketball | NBA | 1989 | Amway Center | 2010 | Orange |
| Tampa Bay Lightning | Hockey | NHL | 1992 | Amalie Arena (previously Tampa Bay Times Forum) | 1996 | Hillsborough |
| Florida Panthers | Hockey | NHL | 1993 | BB&T Center | 1998 | Broward |
| Miami Marlins | Baseball | MLB | 1993 | Marlins Park | 2012 | Miami-Dade |
| Jacksonville Jaguars | Football | NFL | 1995 | TIAA Bank Field (previously EverBank Field) | 1995 | Duval |
| Tampa Bay Rays | Baseball | MLB | 1998 | Tropicana Field (occupied by Rays since 1998) | 1990 | Pinellas |
| Orlando City Soccer Club/ "Lions" | Soccer | MLS | 2015 | Exploria Stadium (previously Orlando City Stadium) | 2017 | Orange |

In addition to the 10 major professional sports teams, Florida is also home to the MLB's Spring Training Grapefruit League, with 15 teams holding preseason training and exhibition games in the state.⁴⁶

⁴⁶ For general information related to professional sports in Florida, see Florida Sports Foundation at <http://www.flasports.com/> (last visited Mar. 3, 2021).

Professional Sports Franchise Program

The Professional Sports Franchise program allows professional sports franchises in Florida to receive state sales and use tax revenue to pay for the construction or renovation of a facility for a new or retained professional sports franchise.⁴⁷ Local governments, non-profit, and for-profit entities may apply to the program. Approved applicants are eligible to receive up to \$2,000,004 per year for a period of up to 30 years.⁴⁸ No more than eight facilities can be certified under this program at one time.⁴⁹

Currently, eight facilities receive distributions under the Professional Sports Franchise Program. Each facility is currently on track to receive \$60 million, which is the maximum distribution allowable under this program (\$166,667 per month or \$2,000,004 per year, over 30 years), as follows:

| Facility name | Location, Certified entity, & Certification Date | Franchise | First and Final Payments | Lease Expiration Date | Total payments as of Aug. 2020 |
|------------------------------------------------------------------------------------|--------------------------------------------------|-----------------------------|--------------------------|---------------------------------|--------------------------------|
| Hard Rock Stadium (formerly Sun Life, Land Shark, Dolphin, Pro Player, Joe Robbie) | Miami, S. FL. Stadium Corp., May 1993 | Miami Marlins ⁵⁰ | 06/1994 06/2023 | 99 year land lease, issued 1987 | \$54,000,108 |
| TIAA Bank Field (previously EverBank Field) | Jacksonville, City of Jacksonville, April 1994 | Jacksonville Jaguars | 06/1994 05/2024 | 2030 | \$52,166,771 |
| Tropicana Field | St. Petersburg, City of St. Petersburg, May 1995 | Tampa Bay Rays | 07/1995 06/2025 | 2027 | \$50,000,100 |
| Amelie Arena (previously Tampa Bay Times Forum) | Tampa, Tampa Bay Sports Authority, July 1995 | Tampa Bay Lightning | 09/1995 08/2025 | 2025 | \$49,666,766 |
| BB&T Center | Sunrise, Broward County, June 1996 | Florida Panthers | 08/1996 07/2026 | 2028 | \$47,833,429 |
| Raymond James Stadium | Tampa, Hillsborough County, November 1996 | Tampa Bay Buccaneers | 01/1997 12/2026 | 2028 | \$47,000,094 |
| American Airlines Arena | Miami, BPL, LTD, February 1998 | Miami Heat | 03/1998 03/2028 | 2030 | \$44,500,089 |
| Amway Center | Orlando, City of Orlando, November 2007 | Orlando Magic | 02/2008 01/2038 | 2036 | \$24,833,383 |
| | | | | TOTAL: | \$370,000,740 |

(Information from the OPPAGA⁵¹)

⁴⁷ S. 288.1162, F.S.

⁴⁸ S. 212.20(6)(d)6.b., F.S.

⁴⁹ S. 288.1162(6), F.S.

⁵⁰ The Marlins franchise relocated from Sun Life Stadium to Marlins Park in 2012.

⁵¹ OPPAGA, Report No. 20-08, Florida Economic Development Program Evaluations-Year 8, p. 48 (Dec. 2020).

Sports Development Program

Section 288.11625, F.S., allows for distributions of state sales and use tax revenue pursuant to s. 212.20, F.S., to fund professional sports franchise facilities. The Department of Economic Opportunity (DEO) administers the Program and is responsible for screening applicants⁵² for state funding. The purpose of the Program is to provide state funding for the construction, reconstruction, renovation, or improvement of a sports facility,⁵³ the proposed acquisition of land to construct a new facility, and construction of improvements to state-owned land necessary for the efficient use of the facility.

General Application and Approval Process

DEO accepts applications between June 1 and November 1 each year. Within 60 days of receiving a completed application, DEO is required to evaluate the application and notify the applicant in writing of their decision to recommend or deny approval. DEO provides the Legislature with a list of the recommended applicants, ranked in the order of the project's likelihood to positively impact the state. To receive funding, an application must be approved by the Legislature in a conforming bill or general law approved by the Governor, and DEO must certify the applicant and its approved request for funding and notify the Department of Revenue (DOR) of the initial certification and distribution amount.

An applicant remains certified for 30 years or the length of the agreement between the beneficiary⁵⁴ and the local government that owns the facility or the property on which the facility is or will be located, whichever is less.

DEO may only recommend one distribution per applicant, facility or beneficiary. Furthermore, no facility or beneficiary can receive more than one distribution under s. 212.20, F.S., for any state-administered, sports-related program.⁵⁵ An exception exists for applicants who can show that the beneficiary that was the subject of a previous distribution under s. 212.20, F.S., no longer plays at the facility that is the subject of the application under the new program.

"Special" Application Process for New Facilities or Projects Commenced Before July 1, 2014⁵⁶

Section 288.11625(11), F.S., provides for an alternative application process to receive state funding under the Program. Under this process, the Legislative Budget Commission (LBC) can approve applications for new facilities or projects that commenced between March 1, 2013, and July 1, 2014, and such applicants are not subject to the competitive evaluation and ranking component. An applicant certified under the special application process remains subject to other provisions and requirements under the Program.

Distribution of State Funds

⁵² Section 288.11625(2), F.S. An "Applicant" is a unit of local government which is responsible for the construction, management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.

⁵³ *Id.* A "Facility" is a structure, and its adjoining parcels of local-government-owned land, primarily used to host games or events held by a beneficiary and does not include any portion used to provide transient lodging.

⁵⁴ *Id.* A "Beneficiary" is a professional sports franchise of the NFL, NHL, NBA, the National League or American League of MLB, Minor League Baseball, MLS, the North American Soccer League (NASL), the Professional Rodeo Cowboys Association (PRCA), the promoter or host of a signature event administered by Breeders' Cup Limited, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing (NASCAR). A beneficiary may also be an applicant under this program.

⁵⁵ Such sports-related programs include Professional Sports Franchises (s. 288.1162, F.S.), Spring Training Baseball Franchises (s. 288.11621, F.S.), Sports Development (s. 288.11625, F.S.), and Retention of MLB Spring Training Franchises (s. 288.11631, F.S.). However, if an applicant for the Sports Development Program is already receiving distributions under the Professional Sports Franchises Program (s. 288.1162, F.S.) for the same facility or beneficiary, the applicant is eligible for an additional distribution of up to \$1 million if the total project cost exceeds \$100 million.

⁵⁶ DEO Memorandum, *Re Sports Development Statute*, <http://www.floridajobs.org/docs/default-source/division-of-strategic-business-development/sports-development-program/sports-development-statute-memo.pdf?sfvrsn=6> (last visited Mar. 3, 2021).

The amount that an applicant may receive is based on 75 percent of the average annual new incremental state sales taxes generated by sales at the facility. Such annual distribution are limited by the following tiered system:

- If the total project cost is \$200 million or greater, the annual distribution amount may be up to \$3 million.
- If the total project cost is at least \$100 million, but less than \$200 million, the annual distribution amount may be up to \$2 million.
- If the total project cost is at least \$30 million, but less than \$100 million, the annual distribution amount may be up to \$1 million.

DEO is required to consult with DOR and the Office of Economic and Demographic Research (EDR) to develop a standard calculation for estimating the average annual new incremental state sales taxes generated by sales at the facility.

Use of Funds

Once certified, applicants may use Sports Development Program funds for the following purposes:

- Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs;
- Paying or pledging for the payment of debt service on bonds issued for the construction or renovation of a facility;
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto on bonds issued for the construction or renovation of a facility; and
- Reimbursing the costs associated with debt service payments or refinancing of bonds issued for the construction or renovation of a facility.

Contract

Certified applicants must enter into a contract with DEO that:

- Specifies the terms of the state's investment;
- States the criteria that the certified applicant must meet in order to remain certified;
- Requires the applicant to submit the independent analyses required by the Program;
- Specifies information that the certified applicant must report to DEO; and
- Includes any provisions deemed prudent by DEO.

The contract must also require the applicant to reimburse the state, after all distributions have been made, any amount by which the total distributions made under the program exceed actual new incremental state sales taxes generated by sales at the facility during the contract, plus a 5% penalty on that amount. Reimbursements due to the state must be made within 90 days after the last distribution. If the applicant is unable or unwilling to reimburse the state, DEO may place a lien on the applicant's facility. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation.

Repayment of Distributions

A certified applicant may be required to repay distributions if:

- An applicant's beneficiary breaks the terms of its agreements and relocates, or no longer occupies or uses the facility as the facility's primary tenant. The beneficiary is required to reimburse the state for such distributed funds, plus a five percent penalty, if the beneficiary relocates before the agreement expires.
- DEO determines that the applicant submitted false, misleading, deceptive, or otherwise untrue information. As above, the applicant is required to reimburse the state, plus a five percent

penalty. Applicants that are a municipality or a county may reimburse the state from their half-cent sales tax allocation.

Applicant History under the Sports Development Program

To date, no applicants have been certified and no funds have been distributed under the Program.

In FY 2014-15, DEO received four applications: the City of Jacksonville, the City of Orlando, Daytona International Speedway, LLC, and South Florida Stadium, LLC. All applicants qualified for the “special” application process.

In FY 2015-16, DEO received four applications: Buccaneers Football Stadium Limited Partnership, the City of Jacksonville, Daytona International Speedway, LLC, and South Florida Stadium, LLC. The Buccaneers application was incomplete and not transmitted to the Legislature, the other applications qualified for the special application process.

In FY 2016-17, DEO received one application, from Buccaneers Stadium, LLC. DEO reviewed the application under the “general” application process.

DEO did not receive any applications for the Program in FYs 2017-18, 2018-19, or 2019-20.⁵⁷

Sales and Use Tax

Chapter 212, F.S., contains the state’s statutory provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A six percent sales and use tax is levied on tangible personal property and a limited number of services. Additionally, s. 212.20, F.S., contains statutory direction for the schedule of distributions approved pursuant to ss. 288.1162 and 288.11625, F.S.

Local Government Half-Cent Sales Tax Program (Section 218.64, F.S.)

Authorized in 1982, the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.⁵⁸ It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program’s primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.⁵⁹

Municipalities are authorized to spend their portion of the local government half-cent sales tax for:

- municipality-wide programs,
- reimbursing the state as required by the Sports Development Program, or
- municipality-wide property tax or municipal utility tax relief.

Counties are authorized to spend their portion of the local government half-cent sales tax for countywide tax relief or countywide programs. Subject to certain conditions, counties may also use up to \$3 million annually of the local government half-cent sales tax for the following purposes:

- new or retained professional sports franchises under s. 288.1162, F.S. or a spring training franchise under s. 288.11621, F.S.
- a certified applicant as a motorsport entertainment complex under s. 288.1171, F.S., or
- reimbursing the state as required by the Sports Development Program.

Additionally, counties and municipalities are authorized to pledge proceeds of the local government half-cent sales tax for the payment of principal and interest on any capital project.

⁵⁷ Staff Phone Call with John Schrader, Director of Legislative Affairs, DEO (Mar. 3, 2021).

⁵⁸ Ch. 82-154, Laws of Fla.

⁵⁹ EDR, 2020 Local Government Financial Information Handbook (December 2020), p. 55.

Economic Development Programs Evaluation

Section 288.0001, F.S., requires EDR and OPPAGA to include the Sports Development Program among the list of economic development programs scheduled to be reviewed and analyzed by January 1, 2018, and every three years thereafter. As no applicants have been certified under the Program and no funds have been distributed, neither OPPAGA⁶⁰ nor EDR⁶¹ was able to review and analyze the Program in its first three-year reporting cycle.

Proposed Changes

The bill repeals s. 288.11625, F.S., eliminating the Sports Development Program. To conform with the elimination of the Program, the bill also removes provisions relating to the distribution of funds under the program, reimbursement provisions, and reporting requirements.

Property Tax

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.⁶²

The property appraiser annually determines the “just value”⁶³ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁶⁴ 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 property⁶⁵ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁶⁶ The just valuation standard generally requires the property appraiser to consider the highest and best use of property.⁶⁷

Affordable Housing

Current Situation

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.⁶⁸

Section 196.1978, F.S., authorizes property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not-for-profit corporation used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.⁶⁹ In order

⁶⁰ OPPAGA, Report No. 17-13, Florida Economic Development Program Evaluations-Year 5, p. 45 (Dec. 28, 2017).

⁶¹ EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 1 (Jan. 1, 2018).

⁶² 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.

⁶³ 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).

⁶⁴ *See* s. 192.001(2) and (16), F.S.

⁶⁵ Florida Constitution, art. VII, s. 1(a).

⁶⁶ *See* Florida Constitution, art. VII, s. 4.

⁶⁷ Section 193.011(2), F.S.

⁶⁸ Florida Constitution, art. VII, s. 3.

⁶⁹ The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. *See* 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

to qualify for the exemption, the property must comply with s. 196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

In 2017,⁷⁰ the Legislature provided that property used as affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount if the property:

- Provides affordable housing to natural persons or families meeting the extremely-low, very-low, or low-income limits specified in s. 420.0004, F.S.;
- Contains more than 70 units used to provide affordable housing to the above group; and
- Is subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The property tax discount begins on January 1 of the year following the 15th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities.⁷¹

Proposed Changes

The bill amends s. 196.1978, F.S., to increase the ad valorem tax discount from 50 percent to 100 percent on multifamily projects that provide housing to extremely-low-income, very-low-income, or low-income families. The bill also provides that such a multifamily project will receive the ad valorem tax discount beginning in the 16th year of the term of agreement on the affordable housing property; current law provides that the discount will begin on January 1 of the year following the 15th year of such an agreement.

Property Entitled to Charitable, Religious, Scientific, or Literary Exemptions

Current Situation

When calculating ad valorem taxes, a property's value is reduced by any exemptions provided by law, including exemptions for educational, literary, scientific, religious, or charitable purposes.⁷² The Legislature implements these constitutional exemptions and sets forth the criteria to determine whether property is entitled to an exemption.⁷³ These implementation provisions give property appraisers a guide when assessing or exempting property.⁷⁴

In determining whether the use of a property qualifies the property for an educational, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.⁷⁵ Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation.⁷⁶ Property owned by an exempt organization used exclusively for exempt purposes is totally exempt from ad valorem taxation.

Incidental use of otherwise exempt property for non-exempt purposes does not make the property non-exempt.⁷⁷ Likewise, mere incidental educational, literary, scientific, religious, or charitable use of property does not qualify the property for the exemption. For example, a nursing home which operated

⁷⁰ Chapter 2017-36, s. 6, Laws of Fla.

⁷¹ Section 196.1978(c), F.S.

⁷² Art. VII, s. 3., Fla. Const.

⁷³ Ch. 196, F.S.

⁷⁴ *State ex rel. Cragor Co. v. Doss*, 150 Fla. 486, 8 So.2d 15 (1942).

⁷⁵ S. 196.196(1)(a)-(b), F.S.

⁷⁶ S. 196.196(2), F.S.

⁷⁷ *Id.*

as a business, collecting fees for services and increasing in value, was not granted a charitable exemption even though, incidental to business operations, they allowed some residents to pay reduced or zero fees.⁷⁸

By default, property used for profitmaking purposes is subject to ad valorem taxation.⁷⁹ A revenue-generating use is not considered profitmaking if the activity does not require a business or occupational license and the revenue generated is used exclusively for exempt purposes.

When applying for an exemption, an applicant must provide the property appraiser with fiscal and other records showing the financial condition, record of operation, and exempt and non-exempt uses of the property.⁸⁰ In determining whether the property, or any portion thereof, is being used for a profitmaking purpose, the property appraiser or value adjustment board must consider the reasonableness of:

- Any advances or payments made by any person, company, or other entity controlled by the applicant to any officer, director, trustee, or stockholder of the applicant;
- Any guaranty of a loan to, or an obligation of, any officer, director, trustee, member, or stockholder of the applicant or any entity controlled by such person, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the applicant;
- Any contractual arrangement by the applicant (or any officer, director, trustee, member, or stockholder of the applicant) for the rendition of services, the provision of goods or supplies, the management of the applicant, the construction or renovation of the property of the applicant, the procurement of the real, personal, or intangible property of the applicant, or other similar financial interest in the affairs of the applicant;
- Payments made for salaries for the operation of the applicant or for services, supplies and materials used by the applicant, reserves for repair, replacement, and depreciation of the property of the applicant, payment of mortgages, liens, and encumbrances upon the property of the applicant, or other purposes; and
- Charges made by the applicant for any services rendered by it in relation to the value of those services, and, if such charges exceed the value of the services rendered, whether the excess is used to pay maintenance and operational expenses in furthering its exempt purpose or to provide services to persons unable to pay for the services.⁸¹

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant is a non-profit entity.⁸²

Proposed Changes

The bill provides that the portions of a property that are not predominantly used for charitable, religious, scientific, or literary purposes are not exempt from taxation, but that portions of a property used for charitable, religious, scientific, or literary purposes are exempt as long as the predominant use of the exempted property is for those purposes.

The provisions of the bill apply to taxable years beginning on or after January 1, 2022, and do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before July 1, 2021.

Installment Payments

Current Situation

Section 197.222, F.S., allows a taxpayer to prepay estimated property taxes by making quarterly installment payments and receive a specified percentage discount.⁸³ A taxpayer who elects to pay

⁷⁸ *Haines v. St. Petersburg Methodist Home, Inc.*, 173 So.2d 176 (Fla 2d DCA 1965).

⁷⁹ S. 196.196(4), F.S.

⁸⁰ S. 196.195(1), F.S.

⁸¹ S. 196.195(2), F.S.

⁸² S. 196.195(4), F.S.

taxes by the installment method must make payments based upon an estimated tax which is equal to the actual taxes levied upon the property in the preceding year. To participate in the installment plan, the taxpayer's estimated taxes must be more than \$100.

The first installment payment is due June 30. Tax collectors may choose to accept late payments on the first installment through July 31. However, the 6 percent discount is lost and a 5 percent penalty is assessed on the amount of the installment payment. There is a lack of uniformity among tax collectors regarding the acceptance of the late payment. As a result, taxpayers may be treated differently statewide depending on the acceptance of late payments by individual tax collectors.

Proposed Changes

The bill creates consistent treatment of taxpayers statewide by requiring tax collectors to accept a late payment of the first installment payment through July 31 without the 5 percent penalty. However, taxpayers who pay the first installment payment after June 30 will continue to lose the 6 percent discount.

Aquaculture Land Valuation

Current Situation

Florida's "greenbelt law," allows properties classified as bona fide agricultural operations to be taxed according to the "use" value of the agricultural operation, rather than the development value.⁸⁴ Generally, tax assessments for qualifying lands are lower than tax assessments for other uses. For purposes of the income methodology approach to assessment of property used for agricultural purposes, certain structures that are physically attached to the land are considered a part of the average yields per acre and have no separately assessable contributory (taxable) value. These structures include the following:

- Irrigation systems, including pumps and motors;
- Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms; and
- Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the Department of Agriculture and Consumer Services.
- Screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements.⁸⁵

Proposed Changes

The bill provides that for purposes of the income methodology approach to assessment of land use in the production of aquaculture products, structures and equipment are considered part of the average yields per acre and have no separately assessable contributory value.

Tourist and Convention Development Taxes

Current Situation

Tourist Development Taxes

⁸³ Section 197.222(1), F.S., provides for a 6 percent discount applied to the first installment payment, a 4.5 percent discount for the second installment payment, and a 3 percent discount for the third payment. No discount is provided for the fourth installment payment.

⁸⁴ S. 193.461, F.S.

⁸⁵ S. 193.461(6)(c), F.S.

The Local Option Tourist Development Act⁸⁶ authorizes counties to levy five separate taxes on transient rental⁸⁷ transactions (tourist development taxes or TDTs). Depending on a county's eligibility to levy such taxes, the maximum tax rate varies from a minimum of 3 percent to a maximum of 6 percent:

- The original TDT may be levied at the rate of 1 or 2 percent.⁸⁸
- An additional 1 percent tax may be levied by counties who have previously levied a TDT at the 1 or 2 percent rate for at least three years.⁸⁹
- A high tourism impact tax may be levied at an additional 1 percent.⁹⁰
- A professional sports franchise facility tax may be levied up to an additional 1 percent.⁹¹
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.⁹²

TDT Process

Each county that levies the original 1 or 2 percent tax is required to have a tourist development council.⁹³ The tourist development council is a group of residents from the county who are appointed by the county governing board.⁹⁴ The tourist development council, among other duties, makes recommendations to the county governing board for the effective operation of the special projects or for uses of the TDT revenue.⁹⁵

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum⁹⁶ and additional TDT levies must be authorized by a vote of the county's governing board or by voter approval of a countywide referendum.⁹⁷ Each county proposing to levy the original 1 or 2 percent tax must then adopt an ordinance for the levy and imposition of the tax,⁹⁸ which must include a plan for tourist development prepared by the tourist development council.⁹⁹ The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use.¹⁰⁰ The plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.¹⁰¹

⁸⁶ Section 125.0104, F.S.

⁸⁷ Section 125.0104(3)(a)(1), F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

⁸⁸ Section 125.0104(3)(c), F.S. Sixty-two counties levy this tax, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Local Option Tourist/Food & Beverage Tax Rates, available at <http://edr.state.fl.us/Content/local-government/data/county-municipal/2021LOTTRates.pdf> (last visited Mar. 5, 2021). These counties are expected to collect an estimated \$303 million in revenue in the 2020-21 fiscal year. EDR, *2020 Local Government Financial Information Handbook*, p. 255, available at <http://edr.state.fl.us/Content/local-government/reports/lgh20.pdf> (last visited Mar. 5, 2021).

⁸⁹ Section 125.0104(3)(d), F.S. Fifty-five of the eligible 59 counties levy this tax, with an estimated 2020-21 state fiscal year collection of \$123 million. *Id.* at 259.

⁹⁰ Section 125.0104(3)(m), F.S. Eight of the nine eligible counties levy this tax, with an estimated 2020-21 state fiscal year collection of \$79 million. *Id.* at 265.

⁹¹ Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-five of the 67 eligible counties levy this additional tax, with an estimated 2020-21 state fiscal year collection of \$143 million. *Id.* at 263.

⁹² Section 125.0104(3)(n), F.S. Thirty of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2020-21 state fiscal year collection of \$106 million. *Id.* at 269.

⁹³ Section 125.0104(4)(e), F.S.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Section 125.0104(6), F.S.

⁹⁷ Section 125.0104(3)(d), F.S.

⁹⁸ Section 125.0104(4)(a), F.S.

⁹⁹ Section 125.0104(4), F.S.

¹⁰⁰ *See s.* 125.0104(4), F.S.

¹⁰¹ *See s.* 125.0104(4), F.S. The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

TDT Uses

Revenues received by a county from a tax levied under s. 125.0104(3)(c) and (d), F.S. (the original 1 or 2 percent levy and the additional 1 percent levy), must be used only for purposes listed in s. 125.0104(5), F.S. Revenues received by a county from a tax levied under s. 125.0104(3)(m), F.S. (the High Tourism Impact Tax of 1%), must also be used for purposes listed in s. 125.0104(5), F.S. These purposes are:

- The acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, or promotion of a zoo.
- Promotion and advertising of tourism in the state.
- Funding of convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county.
- Financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river.¹⁰²
- In counties with populations less than 950,000, tourist development tax revenue may be used for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.
- A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, F.S., may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services, and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area.
- Securing revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

Revenues received by a county from a tax levied under s. 125.0104(3)(l), F.S., (the 1 levy or the additional 1 percent levy under s. 125.0104(3)(n), F.S.) can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and to promote and advertise tourism. The original 1 percent levy may also be used to operate or maintain a convention center.

The use of TDT revenue for any purpose not expressly authorized in statute is expressly prohibited.¹⁰³

Convention Development Taxes

The Convention Development Tax Act¹⁰⁴ authorizes certain counties or sub-parts of counties to levy convention development taxes on transient rental transactions. Depending on a jurisdiction's ability to levy such taxes, the maximum tax rate varies from a minimum of one percent to a maximum of three percent:

- The consolidated county convention tax may be levied at two percent.¹⁰⁵
- The charter county convention tax may be levied at three percent.¹⁰⁶

¹⁰² In counties with populations less than 100,000, up to 10 percent of tourist development tax revenues may be used for financing beach park facilities. *See* s. 125.0104(5)(a), F.S.

¹⁰³ s. 125.0104(5)(e), F.S.

¹⁰⁴ s. 212.0305, F.S.

¹⁰⁵ s. 212.0305(4)(a), F.S.

- The special district, special, and subcounty convention tax may be levied at a rate up to three percent.¹⁰⁷

Duval County (as a county consolidated with a municipality), Miami-Dade County (as a charter county), and parts of Volusia County currently levy the maximum convention development tax allowable in their respective jurisdictions.¹⁰⁸

CDT Process

CDT levies must be authorized pursuant to an ordinance enacted by the county's governing body.¹⁰⁹ A certified copy of the ordinance imposing the levy must be furnished by the county to the DOR within 10 days after approval of such ordinance.¹¹⁰ The effective date of imposition of the levy can be the first day of any month at least 60 days after enactment of the ordinance. Revenues must be deposited in a convention development trust fund, established by the county before they can receive any CDT funds.¹¹¹

The charter county development tax has an exception for municipalities in which a municipal tourist tax is levied and in which a resolution prohibiting imposition of the charter county convention development levy within such municipality has been adopted.¹¹² The convention development levy is imposed by the county in all other areas of the county except municipalities which have a municipal tourist tax and which have adopted a resolution. No CDT funds may be used in a municipality which has adopted such a resolution. In Miami-Dade County, three jurisdictions have a municipal tourist tax and have adopted a resolution under this provision. Those jurisdictions are Bal Harbour, Miami Beach, and Surfside.¹¹³

CDT Uses

Generally, the revenues raised by CDT levies may be used for capital construction of convention centers and other tourist-related facilities, as well as tourism promotion; however, the authorized uses vary by levy.

Proposed Changes

Tourist Development Taxes

The bill authorizes all TDT revenue to be used to finance flood mitigation projects or improvements.

The bill requires all new or increased TDTs to be approved by referendum.

The bill makes each of the five TDTs stand-alone, independent propositions for renewal by removing the condition precedents related to the levy of the additional 1 percent tax and the additional sports facility tax. Specifically, the bill eliminates the requirement that a county must impose the original TDT for at least three years before imposing the additional 1 percent tax. In addition, the bill eliminates the requirement that a county must impose the initial professional sports franchise facility tax before imposing the additional professional sports franchise facility tax.

Convention Development Taxes

¹⁰⁶ s. 212.0305(4)(b), F.S.

¹⁰⁷ s. 212.0305(4)(c),(d), and (e), F.S.

¹⁰⁸ Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, available at <http://edr.state.fl.us/Content/local-government/data/county-municipal/> (last visited April 5, 2021).

¹⁰⁹ s. 212.0305(4)(b)1., F.S.

¹¹⁰ s. 212.0305(4)(b)6., F.S.

¹¹¹ s. 212.0305(4)(b)7., F.S.

¹¹² s. 212.0305(4)(b)3., F.S.

¹¹³ Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, available at <http://edr.state.fl.us/Content/local-government/data/county-municipal/> (last visited April 5, 2021).

The bill authorizes all CDT revenue to be used to finance flood mitigation projects or improvements.

The bill requires all new or increased CDTs to be approved by referendum.

The bill requires the governing board of a county levying a CDT to place a question on the ballot at a regular or special election held within the county, substantially as follows:

-FOR the Convention Development Tax.
-AGAINST the Convention Development Tax.

If a majority of the electors voting on the question approve the levy, the ordinance will take effect at a specified time.

Strong Families Tax Credit

Current Situation

Department of Children and Families

The Department of Children and Families (DCF) mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹¹⁴ DCF must develop a strategic plan to fulfil its mission and establish measureable goals, objectives, performance standards, and quality assurance requirements to ensure DCF is accountable to taxpayers.¹¹⁵

Under s. 20.19(4), F.S., the DCF is required to provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

The DCF must develop a strategic plan for fulfilling its mission and establish a set of measurable goals, objectives, performance standards, and quality assurance requirements to ensure it is accountable. The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.¹¹⁶ These private providers include managing entities delivering behavioral health services and community-based care lead agencies to deliver child welfare services.

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline (hotline) and child protective investigations. The DCF and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

The DCF's practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child's natural

¹¹⁴ S. 20.19(1), F.S.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

supports in his or her environment. The DCF contracts for case management, out-of-home services, and related services with CBCs.

The CBCs combine the outsourcing of foster care and related services to service agencies with an increased *local community ownership* of service delivery and design.¹¹⁷ CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.¹¹⁸

The DCF remains responsible for a number of child welfare functions, including operating the hotline, performing child protective investigations, and providing children's legal services.¹¹⁹ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.¹²⁰

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The Legislature created the FICW to provide research and evaluation that contributes to a more sustainable, accountable, and effective child welfare system. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.¹²¹ Current law requires the FICW to establish an affiliate network of public and private universities with accredited degrees in social work. In 2017, the FICW expanded its affiliate network to include research affiliates, and there are now over 50 research faculty affiliates.

State Revenue Sources

Described below are select taxes imposed by Florida on certain businesses and products within the state.

Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.¹²² Corporate income tax is remitted to the DOR and distributed to General Revenue. Net collections of corporate income tax in FY 2020-21 are forecast to be \$2.81 billion.¹²³

Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums.¹²⁴ Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to General Revenue with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium taxes are forecast to be \$930.1 million in FY 2020-21 with distributions to General Revenue of \$681 million.¹²⁵

Severance Taxes on Oil and Gas Production

¹¹⁷ The Florida Department of Children and Families (DCF), *Community-Based Care*, <https://www.myflfamilies.com/service-programs/community-based-care/> (last visited Mar. 10, 2021).

¹¹⁸ DCF, *Community-Based Care Lead Agency Map*, <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited Mar. 10, 2020).

¹¹⁹ OPPAGA, report 06-50.

¹²⁰ *Id.*

¹²¹ S. 1004.615, F.S.

¹²² Ss. 220.11(2) and 220.63(2), F.S.

¹²³ *General Revenue Consensus Estimating Conference Comparison Report*, p. 27, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 5, 2021).

¹²⁴ S. 624.509, F.S. (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.)

¹²⁵ *General Revenue Consensus Estimating Conference Comparison Report*, p. 34, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 5, 2021).

Oil and gas production severance taxes are imposed on persons who sever oil or gas in Florida for sale, transport, storage, profit, or commercial use.¹²⁶ These taxes are remitted to the DOR and distributed to General Revenue with additional distributions to the Minerals Trust Fund and to the counties where production occurred. Receipts from the severance taxes on oil and gas are estimated to be \$1.3 million in FY 2020-2021 with distributions to General Revenue of \$9.3 million.¹²⁷

Sales Taxes Paid by Direct Pay Permit Holders

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves the DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.¹²⁸

Alcoholic Beverage Taxes

Florida imposes excise taxes on malt beverages, wines, and other beverages.¹²⁹ The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR).

The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.¹³⁰ Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Collections of alcoholic beverage taxes are forecast to be \$757.1 million in FY 2020-21 with distributions to General Revenue of \$297.5 million.¹³¹

Currently, there are no statutory provisions for a tax credit program for eligible contributions made to eligible organizations that work to promote the welfare of children.

Background Screening

Level 1 and Level 2 Criminal History Record Checks are terms used under Florida law to convey the method of the criminal history record check and the extent of the data searched. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the Federal Bureau of Investigation (FBI) or other states:

- Level 1: a state-only name-based check.
- Level 2: a state and national fingerprint-based check and consideration of disqualifying offenses, applicable to employees and volunteers designated by law as holding positions of responsibility or trust and those required to be fingerprinted pursuant to ch. 435, F.S.¹³²

Public Law (Pub. L.) 92-544 authorizes the Federal Bureau of Investigation (FBI) to exchange criminal history record information (CHRI) with state and local governmental agencies' officials for licensing and employment purposes. Criteria established under Pub. L. 92-544 requires state statutes to designate an authorized governmental agency to be responsible for receiving and screening the results of the

¹²⁶ Ss. 211.02(1) and 211.025, F.S.

¹²⁷ *General Revenue Consensus Estimating Conference Comparison Report*, p. 38, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last accessed April 5, 2021).

¹²⁸ S. 212.183, F.S., and r. 12A-1.0911, F.A.C. Direct pay permit holders include: dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

¹²⁹ Ss. 563.05, 564.06, and 565.12, F.S.

¹³⁰ S. 561.02, F.S.

¹³¹ *General Revenue Consensus Estimating Conference Comparison Report*, p. 31, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 5, 2021).

¹³² S. 435.05, F.S.

CHRI to then determine an applicant's suitability for employment or licensing. For level 2 screening, the Florida Department of Law Enforcement (FDLE) is this state's authorized governmental agency given the responsibility to perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for each employee for whom the request is made.¹³³

Under current law, designated eligible charitable organizations are not considered authorized governmental agencies to conduct background screenings and, therefore, are unable to request or obtain national records pursuant to s. 435.04, F.S. However, the FDLE's Volunteer and Employee Criminal History System (VECHS) allows certain non-governmental organizations to obtain national criminal history results through the FDLE.

Once the FDLE receives fingerprints and payment for criminal history record requests, with the assistance of the FBI, the FDLE will provide the organization:¹³⁴

- Either an indication that the person has no criminal history or the criminal history record that shows arrests and convictions for Florida and other states, if any; and
- Notification of any warrants or domestic violence injunctions that the person may have.

Proposed Changes

Tax Credits for Contributions to Eligible Charitable Organizations

The bill creates s. 402.60, F.S., known as the Strong Families Tax Credit Program. This program provides tax credits for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being. The tax credits are a dollar-for-dollar credit against certain tax liabilities.

The tax credit can be taken against the business's liability for several state taxes, including:

- Corporate income tax;
- Insurance premium tax;
- Severance taxes on oil and gas production;
- Alcoholic beverage tax on beer, wine, and spirits; or
- Self-accrued sales tax liability of direct pay permit holders.

New sections are created in each of the applicable tax chapters to create the credit authorized in s. 402.60, F.S., as discussed further below.

Certification and Responsibilities of Eligible Charitable Organizations

To qualify for the program, an eligible charitable organization must be exempt as a 501(c)(3) organization under the Internal Revenue Code, must be a Florida entity with its principal office in the state of Florida, and must provide services to:

- Prevent child abuse, neglect, abandonment, or exploitation;
- Assist fathers in learning and improving parenting skills or to engage absent fathers in being more engaged in their children's lives;
- Provide books to the homes of children eligible for a free or reduced-price meal program or those testing below grade level in kindergarten through fifth grade;
- Assist families who have children with a chronic illness or a physical, intellectual, developmental, or emotional disability; or
- Provide workforce development services to families of children eligible for a free or reduced-price meal program.

An eligible charitable organization cannot:

¹³³ S. 435.05(1)(c), F.S.

¹³⁴ FDLE, *VECHS Program-Process and Forms*, <https://www.fdle.state.fl.us/Background-Checks/VECHS-Process-and-Forms> (last visited Mar. 15, 2021).

- Provide, pay for, or provide coverage for abortions or financially support any other entity that provides, pays for or provides coverage for abortions, or
- Receive more than 50% of its total annual revenue from the DCF, either directly or indirectly.

Additionally, to participate in the program, the organization must:

- Apply to DCF for designation as an eligible charitable organization;
- Provide one-time and ongoing information as requested by the DCF;
- Spend 100% of received funds on direct services for Florida residents for an approved purpose under the Strong Families tax credit;
- Apply for admittance into FDLE's VECHS program and, if accepted, conduct level 2 background screening and perform a check of the Dru Sjodin National Sex Offender Public Website for all volunteers and staff working directly with children in any program funded under the bill;
- Annually provide a copy of its most recent IRS Return of Organization Exempt from Income Tax form (Form 990); and
- Hire an independent certified public accountant to conduct an audit of the organization and provide the audit report to the DCF within 180 days after completion of the organization's fiscal year.

Responsibilities of the Department of Children and Families

The DCF would be responsible for reviewing and approving or denying applications from potential eligible charitable organizations. It must also review and designate eligible charitable organizations each year. The DCF is also responsible for creating and maintaining a section of their website dedicated to this tax credit program and providing information on the process for becoming an eligible charitable organization, a list of current eligible charitable organizations, and the process for a taxpayer to select an eligible charitable organization as the recipient of funding through the tax credit program.

Revenue Sources

Corporate Income Tax

The bill creates s. 220.1876, F.S., which, for taxable years beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under ch. 220, F.S., for corporate income tax.

Insurance Premium Tax

The bill creates s. 624.51056, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under s. 624.509(1), F.S.

Severance Taxes on Oil and Gas Production

The bill creates s. 211.0252, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under ss. 211.02 or 211.025, F.S., for oil or gas production. However, the credit may not exceed 50% of the tax due on the return the credit is taken, and this credit may be used only after any credit under s. 211.0251, F.S., has been used, up to a total of 50% of the liability on the return. The bill directs the DOR to disregard tax credits under this section for purposes of the distributions of tax revenue under s. 211.06, F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Sales Taxes Paid by Direct Pay Permit Holders

The bill creates s. 212.1833, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any state sales tax due from a direct pay permit holder as a result of the direct pay permit held pursuant to s. 212.183, F.S. The bill directs

the DOR to disregard tax credits under this section for purposes of the distributions of tax revenue under s. 212.20, F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Alcoholic Beverage Taxes

The bill creates s. 561.1212, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against tax due under ss. 563.05, 564.06, or 565.12, F.S., except for taxes imposed on domestic wine production. Further, the credit is limited to 90% of the tax due on the return the credit is taken. The Division is directed to disregard tax credits under this section for purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Application and Approval of Tax Credits by the DOR

Businesses that wish to participate in the program by making a donation to an eligible charitable organization must apply to the DOR beginning October 1, 2021, for an allocation of tax credit. The taxpayer must specify in the application each tax for which the taxpayer requests a credit, the applicable taxable year for a credit under ss. 220.1876 or 624.51056, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0252, 212.1833, or 561.1212, F.S., relating to oil and gas production, direct pay permit sales, and alcoholic beverage tax credits, respectively. The DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of the Division prior to approving an alcoholic beverage tax credit under s. 561.1212, F.S.

Any unused credit may be carried forward up to ten years. The bill generally does not allow a taxpayer to convey, transfer, or assign the credit to another entity unless all of the assets of the taxpayer are conveyed, transferred, or assigned in the same transaction. Upon approval of the DOR, transfers may be made between members of an affiliated group of corporations if the credit transferred will be taken against the same type of tax.

Rescinding Tax Credits

A taxpayer may apply to the DOR to rescind all or part of an approved tax credit. The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the DOR if the taxpayer receives notice that the rescindment has been accepted.

Cap on Annual Tax Credit Approvals

The annual tax credit cap for all credits under this program is \$5 million per state fiscal year.

Provisions Specific to Corporate Income and Insurance Premium Taxes

The bill amends two additional corporate income tax provisions related to the ordering and administration of tax credits to:

- Specify the order that credits for contributions to eligible charitable organizations are to be claimed relative to other credits authorized under ch. 220, F.S., and
- Add tax credit amounts claimed under s. 220.1876, F.S., back to taxable income for the purpose of determining a taxpayer's "adjusted federal income."

The bill amends one additional insurance premium tax provision related to the ordering of credits to specify the order that credits for contributions to eligible charitable organizations are to be claimed relative to other credits authorized under ch. 659, F.S.

Florida Institute for Child Welfare

The bill directs the FICW to perform an analysis of the tax credit and the use of the funds and submit a report to the Governor, the Speaker of the House of Representatives, and President of the Senate by October 31, 2025.

The bill provides rulemaking authority to the DOR, DCF, Auditor General, and the DBPR. In addition, the DOR is granted emergency rulemaking authority for purposes of implementing the act. An appropriation of \$208,000 is provided to the DOR for implementation costs of the Strong Families Tax Credit program.

Documentary Stamp Tax

Florida's Documentary Stamp Tax on Notes and Mortgages

Florida law currently levies a documentary stamp tax, capped at \$2,450, on promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same.¹³⁵ Florida law also levies a documentary stamp tax, with no cap, on mortgage, trust deeds, security agreements, or other evidence of indebtedness filed or recorded in this state, and for renewal of the same.¹³⁶ The documents are all taxed at 35 cents on each \$100 or fraction thereof of the indebtedness or obligation.¹³⁷

For purposes of taxing renewals of the documents described above, a renewal only includes the modifications of an original document which changes the terms of the indebtedness by adding one or more obligors, increasing the principal balance, or changing the interest rate, maturity date, or payment terms.¹³⁸ Modifications to documents that do not modify the terms of the indebtedness are not renewals and are not subject to the documentary stamp tax. Such non-taxable modifications include:¹³⁹

- Modifications given or recorded to correct error;
- Modification of covenants, conditions, or terms unrelated to the debt;
- Severing of a lien into separate liens;
- Providing for additional, substitute, or further security for the indebtedness;
- Consolidating indebtedness or collateral;
- Adding, changing, or deleting guarantors; or
- Substituting a new mortgagee or payee.

When renewal of a promissory note only extends or continues the identical contractual obligations of the original promissory note and evidences part or all of the original indebtedness, not including any accumulated interest thereon and without enlargement in any way of the original contract and obligation, such renewal note is not subject to the documentary stamp tax, so long as the renewal note has attached to it the original promissory note with other specified notation thereon.¹⁴⁰

London Interbank Offered Rate (LIBOR)

When two parties enter into a financial contract in which interest payments are to be exchanged, those payments are frequently based on the LIBOR, which provides the benchmark rate for the resulting interest rate.¹⁴¹ Since 1986, the LIBOR has been the primary reference rate used in setting interest

¹³⁵ S. 201.08(1)(a), F.S.

¹³⁶ S. 201.08(1)(b), F.S.

¹³⁷ S. 201.08(1)(a) and (b), F.S.

¹³⁸ S. 201.08(5), F.S.

¹³⁹ *Id.*

¹⁴⁰ S. 201.09(1), F.S.

¹⁴¹ Consumer Finance Protection Bureau, *You Might Have Heard That LIBOR is Going Away. Here's What You Need to Know About LIBOR and Adjustable-Rate Loans* (Oct. 17, 2019), <https://www.consumerfinance.gov/about-us/blog/libor-going-away-heres-what-you-need-know-about-libor-and-adjustable-rate-loans/> (last visited Mar. 5, 2021).

rates for adjustable rate mortgages, asset-backed securities, municipal bonds, credit default swaps, private student loans, and other types of debt.¹⁴²

The LIBOR is calculated daily by the Intercontinental Exchange (ICE) Benchmark Administration.¹⁴³ Eighteen international banks submit rates that each bank believes it would pay, not what it actually pays, if it had to borrow money from another bank on the interbank lending market in London.¹⁴⁴ After removing the four highest and four lowest submissions, the ICE Benchmark Administration calculates the rate in five currencies: UK Pound Sterling, the Swiss Franc, the Euro, Japanese Yen, and the U.S. Dollar.¹⁴⁵

It is estimated that \$200 trillion in financial contracts reference the U.S. Dollar LIBOR.¹⁴⁶ Although the derivatives market accounts for 95 percent of the outstanding value of all financial products referencing the U.S. Dollar LIBOR, the LIBOR is also referenced in several trillion dollars of corporate loans, floating-rate mortgages, floating-rate notes, and securitized products.¹⁴⁷ As of 2019, \$1.2 trillion worth of residential mortgage loans and \$1.3 trillion of consumer loans referenced the LIBOR.¹⁴⁸

The LIBOR has come under increasing scrutiny from regulators and financial markets alike following documented patterns of attempted manipulation by participating banks and a sustained decline in unsecured interbank borrowing.¹⁴⁹ Others have noted the declining correlations between the LIBOR and actual bank funding costs.¹⁵⁰

In 2014, the Federal Reserve Board and the Federal Reserve Bank of New York convened the Alternative Reference Rates Committee (ARRC) to identify an alternative reference rate for use primarily in derivatives contracts.¹⁵¹ The ARCC was reconstituted in 2018 with an expanded membership in an effort to push a wider segment of market participants to focus on their exposure to the LIBOR.¹⁵²

In 2017, the ARRC identified the Secured Overnight Financing Rate (SOFR) as its recommended alternative to the U.S. Dollar LIBOR.¹⁵³ SOFR is fully-transaction based and is a broad measure of the cost of borrowing cash overnight collateralized by U.S. Treasury securities.¹⁵⁴ SOFR is based on transaction data from three segments of the Treasury repurchase agreement market: (1) tri-party repurchase agreements, (2) General Collateral Finance repurchase agreements; and (3) bilateral repurchase agreement transactions cleared through the Fixed Income Clearing Corporation.¹⁵⁵ The Federal Reserve Bank of New York publishes SOFR data daily, as well as SOFR Averages and a SOFR Index.¹⁵⁶

The entity that regulates the LIBOR, the Financial Conduct Authority (FCA) of the United Kingdom, states that the LIBOR will cease after the end of 2021, though some U.S. Dollar LIBOR panels have

¹⁴² Forbes, *What Is Libor And Why Is It Being Abandoned?* (Dec. 16, 2020), <https://www.forbes.com/advisor/investing/what-is-libor/> (last visited Mar. 5, 2021).

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ Alternative Reference Rates Committee, *Frequently Asked Questions* (Dec. 18, 2020), <https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/ARRC-faq.pdf> (last visited Mar. 5, 2021).

¹⁴⁷ *Id.*

¹⁴⁸ Forbes, *supra* note 8.

¹⁴⁹ *Id.*

¹⁵⁰ Bowman et al., *How Correlated is LIBOR with Bank Funding Costs?* (June 29, 2020), <https://www.federalreserve.gov/econres/notes/feds-notes/how-correlated-is-libor-with-bank-funding-costs-20200629.htm> (last visited Mar. 5, 2021).

¹⁵¹ Alternative Reference Rates Committee, *supra* note 12.

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

been extended to the end of June 2023.¹⁵⁷ Accordingly, the FCA is recommending transitions to alternative rates before these dates.¹⁵⁸

Some financial contracts that reference the LIBOR include robust fallback language¹⁵⁹ that contemplates a replacement interest rate index or replacement interest rate calculation in the event that the rate referenced in the contract is discontinued. However, the ARCC has reported that most contracts referencing the LIBOR may not have robust fallback language.¹⁶⁰ Financial institutions and other market participants are in the process of assessing their exposure to the discontinuation of the LIBOR.¹⁶¹ For contracts based on the LIBOR that do not contain sufficient fallback language, such contracts may need to be modified in order to provide a substantially similar interest rate.

Proposed Changes

The bill provides that a modification of an original document which changes only the interest rate and is made as the result of the discontinuation of an index to which the original interest rate is referenced is not a renewal and is not subject to the documentary stamp tax.

Heavy Minerals Tax Rate

Current Situation

Under current law, an excise tax is levied upon those who engage in the business of severing heavy minerals from the soils or waters of this state for commercial use. The heavy minerals tax rate is to be calculated each year based on the annual producer price index (PPI) for titanium dioxide published by the U.S. Bureau of Labor Statistics (BLS).¹⁶² However, due to a lack of data, BLS has ceased posting the PPI for titanium dioxide. In the event that the PPI for titanium dioxide is discontinued, current law authorizes the Department of Revenue (DOR) to adopt a tax rate by rule based on a comparable index.¹⁶³ However, DOR has been unable to identify an appropriate comparable index.

Proposed Changes

The bill amends s. 211.3106, F.S., to require DOR to use the tax rate for the immediately preceding year when the statutory rate cannot be calculated and there is no comparable index. The current rate reflects the 2020 tax rate calculation that followed the statutory formula when the PPI for titanium dioxide was last published by the Bureau of Labor Statistics.¹⁶⁴ This section takes effect upon becoming a law.

Forwarding Agent Certificate

Current Situation

¹⁵⁷ New York Federal Reserve, *Transition From LIBOR*, <https://www.newyorkfed.org/arrc/sofr-transition> (last visited Mar. 5, 2021); Financial Conduct Authority, *Transition From LIBOR* (Jan. 19, 2021), <https://www.fca.org.uk/markets/libor> (last visited Mar. 5, 2021).

¹⁵⁸ Financial Conduct Authority, *supra* note 23.

¹⁵⁹ Fallback language should consist of contractual provisions that specify the trigger events for a transition to a replacement rate, the replacement rate, and the spread adjustment to align the replacement rate with the benchmark being replaced—in this case U.S. Dollar LIBOR. Alternative Reference Rates Committee, *Summary of ARRC's LIBOR Fallback Language* (Nov. 2019), https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/LIBOR_Fallback_Language_Summary.pdf (last visited Mar. 5, 2021).

¹⁶⁰ *Id.*

¹⁶¹ *See, e.g.*, U.S. Securities and Exchange Commission Office of Compliance Inspections and Examinations, *Risk Alert* (June 18, 2020), https://www.sec.gov/files/Risk%20Alert%20-%20OCIE%20LIBOR%20Initiative_1.pdf (last visited Mar. 5, 2021); Board of Governors of the Federal Reserve System et al., *Statement on LIBOR Transition* (Nov. 30, 2020), <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20201130a1.pdf> (last visited Mar. 5, 2021).

¹⁶² Section 211.3106(3)(a), F.S.

¹⁶³ Section 211.3106(3)(e), F.S.

¹⁶⁴ Section 211.3106(3)(c), F.S., requires DOR to provide the base rate, the base rate adjustment, and the resulting tax rate by written notice by April 15 of the current year.

Generally speaking, Florida sales and use tax does not apply to tangible personal property imported, produced, or manufactured in Florida for export.¹⁶⁵ Therefore, the sale of items deemed committed to the export process that are purchased by a vendor and shipped directly to a licensed exporter or forwarding agent in Florida are exempt from sales tax. There are transportation and logistics businesses located in Florida that specialize in global package delivery. The business model of these businesses is designed to facilitate a foreign consumer's purchase of merchandise originating with an American vendor and the delivery of such merchandise to the foreign consumer, with no intervening use in the United States. These businesses are sometimes referred to as forwarding agents. There is no current statutory mechanism whereby a forwarding agent can provide documentation to sellers that indicates that purchases of otherwise taxable items, when delivered to the forwarding agent for export, are not taxable.

Proposed Changes

The bill defines the term "forwarding agent" to mean a person or business whose principal business activity is facilitating for compensation the export of property owned by other persons. The bill amends section 212.06, F.S., to revise the term "dealer" to include forwarding agents. The bill creates a process that allows forwarding agents to apply for and receive, upon approval and verification, a Florida Certificate of Forwarding Agent Address (certificate) from DOR. Each certificate expires 5 years after the issuance date. A forwarding agent that applies for and receives a certificate must register as a dealer with DOR. The certificate can be provided to vendors to evidence to the vendor the tax-free status of purchases directly delivered to the forwarding agent's address for export. The bill requires forwarding agents to maintain certain documentation, including copies of sales invoices or receipts or federally required export documentation in order to evidence the value of the purchase. These records must be kept in an electronic format and made available for DOR's review.

The bill requires DOR to publish a list on its website of forwarding agents who have received a certificate, including the forwarding agent's entity name, address, and certificate expiration date. A dealer may accept a copy of the forwarding agent's certificate or rely on the list of forwarding agents' names and addresses published on DOR's website to verify the tax-free status of a purchase.

The bill provides DOR rulemaking authority to administer the procedures, application and eligibility requirements, and forms related to the forwarding agent provisions of the bill.

Electronic Records/Sales Tax Audit

Current Situation

Sales and use tax statutes specify the records dealers are required to maintain and make available to DOR for inspection during reasonable hours at the dealer's place of business¹⁶⁶. As technology has advanced, many dealers maintain their records in an electronic format that can be shared with DOR. However, current law does not clearly require dealers to make their records available for inspection without a physical visit and does not require the records be provided electronically if so kept by the dealer.

Proposed Changes

Section 212.13(2), F.S., is amended to require dealers to provide electronic records when the dealer currently maintains the records in an electronic format and to remove language that references a physical visit requirement.

Theft of State Funds

¹⁶⁵ Section 212.06(5)(a)1, F.S.

¹⁶⁶ Section 212.13, F.S.

Current Situation

Under current law, a person commits theft of state funds when he or she fails to remit taxes with the intent to unlawfully deprive or defraud the state of its money or the use or benefit thereof.¹⁶⁷ When a dealer collects sales tax from customers but fails to remit those tax dollars to the state, DOR may pursue criminal prosecution through local state attorney offices¹⁶⁸. These prosecutions often involve multiple collection periods where the dealer has collected but failed to remit taxes.¹⁶⁹ Current sales tax law does not specifically provide for the aggregation of collection periods in determining the grade of criminal offense.

Proposed Changes

The bill amends section 212.15, F.S., to provide specific authority to allow for the aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes.

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.0104, F.S., relating to tourist development taxes, to allow funds to be used for flood mitigation projects and to require new or increased taxes to be approved by voters.
- Section 2: Amends s. 193.461, F.S., to modify the assessment of land used in the production of aquaculture products.
- Section 3: Amends s. 196.196, F.S., to provide that partial use of property for non-charitable uses does not remove a charitable property tax exemption from the entire property.
- Section 4: Provides for applicability of section 3.
- Section 5: Amends s. 196.1978, F.S., relating to affordable housing property tax exemptions, to increase an existing exemption from 50% to 100%.
- Section 6: Amends s. 197.222, F.S., to require tax collectors to accept late installment payments.
- Section 7: Reenacts s. 192.0105, F.S., for purposes of incorporating the change made in section 6.
- Section 8: Amends s. 201.08, F.S., to allow a modification of certain documents without additional payment of documentary stamp taxes.
- Section 9: Creates s. 211.0252, F.S., as part of the Strong Families Tax Credit program.
- Section 10: Amends s. 211.3106, F.S., to allow DOR to use the prior year's tax rate to determine the severance tax rate for heavy minerals when the statutory rate cannot be calculated and there is no comparable index.
- Section 11: Amends s. 212.0305, F.S., relating to convention development taxes, to allow funds to be used for flood mitigation projects and to require new or increased taxes to be approved by voters.
- Section 12: Amends s. 212.03055, F.S., relating to certain convention development taxes, to make a conforming change.

¹⁶⁷ Section 212.15(2), F.S.

¹⁶⁸ Section 212.15(2) and (3), F.S.

¹⁶⁹ Pursuant to s. 212.15(1), F.S., taxes imposed under chapter 212, F.S., become state funds when collected. The collections are due on the first day of the succeeding month and are delinquent on the 21st day of such month. As a result, there may be multiple collection periods where the dealer has collected but failed to remit taxes.

- Section 13: Amends s. 212.06, F.S., to define the term forwarding agent and revise the definition of the term “dealer” to include forwarding agents; creates a process allowing forwarding agents to apply for and receive a Certificate of Forwarding Agent Address and; establishes an on-line system for certificate verification.
- Section 14: Amends s. 212.07, F.S., to allow dealers to pay sales tax on behalf of their customers when certain conditions are met.
- Section 15: Amends s. 212.08, F.S., to extend the date a new data center can apply for an existing sales tax exemption from July 1, 2022, to July 1, 2027.
- Section 16: Amends s. 212.08, F.S., effective January 1, 2022, to exempt from sales tax certain items used in independent living.
- Section 17: Amends s. 212.13(2), F.S., to require dealers to provide electronic records to DOR.
- Section 18: Amends s. 212.15, F.S., to update criminal penalties to reflect changes made to s. 212.07, F.S. and to provide specific authority to allow aggregation of collection reporting periods to determine the degree of criminal offense for failure to remit taxes.
- Section 19: Creates s. 212.1833, F.S., as part of the Strong Families Tax Credit.
- Section 20: Amends s. 212.20, F.S., to remove a distribution related to the Sports Development Program.
- Section 21: Amends s. 212.205, F.S., to remove a cross-reference to the Sports Development Program.
- Section 22: Amends s. 213.053, F.S., to provide that DOR may publish a list of forwarding agents’ addresses on the agency’s electronic database webpage.
- Section 23: Amends s. 218.64, F.S., to remove a cross-reference to the Sports Development Program.
- Section 24: Amends s. 220.02, F.S., as part of the Strong Families Tax Credit.
- Section 25: Amends s. 220.13, F.S., as part of the Strong Families Tax Credit.
- Section 26: Amends s. 220.186, F.S., as part of the Strong Families Tax Credit.
- Section 27: Creates s. 220.1876, F.S., as part of the Strong Families Tax Credit.
- Section 28: Amends s. 288.0001, F.S., to remove a reference to the Sports Development Program.
- Section 29: Repeals s. 288.11625, F.S., to remove the Sports Development Program.
- Section 30: Creates s. 402.62, F.S., as part of the Strong Families Tax Credit.
- Section 31: Creates s. 561.1212, F.S., as part of the Strong Families Tax Credit.
- Section 32: Amends s. 624.509, F.S., as part of the Strong Families Tax Credit.
- Section 33: Creates s. 624.51056, F.S., as part of the Strong Families Tax Credit.
- Section 34: Provides an exemption from sales and use tax for the retail sale of certain supplies related to disaster preparedness during a specified period.

- Section 35: Provides an exemption from sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and related accessories during a specified period.
- Section 36: Provides an exemption from sales and use tax for the retail sale of certain items related to certain recreational activities during a specified period.
- Section 37: Provides an appropriation for implementing the provisions of the Strong Families Tax Credit.
- Section 38: Provides the Department of Revenue with emergency rulemaking authority for the Strong Families Tax Credit.
- Section 39: Provides the Department of Revenue with emergency rulemaking authority for changes made to s. 212.06, F.S.
- Section 40: Requires the Florida Institute for Child Welfare to perform a study.
- Section 41: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
See FISCAL COMMENTS section.
- 2. Expenditures:
See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
See FISCAL COMMENTS section.
- 2. Expenditures:
See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of multifamily projects that provide housing to extremely-low-income, very-low-income, or low-income families, and educational institutions that meet the new exemption parameters for leases, will realize additional savings on ad valorem taxes.

Business making contributions to eligible charitable organizations under the Strong Families Tax Credit will benefit from the dollar-for-dollar credit against certain tax liabilities.

The back to school, disaster preparedness, and Freedom Week sales tax holidays will provide tax relief to Florida consumers.

D. FISCAL COMMENTS:

The total impact of the bill in FY 2021-22 would be -\$61.5 million (-\$50.0 million recurring) of which - \$44.9 million (-\$9.0 million recurring) is on General Revenue, \$0 is on state trust funds, and -\$16.6 million (-\$41.0 million recurring) is on local government (see table below). Total tax reductions

embodied in the language are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$100.1 million in tax reductions is the sum of -\$50.0 million (recurring), and -\$50.1 million (pure nonrecurring in FY 2021-22).

Appropriations Detail—The \$208,000 in General Revenue appropriations in the bill is to offset programming and administrative costs to the Department of Revenue for implementation of the Strong Families Tax Credit.

| PCB WMC 21-01 | | | | | | | | |
|---------------------------------------------------------------|-----------------|--------------|-------------------|----------|---------------|---------------|-------------------------------------|----------------|
| Fiscal Year 2021-22 Estimated Fiscal Impacts (millions of \$) | | | | | | | | |
| | General Revenue | | State Trust Funds | | Local | | Total | |
| | 1st Yr | Recur. | 1st Yr | Recur. | 1st Yr | Recur. | 1st Yr | Recur. |
| Sales Tax: Back To School Holiday 7 Days | (34.2) | - | (*) | - | (10.3) | - | (44.5) | - |
| Sales Tax: Disaster Preparedness Holiday 7 Days | (4.3) | - | (*) | - | (1.3) | - | (5.6) | - |
| Sales Tax: Freedom Week Holiday 7 Days | (**) | (**) | (**) | (**) | (**) | (**) | (**) | (**) |
| Sales Tax: Absorption (Dealers Can Pay Tax) | (**) | (**) | (**) | (**) | (**) | (**) | (**) | (**) |
| Sales Tax: Data Centers Exemption Extension | (**) | (1.1) | - | (*) | - | (0.3) | - | (1.4) |
| Sales Tax: Independent Living Items | (1.2) | (2.9) | (*) | (*) | (0.4) | (0.9) | (1.6) | (3.8) |
| Ad Valorem: Affordable Housing 50% to 100% | - | - | - | - | - | (29.9) | - | (29.9) |
| Ad Valorem: Use of Charitable Property | - | - | - | - | - | +/- ins. | - | +/- ins. |
| Ad Valorem: Aquaculture | - | - | - | - | (4.6) | (9.9) | (4.6) | (9.9) |
| Documentary Stamp Tax: Revision of Interest Rate Index | (**) | (**) | (**) | (**) | - | - | (**) | (**) |
| Multiple Taxes: Strong Families Tax Credit Program | (5.0) | (5.0) | - | - | - | - | (5.0) | (5.0) |
| Appropriation for Strong Families Tax Credit Program | (0.2) | - | - | - | - | - | (0.2) | - |
| 2021-22 Total | (44.9) | (9.0) | - | - | (16.6) | (41.0) | (61.5) | (50.0) |
| | | | | | | | Pure Nonrecurring = | (50.1) |
| | | | | | | | Recurring + Pure Nonrecurring (2) = | (100.1) |

(*) Impact less than \$50,000; (**) Impact is indeterminate.
 (1) Ad valorem tax impacts assume current tax rates.
 (2) Recurring tax cut total (excl. appropriations) = -\$50.0 million
 Pure nonrecurring tax cuts in FY 2021-22= -\$50.1 million
 -\$100.1 million

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b), art. VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate.

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because the provision in the bill that increases a property tax discount for certain property used to provide affordable housing may reduce county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the Department of Revenue, the Department of Children and Families, and the Department of Business and Professional Regulation to administer the Strong Families Tax Credit Program. The bill also provides emergency rulemaking to the Department of Revenue to administer several provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES