

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 509 Sales Taxes on Mobile Homes

**SPONSOR(S):** Local Administration & Veterans Affairs Subcommittee, Yarborough

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	15 Y, 0 N, As CS	Darden	Miller
2) Ways & Means Committee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions, transient rentals, and a limited number of services. 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. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.

Mobile homes, aircrafts, boats, and certain motor vehicles are classified as tangible personal property and are subject to a 6 percent sales tax at each sale, including an occasional or isolated sale.

The bill decreases the applicable state sales tax on the sale of a new mobile home from six percent to three percent.

The Revenue Estimating Conference projects the bill will reduce state revenues by \$15.8 million and local government revenues by \$2.0 million annually starting in FY 2022-23.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Florida Sales and Use Tax

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property,<sup>1</sup> admissions,<sup>2</sup> transient rentals,<sup>3</sup> and a limited number of services. Chapter 212, F.S., authorizes the levy and collection of Florida's sales and use tax and provides the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>4</sup>

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.<sup>5</sup> 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."<sup>6</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently being levied vary by county in a range of 0.5 to 2.5 percent.<sup>7</sup>

Generally, tangible personal property sold in an isolated or occasional sale is exempt from the state sales tax.<sup>8</sup> A seller makes an isolated or occasional sale if the sale or series of sales occurs no more than twice during any 12-month period.<sup>9</sup> A seller completing more than three sales of the same type of item during a 12-month period must register as a dealer. Sales of mobile homes, aircrafts, boats, and motor vehicles are expressly excluded from the isolated or occasional state sales and use tax exemption.<sup>10</sup>

##### Taxation of Mobile Homes

Mobile homes, aircrafts, boats, and certain motor vehicles are classified as tangible personal property and are subject to a six percent sales tax at each sale, including an occasional or isolated sale.<sup>11</sup> In addition, a Florida mobile home is taxed annually in one of the following three ways:

- Assessed and taxed as real property by the county property appraiser;
- Subjected to an annual license tax by the county tax collector's office; or
- Assessed and taxed as tangible personal property by the county property appraiser.<sup>12</sup>

If a mobile home is permanently affixed to land owned by the mobile home owner, then the mobile home may be considered real property.<sup>13</sup> The local property appraiser assesses and then lists the mobile home as real property based on the appraiser's findings. If the mobile home is real property, the

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<sup>1</sup> S. 212.05(1)(a)1.a., F.S.

<sup>2</sup> S. 212.04(1)(b), F.S.

<sup>3</sup> S. 212.03(1)(a), F.S.

<sup>4</sup> S. 212.07(2), F.S.

<sup>5</sup> S. 212.055, F.S.

<sup>6</sup> Section 212.054(2)(a), F.S.

<sup>7</sup> Office of Economic and Demographic Research, *Florida Tax Handbook*, 227-228 (2021), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2021.pdf> (last visited Jan. 10, 2022).

<sup>8</sup> R. 12A-1.037(3)(b), F.A.C. See also s. 212.02(2), F.S. defining "business" as activity engaged in by a person with the object of private or public gain, benefit, or advantage.

<sup>9</sup> R. 12A-1.037(3)(b), F.A.C.

<sup>10</sup> See s. 212.05(1)(a)1.b., F.S. and R. 12A-1.037(2)(a)1, F.A.C.

<sup>11</sup> Ss. 212.02(19) and 212.05(1)(a)1.b., F.S.

<sup>12</sup> See generally Fla. Dept. of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at [https://floridarevenue.com/Forms\\_library/current/gt800047.pdf](https://floridarevenue.com/Forms_library/current/gt800047.pdf) (last visited Jan. 10, 2022).

<sup>13</sup> S. 320.015, F.S.

owner must make a one-time purchase of a \$3 RP decal from the local county tax collector's office.<sup>14</sup> The RP decal subjects the mobile home to annual assessment and taxation by the county property appraiser. A mobile home is considered real property if it continues to be affixed to the land and therefore will be taxed as such (and exempt from subsequent sales and use tax) at subsequent sales.

A mobile home affixed to land that is owned by someone other than the mobile home's owner is subject to an annual license tax, which is levied by the Department of Highway Safety and Motor Vehicles and can be purchased at the local county tax collector's office.<sup>15</sup> This license tax varies from \$20 to \$80, based on the mobile home's length.<sup>16</sup>

Any mobile home owner who qualifies for, but fails to pay, the license tax, will have the mobile home assessed and taxed as tangible personal property by the county property appraiser.<sup>17</sup> The mobile home is then placed on the tangible personal property assessment roll and is taxed as such for the year. If the owner purchases an annual license tax for the mobile home before January 1 of the next year, then the mobile home will be removed from the tangible personal property assessment roll and would not be subject to further tangible personal property taxation. Tangible personal property is subject to taxation at the same rate as real property after the consideration of applicable exemptions.<sup>18</sup>

### **Effect of the Bill**

The bill decreases the applicable state sales tax on the sale of a new mobile home from six percent to three percent. A "new mobile home" is defined as any mobile where the equitable or legal title has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.<sup>19</sup> This reduction more closely aligns the sales and use tax treatment of mobile homes, where all elements of production are included in the purchase time, with the treatment of sales and use tax treatment of site-built homes, where only the cost of materials are subject to sales tax.<sup>20</sup>

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 212.05, F.S., reducing applicable state sales tax on the sale of a new mobile home from six percent to three percent and providing a definition.

Section 2: Provides an effective date of October 1, 2022.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The Revenue Estimating Conference projects the bill will reduce state revenues by \$15.8 million per year starting in FY 2022-23.

##### **2. Expenditures:**

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

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<sup>14</sup> While the RP decal is issued by local county property appraisers, it is provided by the Dept. of Highway Safety and Motor Vehicles to the county tax collectors. The \$3 fee is distributed as follows: \$2.50 to the tax collector, 25 cents to the property appraiser, and 25 cents to the DHSMV. S. 320.0815(2), F.S. See, e.g., Florida Department of Revenue, *Declaration of Mobile Home as Real Property: Form DR-402* (Aug. 1995), <https://floridarevenue.com/property/Documents/dr402.pdf> (last visited Jan. 10, 2022).

<sup>15</sup> Ss. 320.015 and 320.0815(2), F.S. See also Fla. Dept. of Revenue, *supra* note 12.

<sup>16</sup> S. 320.08(11), F.S.

<sup>17</sup> Fla. Dept. of Revenue, *supra* note 12.

<sup>18</sup> Citrus County Property Appraiser, *Tangible Personal Property*, [https://www.citruspa.org/\\_dnn/Tangible](https://www.citruspa.org/_dnn/Tangible) (last visited Jan. 11, 2022).

<sup>19</sup> See s. 319.001, F.S.

<sup>20</sup> See Carmel Ford, *Cost of Constructing a Home*, Natl. Assoc. of Home Builders Special Studies, <https://www.nahbclassic.org/generic.aspx?genericContentID=271883&channelID=311> (last visited Jan. 11, 2022) (construction costs, including labor, are 61.1% of the cost of a single-family home).

1. Revenues:

The Revenue Estimating Conference projects the bill will reduce local government revenues by \$2.0 million per year starting in FY 2022-23.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The purchaser of a new mobile home from a dealer would pay three percent state sales and use tax instead of a six percent state tax.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue may be required to undergo rulemaking to update Rule 12A-1.007 of the Florida Administrative Code.<sup>21</sup>

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2022, the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS decreases the applicable state sales tax on the sale of a new mobile home from six percent to three percent and removes a provision concerning mobile homes permanently affixed to the land.

This analysis is drafted to the committee substitute adopted by the Local Administration & Veterans Affairs Subcommittee.

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<sup>21</sup> Fla. Dept. of Revenue, Agency Analysis of 2022 CS/SB 830, p.3 (Dec. 22, 2021).  
**STORAGE NAME:** h0509.LAV  
**DATE:** 1/19/2022