

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to taxation; amending s. 206.9931,
3 F.S.; deleting a registration fee for certain parties;
4 amending s. 212.031, F.S.; authorizing a county or
5 school board to exclude rent or license fees from the
6 discretionary sales surtaxes imposed, under certain
7 circumstances; requiring that the exclusion be
8 approved by a majority vote of the board of county
9 commissioners or the school board; providing that the
10 exclusion is not required to be approved by
11 referendum; requiring that the exclusion be initiated
12 on a specified date; requiring the county or school
13 board to notify the Department of Revenue by a
14 specified date for the exclusion to take effect;
15 amending s. 212.05, F.S.; making technical changes;
16 specifying the application of an exemption for sales
17 taxes for certain purchasers of boats and aircraft;
18 amending s. 212.054, F.S.; specifying that certain
19 purchases are considered a single item for purposes of
20 discretionary sales surtax; specifying that certain
21 property sales are deemed to occur in the county where
22 the purchaser resides, as identified on specified
23 documents; amending s. 213.21, F.S.; authorizing the
24 department to consider requests to settle or
25 compromise certain liabilities after certain time
26 periods have expired, in certain circumstances;
27 providing a limitation; providing that certain
28 department decisions are not subject to review;
29 amending s. 213.67, F.S.; authorizing certain parties

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30 to include additional specified amounts in a
31 garnishment levy notice; revising methods for delivery
32 of levy notices; amending s. 220.222, F.S.; revising
33 the payment amount for purposes of determining a
34 taxpayer's compliance with a provision regarding
35 underpayment of taxes owed; authorizing the department
36 to adopt emergency rules; providing an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Subsection (1) of section 206.9931, Florida
41 Statutes, is amended to read:

42 206.9931 Administrative provisions.—

43 (1) Any person producing in, importing into, or causing to
44 be imported into this state taxable pollutants for sale, use, or
45 otherwise and who is not registered or licensed pursuant to
46 other parts of this chapter is hereby required to register and
47 become licensed for the purposes of this part. Such person shall
48 register as either a producer or importer of pollutants and
49 shall be subject to all applicable registration and licensing
50 provisions of this chapter, as if fully set out in this part and
51 made expressly applicable to the taxes imposed herein,
52 including, but not limited to, ss. 206.02-206.025, 206.03,
53 206.04, and 206.05. For the purposes of this section,
54 registrations required exclusively for this part shall be made
55 within 90 days of July 1, 1986, for existing businesses, or
56 before ~~prior to~~ the first production or importation of
57 pollutants for businesses created after July 1, 1986. ~~The fee~~
58 ~~for registration shall be \$30.~~ Failure to timely register is a

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59 misdemeanor of the first degree, punishable as provided in s.
60 775.082 or s. 775.083.

61 Section 2. Subsection (10) is added to section 212.031,
62 Florida Statutes, to read:

63 212.031 Tax on rental or license fee for use of real
64 property.—

65 (10) Notwithstanding s. 212.054, a county or school board
66 imposing a discretionary sales surtax under s. 212.055 may
67 exclude the total rent or license fee charged under this section
68 from any discretionary sales surtax levied by such county or
69 school board.

70 (a) The exclusion must be approved by a majority vote of
71 the members of the board of county commissioners or school board
72 currently imposing the discretionary sales surtax. The exclusion
73 is not required to be approved by referendum.

74 (b) The exclusion must be initiated on January 1 of the
75 year following approval. The county or school board must notify
76 the department by September 1 for the exclusion to take effect
77 on the following January 1.

78 Section 3. Paragraph (a) of subsection (1) of section
79 212.05, Florida Statutes, is amended to read:

80 212.05 Sales, storage, use tax.—It is hereby declared to be
81 the legislative intent that every person is exercising a taxable
82 privilege who engages in the business of selling tangible
83 personal property at retail in this state, including the
84 business of making or facilitating remote sales; who rents or
85 furnishes any of the things or services taxable under this
86 chapter; or who stores for use or consumption in this state any
87 item or article of tangible personal property as defined herein

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88 and who leases or rents such property within the state.

89 (1) For the exercise of such privilege, a tax is levied on
90 each taxable transaction or incident, which tax is due and
91 payable as follows:

92 (a)1.a. At the rate of 6 percent of the sales price of each
93 item or article of tangible personal property when sold at
94 retail in this state, computed on each taxable sale for the
95 purpose of remitting the amount of tax due the state, and
96 including each and every retail sale.

97 b. Each occasional or isolated sale of an aircraft, boat,
98 mobile home, or motor vehicle of a class or type which is
99 required to be registered, licensed, titled, or documented in
100 this state or by the United States Government shall be subject
101 to tax at the rate provided in this paragraph. The department
102 shall by rule adopt any nationally recognized publication for
103 valuation of used motor vehicles as the reference price list for
104 any used motor vehicle which is required to be licensed pursuant
105 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
106 party to an occasional or isolated sale of such a vehicle
107 reports to the tax collector a sales price which is less than 80
108 percent of the average loan price for the specified model and
109 year of such vehicle as listed in the most recent reference
110 price list, the tax levied under this paragraph shall be
111 computed by the department on such average loan price unless the
112 parties to the sale have provided to the tax collector an
113 affidavit signed by each party, or other substantial proof,
114 stating the actual sales price. Any party to such sale who
115 reports a sales price less than the actual sales price is guilty
116 of a misdemeanor of the first degree, punishable as provided in

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117 s. 775.082 or s. 775.083. The department shall collect or
118 attempt to collect from such party any delinquent sales taxes.
119 In addition, such party shall pay any tax due and any penalty
120 and interest assessed plus a penalty equal to twice the amount
121 of the additional tax owed. Notwithstanding any other provision
122 of law, the Department of Revenue may waive or compromise any
123 penalty imposed pursuant to this subparagraph.

124 2. This paragraph does not apply to the sale of a boat or
125 aircraft by or through a registered dealer under this chapter to
126 a purchaser who, at the time of taking delivery, is a
127 nonresident of this state, does not make his or her permanent
128 place of abode in this state, and is not engaged in carrying on
129 in this state any employment, trade, business, or profession in
130 which the boat or aircraft will be used in this state, or is a
131 corporation none of the officers or directors of which is a
132 resident of, or makes his or her permanent place of abode in,
133 this state, or is a noncorporate entity that has no individual
134 vested with authority to participate in the management,
135 direction, or control of the entity's affairs who is a resident
136 of, or makes his or her permanent abode in, this state. For
137 purposes of this exemption, either a registered dealer acting on
138 his or her own behalf as seller, a registered dealer acting as
139 broker on behalf of a seller, or a registered dealer acting as
140 broker on behalf of the nonresident purchaser may be deemed to
141 be the selling dealer. This exemption is ~~shall~~ not be allowed
142 unless:

143 a. The nonresident purchaser removes a qualifying boat, as
144 described in sub-subparagraph f., from this ~~the~~ state within 90
145 days after the date of purchase or extension, or the nonresident

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146 purchaser removes a nonqualifying boat or an aircraft from this
147 state within 10 days after the date of purchase or, when the
148 boat or aircraft is repaired or altered, within 20 days after
149 completion of the repairs or alterations; or if the aircraft
150 will be registered in a foreign jurisdiction and:

151 (I) Application for the aircraft's registration is properly
152 filed with a civil airworthiness authority of a foreign
153 jurisdiction within 10 days after the date of purchase;

154 (II) The nonresident purchaser removes the aircraft from
155 this ~~the~~ state to a foreign jurisdiction within 10 days after
156 the date the aircraft is registered by the applicable foreign
157 airworthiness authority; and

158 (III) The aircraft is operated in this ~~the~~ state solely to
159 remove it from this ~~the~~ state to a foreign jurisdiction.

160
161 For purposes of this sub-subparagraph, the term "foreign
162 jurisdiction" means any jurisdiction outside of the United
163 States or any of its territories;

164 b. The nonresident purchaser, within 90 days after ~~from~~ the
165 date of departure, provides the department with written proof
166 that the nonresident purchaser licensed, registered, titled, or
167 documented the boat or aircraft outside this ~~the~~ state. If such
168 written proof is unavailable, within 90 days the nonresident
169 purchaser must ~~shall~~ provide proof that the nonresident
170 purchaser applied for such license, title, registration, or
171 documentation. The nonresident purchaser shall forward to the
172 department proof of title, license, registration, or
173 documentation upon receipt;

174 c. The nonresident purchaser, within 30 days after removing

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175 the boat or aircraft from this state ~~Florida~~, furnishes the
176 department with proof of removal in the form of receipts for
177 fuel, dockage, slippage, tie-down, or hangaring from outside of
178 Florida. The information so provided must clearly and
179 specifically identify the boat or aircraft;

180 d. The selling dealer, within 30 days after the date of
181 sale, provides to the department a copy of the sales invoice,
182 closing statement, bills of sale, and the original affidavit
183 signed by the nonresident purchaser affirming ~~attesting~~ that the
184 nonresident purchaser qualifies for exemption from sales tax
185 pursuant to this subparagraph and attesting that the nonresident
186 purchaser will provide the documentation required to
187 substantiate the exemption claimed under ~~he or she has read the~~
188 ~~provisions of this~~ subparagraph ~~section~~;

189 e. The seller makes a copy of the affidavit a part of his
190 or her record for as long as required by s. 213.35; and

191 f. Unless the nonresident purchaser of a boat of 5 net tons
192 of admeasurement or larger intends to remove the boat from this
193 state within 10 days after the date of purchase or when the boat
194 is repaired or altered, within 20 days after completion of the
195 repairs or alterations, the nonresident purchaser applies to the
196 selling dealer for a decal which authorizes 90 days after the
197 date of purchase for removal of the boat. The nonresident
198 purchaser of a qualifying boat may apply to the selling dealer
199 within 60 days after the date of purchase for an extension decal
200 that authorizes the boat to remain in this state for an
201 additional 90 days, but not more than a total of 180 days,
202 before the nonresident purchaser is required to pay the tax
203 imposed by this chapter. The department is authorized to issue

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204 decals in advance to dealers. The number of decals issued in
205 advance to a dealer shall be consistent with the volume of the
206 dealer's past sales of boats which qualify under this sub-
207 subparagraph. The selling dealer or his or her agent shall mark
208 and affix the decals to qualifying boats in the manner
209 prescribed by the department, before delivery of the boat.

210 (I) The department is hereby authorized to charge dealers a
211 fee sufficient to recover the costs of decals issued, except the
212 extension decal shall cost \$425.

213 (II) The proceeds from the sale of decals will be deposited
214 into the administrative trust fund.

215 (III) Decals shall display information to identify the boat
216 as a qualifying boat under this sub-subparagraph, including, but
217 not limited to, the decal's date of expiration.

218 (IV) The department is authorized to require dealers who
219 purchase decals to file reports with the department and may
220 prescribe all necessary records by rule. All such records are
221 subject to inspection by the department.

222 (V) Any dealer or his or her agent who issues a decal
223 falsely, fails to affix a decal, mismarks the expiration date of
224 a decal, or fails to properly account for decals will be
225 considered prima facie to have committed a fraudulent act to
226 evade the tax and will be liable for payment of the tax plus a
227 mandatory penalty of 200 percent of the tax, and shall be liable
228 for fine and punishment as provided by law for a conviction of a
229 misdemeanor of the first degree, as provided in s. 775.082 or s.
230 775.083.

231 (VI) Any nonresident purchaser of a boat who removes a
232 decal before permanently removing the boat from this ~~the~~ state,

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233 or defaces, changes, modifies, or alters a decal in a manner
234 affecting its expiration date before its expiration, or who
235 causes or allows the same to be done by another, will be
236 considered prima facie to have committed a fraudulent act to
237 evade the tax and will be liable for payment of the tax plus a
238 mandatory penalty of 200 percent of the tax, and shall be liable
239 for fine and punishment as provided by law for a conviction of a
240 misdemeanor of the first degree, as provided in s. 775.082 or s.
241 775.083.

242 (VII) The department is authorized to adopt rules necessary
243 to administer and enforce this subparagraph and to publish the
244 necessary forms and instructions.

245 (VIII) The department is hereby authorized to adopt
246 emergency rules pursuant to s. 120.54(4) to administer and
247 enforce the provisions of this subparagraph.

248
249 If the nonresident purchaser fails to remove the qualifying boat
250 from this state within the maximum 180 days after purchase or a
251 nonqualifying boat or an aircraft from this state within 10 days
252 after purchase or, when the boat or aircraft is repaired or
253 altered, within 20 days after completion of such repairs or
254 alterations, or permits the boat or aircraft to return to this
255 state within 6 months after ~~from~~ the date of departure, except
256 as provided in s. 212.08(7)(fff), or if the nonresident
257 purchaser fails to furnish the department with any of the
258 documentation required by this subparagraph within the
259 prescribed time period, the nonresident purchaser is ~~shall be~~
260 liable for use tax on the cost price of the boat or aircraft
261 and, in addition thereto, payment of a penalty to the Department

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262 of Revenue equal to the tax payable. This penalty is ~~shall be~~ in
263 lieu of the penalty imposed by s. 212.12(2). The maximum 180-day
264 period following the sale of a qualifying boat tax-exempt to a
265 nonresident may not be tolled for any reason.

266 Section 4. Paragraph (b) of subsection (2) and paragraph
267 (a) of subsection (3) of section 212.054, Florida Statutes, are
268 amended to read:

269 212.054 Discretionary sales surtax; limitations,
270 administration, and collection.—

271 (2)

272 (b) However:

273 1. The sales amount above \$5,000 on any item of tangible
274 personal property shall not be subject to the surtax. However,
275 charges for prepaid calling arrangements, as defined in s.
276 212.05(1)(e)1.a., shall be subject to the surtax. For purposes
277 of administering the \$5,000 limitation on an item of tangible
278 personal property:7

279 a. If two or more taxable items of tangible personal
280 property are sold to the same purchaser at the same time and,
281 under generally accepted business practice or industry standards
282 or usage, are normally sold in bulk or are items that, when
283 assembled, comprise a working unit or part of a working unit,
284 such items must be considered a single item for purposes of the
285 \$5,000 limitation when supported by a charge ticket, sales slip,
286 invoice, or other tangible evidence of a single sale or rental.

287 b. The sale of a boat and the corresponding boat trailer,
288 which trailer is identified as a motor vehicle as defined in s.
289 320.01(1), must be taxed as a single item when sold to the same
290 purchaser, at the same time, and included in the same invoice.

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291 2. In the case of utility services billed on or after the
292 effective date of any such surtax, the entire amount of the
293 charge for utility services shall be subject to the surtax. In
294 the case of utility services billed after the last day the
295 surtax is in effect, the entire amount of the charge on said
296 items shall not be subject to the surtax. "Utility service," as
297 used in this section, does not include any communications
298 services as defined in chapter 202.

299 3. In the case of written contracts which are signed prior
300 to the effective date of any such surtax for the construction of
301 improvements to real property or for remodeling of existing
302 structures, the surtax shall be paid by the contractor
303 responsible for the performance of the contract. However, the
304 contractor may apply for one refund of any such surtax paid on
305 materials necessary for the completion of the contract. Any
306 application for refund shall be made no later than 15 months
307 following initial imposition of the surtax in that county. The
308 application for refund shall be in the manner prescribed by the
309 department by rule. A complete application shall include proof
310 of the written contract and of payment of the surtax. The
311 application shall contain a sworn statement, signed by the
312 applicant or its representative, attesting to the validity of
313 the application. The department shall, within 30 days after
314 approval of a complete application, certify to the county
315 information necessary for issuance of a refund to the applicant.
316 Counties are hereby authorized to issue refunds for this purpose
317 and shall set aside from the proceeds of the surtax a sum
318 sufficient to pay any refund lawfully due. Any person who
319 fraudulently obtains or attempts to obtain a refund pursuant to

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320 this subparagraph, in addition to being liable for repayment of
321 any refund fraudulently obtained plus a mandatory penalty of 100
322 percent of the refund, is guilty of a felony of the third
323 degree, punishable as provided in s. 775.082, s. 775.083, or s.
324 775.084.

325 4. In the case of any vessel, railroad, or motor vehicle
326 common carrier entitled to partial exemption from tax imposed
327 under this chapter pursuant to s. 212.08(4), (8), or (9), the
328 basis for imposition of surtax shall be the same as provided in
329 s. 212.08 and the ratio shall be applied each month to total
330 purchases in this state of property qualified for proration
331 which is delivered or sold in the taxing county to establish the
332 portion used and consumed in intracounty movement and subject to
333 surtax.

334 (3) For the purpose of this section, a transaction shall be
335 deemed to have occurred in a county imposing the surtax when:

336 (a)1. The sale includes an item of tangible personal
337 property, a service, or tangible personal property representing
338 a service, and the item of tangible personal property, the
339 service, or the tangible personal property representing the
340 service is delivered within the county. If there is no
341 reasonable evidence of delivery of a service, the sale of a
342 service is deemed to occur in the county in which the purchaser
343 accepts the bill of sale.

344 2. The sale of any motor vehicle or mobile home of a class
345 or type which is required to be registered in this state or in
346 any other state shall be deemed to have occurred only in the
347 county identified as the residence address of the purchaser on
348 the registration or title document for such property.

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349 3. The sale of property under sub-subparagraph (2)(b)1.b.
350 is deemed to occur in the county where the purchaser resides, as
351 identified on the registration or title documents for such
352 property.

353 Section 5. Subsection (11) is added to section 213.21,
354 Florida Statutes, to read:

355 213.21 Informal conferences; compromises.—

356 (11) (a) The department may consider a request to settle or
357 compromise any tax, interest, penalty, or other liability under
358 this section after the time to challenge an assessment or a
359 denial of a refund under s. 72.011 has expired if the taxpayer
360 demonstrates that the failure to initiate a timely challenge was
361 due to any of the following:

362 1. The death or life-threatening injury or illness of:

363 a. The taxpayer;

364 b. An immediate family member of the taxpayer; or

365 c. The responsible party that controlled, managed, or
366 directed the affected business entity.

367 2. An act of war or terrorism.

368 3. A natural disaster, fire, or other catastrophic loss.

369 (b) The department may not consider a request received more
370 than 180 days after the time has expired for contesting it under
371 s. 72.011.

372 (c) Any decision by the department regarding a taxpayer's
373 request to compromise or settle a liability under this
374 subsection is not subject to review under chapter 120.

375 Section 6. Subsections (1), (3), and (6) of section 213.67,
376 Florida Statutes, are amended to read:

377 213.67 Garnishment.—

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378 (1) If a person is delinquent in the payment of any taxes,
379 penalties, ~~and~~ interest, costs, surcharges, and fees owed to the
380 department, the executive director or his or her designee may
381 give notice of the amount of such delinquency by regular,
382 certified, or registered mail, by personal service, or by
383 electronic means, including, but not limited to, facsimile
384 transmissions, electronic data interchange, or use of the
385 Internet, to all persons having in their possession or under
386 their control any credits or personal property, exclusive of
387 wages, belonging to the delinquent taxpayer, or owing any debts
388 to such delinquent taxpayer at the time of receipt by them of
389 such notice. Thereafter, any person ~~who has been~~ notified may
390 not transfer or make any other disposition of such credits,
391 other personal property, or debts until the executive director
392 or his or her designee consents to a transfer or disposition or
393 until 60 days after the receipt of such notice. However, the
394 credits, other personal property, or debts that exceed the
395 delinquent amount stipulated in the notice are not subject to
396 this section, wherever held, if the taxpayer does not have a
397 prior history of tax delinquencies. If during the effective
398 period of the notice to withhold, any person so notified makes
399 any transfer or disposition of the property or debts required to
400 be withheld under this section, he or she is liable to the state
401 for any indebtedness owed to the department by the person with
402 respect to whose obligation the notice was given to the extent
403 of the value of the property or the amount of the debts thus
404 transferred or paid if, solely by reason of such transfer or
405 disposition, the state is unable to recover the indebtedness of
406 the person with respect to whose obligation the notice was

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407 given. If the delinquent taxpayer contests the intended levy in
408 circuit court or under chapter 120, the notice under this
409 section remains effective until that final resolution of the
410 contest. Any financial institution receiving such notice
411 maintains ~~will maintain~~ a right of setoff for any transaction
412 involving a debit card occurring on or before the date of
413 receipt of such notice.

414 (3) During the last 30 days of the 60-day period set forth
415 in subsection (1), the executive director or his or her designee
416 may levy upon such credits, other personal property, or debts.
417 The levy must be accomplished by delivery of a notice of levy by
418 certified or registered mail, by personal service, or by
419 electronic means, including, but not limited to, facsimile
420 transmission or an electronic data exchange process using a web
421 interface. Upon receipt of the notice of levy, ~~which~~ the person
422 possessing the credits, other personal property, or debts must
423 ~~shall~~ transfer them to the department or pay to the department
424 the amount owed to the delinquent taxpayer.

425 (6) (a) Levy may be made under subsection (3) upon credits,
426 other personal property, or debt of any person with respect to
427 any unpaid tax, penalties, ~~and~~ interest, costs, surcharges, and
428 fees authorized by law only after the executive director or his
429 or her designee has notified such person in writing of the
430 intention to make such levy.

431 (b) No less than 30 days before the day of the levy, the
432 notice of intent to levy required under paragraph (a) must ~~shall~~
433 be given in person or sent by certified or registered mail to
434 the person's last known address.

435 (c) The notice required in paragraph (a) must include a

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436 brief statement that sets forth in simple and nontechnical
437 terms:

438 1. The provisions of this section relating to levy and sale
439 of property;

440 2. The procedures applicable to the levy under this
441 section;

442 3. The administrative and judicial appeals available to the
443 taxpayer with respect to such levy and sale, and the procedures
444 relating to such appeals; and

445 4. Any ~~The alternatives, if any,~~ available to taxpayers
446 which could prevent levy on the property.

447 Section 7. Paragraph (c) of subsection (2) of section
448 220.222, Florida Statutes, is amended to read:

449 220.222 Returns; time and place for filing.-

450 (2) (c) 1. For purposes of this subsection, a taxpayer is not
451 in compliance with s. 220.32 if the taxpayer underpays the
452 required payment by more than the greater of \$6,000 ~~\$2,000~~ or 30
453 percent of the tax shown on the return when filed.

454 2. For the purpose of determining compliance with s. 220.32
455 as referenced in subparagraph 1., the tax shown on the return
456 when filed must include the amount of the allowable credits
457 taken on the return pursuant to s. 220.1875, s. 220.1876, s.
458 220.1877, or s. 220.1878.

459 Section 8. The Department of Revenue is authorized, and all
460 conditions are deemed met, to adopt emergency rules pursuant to
461 s. 120.54(4), Florida Statutes, for the purpose of implementing
462 this act. Notwithstanding any other law, emergency rules adopted
463 pursuant to this section are effective for 6 months after
464 adoption and may be renewed during the pendency of procedures to

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465 adopt permanent rules addressing the subject of the emergency
466 rules. This section shall expire July 1, 2025.

467 Section 9. This act shall take effect July 1, 2024.