

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Gainer, Chair
Senator Gruters, Vice Chair

MEETING DATE: Thursday, February 13, 2020

TIME: 12:30—2:00 p.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Building

MEMBERS: Senator Gainer, Chair; Senator Gruters, Vice Chair; Senators Baxley, Bracy, Bradley, Pizzo, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 126 Gruters (Similar H 159)	Sales and Use Tax; Revising the definition of the term "retail sale"; renaming the term "mail order sale" to "remote sale" and revising the definition; revising conditions under which certain dealers are subject to sales tax levies and collection; providing that certain marketplace providers are subject to registration, collection, and remittance requirements for sales taxes, etc. CM 10/15/2019 Favorable FT 02/13/2020 Favorable AP	Favorable Yeas 8 Nays 0
2	SJR 146 Brandes (Identical HJR 369, Compare H 371, H 671, Linked CS/S 148)	Homestead Property Tax Assessments/Increased Portability Period; Proposing amendments to the State Constitution to increase the period of time during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead, and to provide an effective date, etc. CA 11/04/2019 Favorable FT 02/13/2020 Favorable AP	Favorable Yeas 7 Nays 1
3	CS/SB 148 Community Affairs / Brandes (Identical H 371, Compare HJR 369, Linked SJR 146)	Limitations on Homestead Assessments; Revising the timeframe during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead; revising the timeframe during which an owner of homestead property significantly damaged or destroyed by a named tropical storm or hurricane must establish a new homestead to make a certain election, etc. CA 11/04/2019 Fav/CS FT 02/13/2020 Favorable AP	Favorable Yeas 7 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Thursday, February 13, 2020, 12:30—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 508 Baxley (Identical H 429)	Sales Tax Absorption; Authorizing dealers, subject to specified conditions, to advertise or hold out to the public that they will absorb all or part of the sales and use tax on taxable transactions, or refund any part thereof to the purchaser; revising a criminal penalty; providing that certain persons who unlawfully fail to remit absorbed sales taxes commit theft of state funds, etc. CM 11/12/2019 Favorable FT 02/13/2020 Fav/CS AP	Fav/CS Yeas 6 Nays 0
5	CS/SB 514 Community Affairs / Gruters (Similar CS/H 223)	Homestead Exemptions; Providing that a person or family unit receiving or claiming the benefit of certain ad valorem tax exemptions or tax credits in another state is entitled to the homestead exemption in this state if the person or family unit demonstrates certain conditions to the property appraiser; providing that homestead exemption forms prescribed by the Department of Revenue may include taxpayer information relating to such ad valorem tax exemptions or tax credits in another state, etc. CA 01/21/2020 Fav/CS FT 02/13/2020 Favorable AP	Favorable Yeas 8 Nays 0
6	SB 524 Gruters	Sales Tax Holiday for Disaster Preparedness Supplies; Providing exemptions from the sales and use tax for specified disaster preparedness supplies during a specified timeframe; providing applicability for certain exemptions; specifying locations where the exemptions do not apply, etc. CM 11/12/2019 Favorable FT 02/13/2020 Fav/CS AP	Fav/CS Yeas 8 Nays 0
7	CS/SB 542 Commerce and Tourism / Perry	Back-to-school Sales Tax Holiday; Providing exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories during a specified timeframe; specifying locations where the exemptions do not apply; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements, etc. CM 11/12/2019 Fav/CS FT 02/13/2020 Favorable AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Thursday, February 13, 2020, 12:30—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 1074 Military and Veterans Affairs and Space / Wright (Identical H 879, Compare HJR 877, Linked SJR 1076)	Surviving Spouse Ad Valorem Tax Reduction; Authorizing the surviving spouses of certain permanently disabled veterans to carry over a certain discount on ad valorem taxes on homestead property under specified conditions; authorizing the discount to be transferred to another permanent residence under specified conditions; authorizing the Department of Revenue to adopt emergency rules, etc. MS 01/22/2020 Fav/CS FT 02/13/2020 Favorable AP	Favorable Yeas 7 Nays 0
9	SJR 1076 Wright (Identical HJR 877, Compare H 879, H 881, Linked CS/S 1074, CS/S 1078)	Surviving Spouse Ad Valorem Tax Reduction; Proposing amendments to the State Constitution to provide for the carryover of the homestead property tax discount for certain veterans with permanent combat-related disabilities to a veteran's surviving spouse if certain criteria are met, to authorize the transfer of the discount to a surviving spouse's new homestead property if certain criteria are met, and to provide an effective date, etc. MS 01/22/2020 Favorable FT 02/13/2020 Favorable AP	Favorable Yeas 7 Nays 0
10	CS/SB 1394 Innovation, Industry, and Technology / Simmons (Compare S 694, Linked CS/CS/S 810)	Fees/Tobacco Products; Expanding the definition of the term "tobacco products" to include vapor-generating electronic devices and components, parts, and accessories of such devices and to include substances that may be aerosolized or vaporized by such devices; defining the term "vapor-generating electronic device", etc. IT 02/03/2020 Fav/CS FT 02/13/2020 Favorable AP	Favorable Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 126

INTRODUCER: Senator Gruters, Hooper and others

SUBJECT: Sales and Use Tax

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 126 requires marketplace providers and out-of-state retailers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if the marketplace provider or out-of-state retailer makes a substantial number of sales into Florida.

A substantial number of remote sales means conducting 200 or more retail sales during the previous calendar year or conducting any number of retail sales in an amount exceeding \$100,000 during the previous calendar year.

The Revenue Estimating Conference determined that the bill will increase General Revenue Fund receipts by \$320.8 million (\$479.0 million recurring) in Fiscal Year 2020-2021. Local government revenues are estimated to increase by \$100.1 million (\$132.9 million recurring) in Fiscal Year 2020-2021.

Except as otherwise provided in the bill, the bill takes effect July 1, 2020.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² rental of commercial real estate,³ and a limited number of services. Chapter 212, F.S., authorizes the levy and collection of Florida's sales and use tax, and provides exemptions and credits applicable to certain items or uses under specified

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

circumstances. Sales tax is added to the sales price of the taxable good or service and is collected from the purchaser at the time of sale.⁴

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. 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.”⁵ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2.5 percent.⁶

Remote Sales Tax Collection

As discussed above, sales tax is added to the price of taxable goods and the selling dealer is required to collect the tax from the purchaser at the time of sale.⁷ A dealer then remits the collected taxes to the Department of Revenue (department).⁸

For items sold by an out-of-state dealer and delivered to the in-state purchaser via mail (mail-order sales), states have depended on their use taxes. Florida imposes a use tax that applies in these situations;⁹ however, use tax compliance is notoriously low.

States would prefer to have the out-of-state dealer collect the state’s sales tax at the time of sale and remit those taxes to the state. However, the U.S. Supreme Court interpreted the Commerce Clause of the U.S. Constitution to require that a dealer have a “substantial nexus” with the taxing state before the taxing state may require the dealer to collect its sales taxes.¹⁰ For decades, the U.S. Supreme Court has interpreted the substantial nexus requirement to mean the dealer must have a physical presence (people or property) within the taxing state.¹¹ The Court reasoned that to allow a taxing state to require a dealer located outside the taxing state to collect tax on behalf of the taxing state was an undue burden on interstate commerce.¹²

Under the “physical presence” standard, Florida, in 1987, adopted its “mail order sales statute,” which defines a mail order sale to be the sale of tangible personal property, ordered from a dealer who receives the order in another state and then causes the property to be transported to a person in this state.¹³ Although the statute describes dealers who “receive [orders] in another state,” application of the statute was still limited by the U.S. Supreme Court’s physical presence

⁴ Section 212.07(2), F.S., and s. 212.06(3)(a), F.S.

⁵ Section 212.054, F.S.

⁶ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida’s Counties, 224-225 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Nov. 27, 2019).

⁷ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited October 14, 2019).

⁸ Section 212.15, F.S.

⁹ See s. 212.06, F.S.

¹⁰ See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977).

¹¹ *National Bellas Hess, Inc., v. Illinois*, 386 U.S. 753 (1967); *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992).

¹² *Quill Corporation v. North Dakota*, at 314-315.

¹³ See s. 212.0596(1), F.S.

standard. In fact, much of the statute is written in terms of being physically present within Florida.¹⁴

Taxation of Mail Order Sales

Section 212.0596, F.S., establishes when a dealer¹⁵ who makes a mail-order sale is subject to the powers of this state to levy and collect Florida's sales tax. A "mail-order sale" is a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported to a person in Florida.¹⁶

Every dealer as defined in s. 212.06(2)(c), F.S., who makes a mail-order sale is subject to the power of this state to levy and collect the tax imposed by this ch. 212, F.S., when:

- The dealer is a corporation doing business under the laws of this state or is a person domiciled in, a resident of, or a citizen of, this state.
- The dealer maintains retail establishments or offices in this state.
- The dealer has agents in this state who solicit business or transact business on behalf of the dealer.
- The property was delivered in this state in fulfillment of a sales contract that was entered into in this state when a person in this state accepted an offer by ordering the property.
- The dealer, by purposefully or systematically exploiting the market provided by this state by any media-assisted, media-facilitated, or media-solicited means, creates nexus with this state.
- Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this state's taxing power.
- The dealer consents, expressly or by implication, to the imposition of the tax imposed by ch. 212, F.S.
- The dealer is subject to service of process under s. 48.181, F.S.
- The dealer's mail order sales are subject to the power of this state to tax sales or to require the dealer to collect use taxes under a statute or statutes of the United States.
- The dealer owns real property or tangible personal property that is physically in this state.
- The dealer is a corporation that is a member of an affiliated group of corporations and whose members are eligible to file a consolidated tax return for federal corporate income tax purposes and any parent or subsidiary corporation in the affiliated group has nexus with this state.
- The dealer or the dealer's activities have sufficient connection with or relationship to this state or its residents of some type, other than those described above, to create nexus empowering this state to tax its mail order sales or to require the dealer to collect sales tax or accrue use tax.¹⁷

¹⁴ See s. 212.0596(2)(j), F.S. (requiring dealers to collect tax on mail order sales if the dealer owns real property or tangible personal property that is physically in this state...).

¹⁵ Section 212.06(2)(a), F.S., defines "dealer" as every person, who manufactures or produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in Florida.

¹⁶ Section 212.0596(1), F.S.

¹⁷ Section 212.0596(2), F.S.

Section 212.0596, F.S., also imposes a duty on dealers to cooperate in the collection of taxes, requires the department to enforce these provisions in other jurisdictions when the other jurisdiction consents, and specifies that sales tax required under this section to be collected and any amount unreturned to a purchaser that is not tax but was collected from the purchaser under the representation that it was tax constitute funds of the State of Florida from the moment of collection.

A dealer who makes a mail order sale into this state is exempt from collecting and remitting any local option surtax on the sale, except under certain circumstances.¹⁸ The department may establish by rule procedures for collecting the use tax from unregistered persons who but for their remote purchases would not be required to remit sales or use tax directly to the department.¹⁹

Currently, a purchaser who remits use tax on an item imported into Florida for use or consumption is not required to include in the remittance any local discretionary sales surtax.²⁰

The Wayfair Decision

On June 21, 2018, the U.S. Supreme Court decided *South Dakota v. Wayfair*.²¹ *Wayfair* involved a new South Dakota sales tax collection statute and Wayfair, Inc., a large online retailer with no physical presence in South Dakota that sells and ships tangible personal property to customers all over the United States.

The *Wayfair* decision overturned the “physical presence test.” The removal of the physical presence test will expand states’ ability to collect sales taxes; however, the foundational constitutional requirement (substantial nexus) remains in place, and thus, the extent of states’ authority is largely unknown at this time.

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for a remote seller without physical presence in the taxing state to collect and remit a states’ sales and use tax.

For example:

- The South Dakota law only requires remote sellers with \$100,000 of sales or 200 individual transactions into South Dakota to collect tax. The law effectively has a “small seller exception” allowing small retailers—theoretically, the ones most burdened by remote sales tax collection—to avoid collection responsibilities.
- The South Dakota law does not apply retroactively.
- South Dakota is a member of the Streamlined Sales and Use Tax Agreement.

¹⁸ Section 212.0596(6), F.S.

¹⁹ Section 212.0596(7), F.S.

²⁰ *Id.*

²¹ *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

State Reactions to Wayfair

After the *Wayfair* decision, 43 states and the District of Columbia have enacted laws requiring remote sellers to collect the sales tax and 38 states and the District of Columbia have enacted laws requiring a marketplace provider/facilitator to collect the sales tax.²²

III. Effect of Proposed Changes:

Taxation of Remote Sales and Marketplace Sales

The bill requires marketplace providers and out-of-state retailers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if they make a substantial number of sales into Florida.

Sections 1 and 2 amend the definition of "retail sale" in s. 212.02, F.S., to include a remote sale and a sale facilitated through a marketplace.

Section 3 amends s. 212.05, F.S., to apply the sales and use tax to remote sales.

Section 4 amends s. 212.0596, F.S., to change the term "mail order sale" to "remote sale" and to provide that a person who makes a substantial number of remote sales is a dealer for purposes of ch. 212, F.S.

A dealer makes a "substantial number of remote sales" if it:

- Conducts 200 or more retail sales of tangible personal property to be delivered to a location within Florida; or
- Conducts any number of retail sales of tangible personal property to be delivered to a location within Florida, in an amount exceeding \$100,000, in the previous calendar year.

The bill also deletes a provision that exempts an out-of-state dealer who makes retail sales into this state from collecting and remitting any local option surtax.

Section 5 creates s. 212.05965, F.S., which provides for the taxation of marketplace sales.

The bill defines:

- "Marketplace" to mean any physical place or electronic medium through which tangible personal property is offered for sale.
- "Marketplace providers" to mean a person who facilitates a retail sale by a marketplace seller by listing or advertising for sale by the marketplace seller tangible personal property in a marketplace, and who directly, or indirectly through agreements or arrangements with third parties, collects payment from the customer and transmits the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

²² National Conference of State Legislatures, *Remote Sales Tax Collection*, (Jan. 10, 2020), available at <https://www.ncsl.org/research/fiscal-policy/e-fairness-legislation-overview.aspx#Marketplace> (last visited Feb. 10, 2020).

- “Marketplace seller” to mean a person who has an agreement with a marketplace provider and who makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by the marketplace provider.

Marketplace providers with a physical presence in Florida, or those making or facilitating a substantial number of remote sales into this state, are subject to the requirements imposed on dealers by ch. 212, F.S., for registration and for the collection and remittance of taxes. A marketplace provider must certify to its marketplace sellers that it will collect and remit the tax to the department.

A marketplace seller may not collect and remit sales tax when the marketplace provider certifies that it will collect and remit the tax. A marketplace seller must exclude sales made through the marketplace from the marketplace seller’s tax return. A marketplace seller with a physical presence in this state, or that makes a substantial number of remote sales must register, collect, and remit sales tax on taxable sales made outside of the marketplace.

A marketplace provider must allow the department to examine and audit its books and records. If the department audits a marketplace provider, the department may not propose a tax assessment on the marketplace seller for the same retail sales unless the marketplace seller provides incorrect or incomplete information to the marketplace provider.

With certain exceptions, the marketplace provider is relieved of liability for the tax, and the marketplace seller or customer is liable for the tax imposed under this chapter if:

- The marketplace provider demonstrates that it made a reasonable effort to obtain accurate information related to the retail sales facilitated through the marketplace from the marketplace seller, but the failure to collect and pay the correct amount of tax imposed under this chapter was due to incorrect or incomplete information provided by the marketplace seller to the marketplace provider; or
- The marketplace seller or the customer has already remitted the tax.

Consistent with s. 213.21, F.S., the department may compromise any tax, interest, or penalty assessed on retail sales conducted through a marketplace.

Excluded from the definition of marketplace provider is any person who (1) solely provides travel agency services, or (2) a delivery network company, unless the delivery network company is a registered dealer that notifies all local merchants that sell through the delivery company’s website or mobile application that the delivery network company must remit taxes in the same way as a marketplace provider.

The bill defines:

- “Delivery network company” as a person who maintains a website or mobile application used to facilitate delivery services, the sale of local products, or both.
- “Delivery network courier” as an individual who provides delivery services through a delivery network company website or mobile application using a personal means of transportation, such as a motor vehicle as defined in s. 320.01(1), F.S., bicycle, scooter, or other similar means of transportation; using public transportation; or by walking.

- “Delivery services” as the pickup and delivery by a delivery network courier of one or more local products from a local merchant to a customer, which may include, the selection, collection, and purchase of the local product in connection with the delivery. The term does not include any delivery requiring more than 75 miles of travel from the local merchant to the customer.
- “Local merchant” as a kitchen, restaurant, or a third-party merchant, including a grocery store, retail store, convenience store, or business of another type, which is not under common ownership or control of the delivery network company.
- “Local product” as any tangible personal property, including food, but excluding freight, mail, or a package to which postage has been affixed.

Section 6 amends s. 212.06, F.S., to specify that the term “dealer” includes a retailer who transacts a remote sale or who is a marketplace provider.

Sections 7 amends s. 212.12, F.S., to (1) remove the authority given to the executive director of the department to negotiate a collection allowance with a dealer who makes mail order sales and (2) delete language that kept dealers who made mail order sales from participating in the state’s 2.5 percent collection allowance.

Section 8 makes conforming changes to s. 212.18 F.S., to change the term “mail order sale” to “remote sale.”

Section 9 reenacts s. 212.20(4), F.S., in order to incorporate the amendment made by this bill to s. 212.0596, F.S.

Section 10 authorizes the department to adopt emergency rules to implement the bill. The rulemaking grant is authorized upon the act becoming law, and expires July 1, 2021.

Section 11 provides that if any provision of the bill is found to be invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are severable.

Section 12 provides that this section take effect upon becoming law, and except as otherwise provided, the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provision does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for a remote seller without physical presence in the taxing state to collect and remit a states' sales and use tax. The court did not decide the constitutionality of marketplace providers to collect and remit a states' sales and use tax on behalf of retailers who sell on a marketplace.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will increase General Revenue Fund receipts by \$320.8 million (\$479.0 million recurring) in Fiscal Year 2020-2021. Local government revenues are estimated to increase by \$100.1 (\$132.9 million recurring) in Fiscal Year 2020-2021.

B. Private Sector Impact:

More remote sellers and marketplace providers will have to collect and remit Florida's sales tax.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 6 of the bill amends s. 212.06, F.S., and takes effect July 1, 2020, but contains a cross reference to s. 212.05965, F.S., created by section 5 of the bill, which is effective October 1, 2020.

Section 213.27(5), F.S, references mail order businesses. This provision should be amended to conform to changes made by this bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.02, 212.05, 212.0596, 212.06, 212.12, 212.18, and 212.20.

This bill creates section 212.05965 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Gruters

23-00203-20

2020126__

1 A bill to be entitled
 2 An act relating to the sales and use tax; amending s.
 3 212.02, F.S.; revising the definition of the term
 4 "retail sale"; amending s. 212.05, F.S.; conforming a
 5 provision to changes made by the act; amending s.
 6 212.0596, F.S.; renaming the term "mail order sale" to
 7 "remote sale" and revising the definition; revising
 8 conditions under which certain dealers are subject to
 9 sales tax levies and collection; defining the term
 10 "making a substantial number of remote sales";
 11 deleting an exemption for certain dealers from
 12 collecting local option surtaxes; conforming
 13 provisions to changes made by the act; creating s.
 14 212.05965, F.S.; defining terms; providing that
 15 certain marketplace providers are subject to
 16 registration, collection, and remittance requirements
 17 for sales taxes; requiring marketplace providers to
 18 provide a certain certification to their marketplace
 19 sellers; specifying requirements for marketplace
 20 sellers; requiring marketplace providers to allow the
 21 Department of Revenue to examine and audit their books
 22 and records; specifying the examination and audit
 23 authority of the department; providing that a
 24 marketplace seller, and not the marketplace provider,
 25 is liable for sales tax collection and remittance
 26 under certain circumstances; authorizing marketplace
 27 providers and marketplace sellers to enter into
 28 agreements for the recovery of certain taxes,
 29 interest, and penalties; authorizing the department to

Page 1 of 37

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

23-00203-20

2020126__

30 settle and compromise taxes, interest, or penalties
 31 assessed on sales conducted through a marketplace;
 32 providing construction and applicability; amending s.
 33 212.06, F.S.; revising the definition of the term
 34 "dealer"; conforming provisions to changes made by the
 35 act; amending s. 212.12, F.S.; deleting an exclusion
 36 from certain dealers who are allowed a dealer's credit
 37 for collecting tax; deleting the authority of the
 38 department's executive director to negotiate a
 39 collection allowance with certain dealers; conforming
 40 a provision to changes made by the act; amending s.
 41 212.18, F.S.; conforming a provision to changes made
 42 by the act; reenacting s. 212.20(4), F.S., relating to
 43 refunds of taxes adjudicated unconstitutionally
 44 collected, to incorporate the amendment made to s.
 45 212.0596, F.S., in a reference thereto; authorizing
 46 the department to adopt emergency rules; providing for
 47 expiration of the authority; providing for
 48 severability; providing effective dates.

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

51
 52 Section 1. Paragraph (e) of subsection (14) of section
 53 212.02, Florida Statutes, is amended to read:
 54 212.02 Definitions.—The following terms and phrases when
 55 used in this chapter have the meanings ascribed to them in this
 56 section, except where the context clearly indicates a different
 57 meaning:
 58 (14)

Page 2 of 37

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

23-00203-20

2020126__

59 (e) The term "retail sale" includes a remote ~~mail order~~
60 sale, as defined in s. 212.0596(1).

61 Section 2. Effective October 1, 2020, paragraph (f) is
62 added to subsection (14) of section 212.02, Florida Statutes, to
63 read:

64 212.02 Definitions.—The following terms and phrases when
65 used in this chapter have the meanings ascribed to them in this
66 section, except where the context clearly indicates a different
67 meaning:

68 (14)

69 (f) The term "retail sale" includes a sale facilitated
70 through a marketplace as defined in s. 212.05965(1).

71 Section 3. Section 212.05, Florida Statutes, is amended to
72 read:

73 212.05 Sales, storage, use tax.—It is hereby declared to be
74 the legislative intent that every person is exercising a taxable
75 privilege who engages in the business of selling tangible
76 personal property at retail in this state, including the
77 business of making remote ~~mail order~~ sales; ~~or~~ who rents or
78 furnishes any of the things or services taxable under this
79 chapter; ~~or~~ who stores for use or consumption in this state any
80 item or article of tangible personal property as defined herein
81 and who leases or rents such property within the state.

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

85 (a)1.a. At the rate of 6 percent of the sales price of each
86 item or article of tangible personal property when sold at
87 retail in this state, computed on each taxable sale for the

Page 3 of 37

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

23-00203-20

2020126__

88 purpose of remitting the amount of tax due the state, and
89 including each and every retail sale.

90 b. Each occasional or isolated sale of an aircraft, boat,
91 mobile home, or motor vehicle of a class or type which is
92 required to be registered, licensed, titled, or documented in
93 this state or by the United States Government shall be subject
94 to tax at the rate provided in this paragraph. The department
95 shall by rule adopt any nationally recognized publication for
96 valuation of used motor vehicles as the reference price list for
97 any used motor vehicle which is required to be licensed pursuant
98 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
99 party to an occasional or isolated sale of such a vehicle
100 reports to the tax collector a sales price which is less than 80
101 percent of the average loan price for the specified model and
102 year of such vehicle as listed in the most recent reference
103 price list, the tax levied under this paragraph shall be
104 computed by the department on such average loan price unless the
105 parties to the sale have provided to the tax collector an
106 affidavit signed by each party, or other substantial proof,
107 stating the actual sales price. Any party to such sale who
108 reports a sales price less than the actual sales price is guilty
109 of a misdemeanor of the first degree, punishable as provided in
110 s. 775.082 or s. 775.083. The department shall collect or
111 attempt to collect from such party any delinquent sales taxes.
112 In addition, such party shall pay any tax due and any penalty
113 and interest assessed plus a penalty equal to twice the amount
114 of the additional tax owed. Notwithstanding any other provision
115 of law, the Department of Revenue may waive or compromise any
116 penalty imposed pursuant to this subparagraph.

Page 4 of 37

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

23-00203-20

2020126__

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

135 a. The purchaser removes a qualifying boat, as described in
 136 sub-subparagraph f., from the state within 90 days after the
 137 date of purchase or extension, or the purchaser removes a
 138 nonqualifying boat or an aircraft from this state within 10 days
 139 after the date of purchase or, when the boat or aircraft is
 140 repaired or altered, within 20 days after completion of the
 141 repairs or alterations; or if the aircraft will be registered in
 142 a foreign jurisdiction and:

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

Page 5 of 37

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

23-00203-20

2020126__

146 (II) The purchaser removes the aircraft from the state to a
 147 foreign jurisdiction within 10 days after the date the aircraft
 148 is registered by the applicable foreign airworthiness authority;
 149 and

150 (III) The aircraft is operated in the state solely to
 151 remove it from the state to a foreign jurisdiction.

152
 153 For purposes of this sub-subparagraph, the term "foreign
 154 jurisdiction" means any jurisdiction outside of the United
 155 States or any of its territories;

156 b. The purchaser, within 30 days from the date of
 157 departure, provides the department with written proof that the
 158 purchaser licensed, registered, titled, or documented the boat
 159 or aircraft outside the state. If such written proof is
 160 unavailable, within 30 days the purchaser shall provide proof
 161 that the purchaser applied for such license, title,
 162 registration, or documentation. The purchaser shall forward to
 163 the department proof of title, license, registration, or
 164 documentation upon receipt;

165 c. The purchaser, within 10 days of removing the boat or
 166 aircraft from Florida, furnishes the department with proof of
 167 removal in the form of receipts for fuel, dockage, slippage,
 168 tie-down, or hangaring from outside of Florida. The information
 169 so provided must clearly and specifically identify the boat or
 170 aircraft;

171 d. The selling dealer, within 5 days of the date of sale,
 172 provides to the department a copy of the sales invoice, closing
 173 statement, bills of sale, and the original affidavit signed by
 174 the purchaser attesting that he or she has read the provisions

Page 6 of 37

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

23-00203-20

2020126__

175 of this section;

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

178 f. Unless the nonresident purchaser of a boat of 5 net tons
179 of admeasurement or larger intends to remove the boat from this
180 state within 10 days after the date of purchase or when the boat
181 is repaired or altered, within 20 days after completion of the
182 repairs or alterations, the nonresident purchaser applies to the
183 selling dealer for a decal which authorizes 90 days after the
184 date of purchase for removal of the boat. The nonresident
185 purchaser of a qualifying boat may apply to the selling dealer
186 within 60 days after the date of purchase for an extension decal
187 that authorizes the boat to remain in this state for an
188 additional 90 days, but not more than a total of 180 days,
189 before the nonresident purchaser is required to pay the tax
190 imposed by this chapter. The department is authorized to issue
191 decals in advance to dealers. The number of decals issued in
192 advance to a dealer shall be consistent with the volume of the
193 dealer's past sales of boats which qualify under this sub-
194 subparagraph. The selling dealer or his or her agent shall mark
195 and affix the decals to qualifying boats in the manner
196 prescribed by the department, before delivery of the boat.

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

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

202 (III) Decals shall display information to identify the boat
203 as a qualifying boat under this sub-subparagraph, including, but

Page 7 of 37

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

23-00203-20

2020126__

204 not limited to, the decal's date of expiration.

205 (IV) The department is authorized to require dealers who
206 purchase decals to file reports with the department and may
207 prescribe all necessary records by rule. All such records are
208 subject to inspection by the department.

209 (V) Any dealer or his or her agent who issues a decal
210 falsely, fails to affix a decal, mismarks the expiration date of
211 a decal, or fails to properly account for decals will be
212 considered prima facie to have committed a fraudulent act to
213 evade the tax and will be liable for payment of the tax plus a
214 mandatory penalty of 200 percent of the tax, and shall be liable
215 for fine and punishment as provided by law for a conviction of a
216 misdemeanor of the first degree, as provided in s. 775.082 or s.
217 775.083.

218 (VI) Any nonresident purchaser of a boat who removes a
219 decal before permanently removing the boat from the state, or
220 defaces, changes, modifies, or alters a decal in a manner
221 affecting its expiration date before its expiration, or who
222 causes or allows the same to be done by another, will be
223 considered prima facie to have committed a fraudulent act to
224 evade the tax and will be liable for payment of the tax plus a
225 mandatory penalty of 200 percent of the tax, and shall be liable
226 for fine and punishment as provided by law for a conviction of a
227 misdemeanor of the first degree, as provided in s. 775.082 or s.
228 775.083.

229 (VII) The department is authorized to adopt rules necessary
230 to administer and enforce this subparagraph and to publish the
231 necessary forms and instructions.

232 (VIII) The department is hereby authorized to adopt

Page 8 of 37

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

23-00203-20

2020126__

233 emergency rules pursuant to s. 120.54(4) to administer and
 234 enforce the provisions of this subparagraph.

235
 236 If the purchaser fails to remove the qualifying boat from this
 237 state within the maximum 180 days after purchase or a
 238 nonqualifying boat or an aircraft from this state within 10 days
 239 after purchase or, when the boat or aircraft is repaired or
 240 altered, within 20 days after completion of such repairs or
 241 alterations, or permits the boat or aircraft to return to this
 242 state within 6 months from the date of departure, except as
 243 provided in s. 212.08(7)(fff), or if the purchaser fails to
 244 furnish the department with any of the documentation required by
 245 this subparagraph within the prescribed time period, the
 246 purchaser shall be liable for use tax on the cost price of the
 247 boat or aircraft and, in addition thereto, payment of a penalty
 248 to the Department of Revenue equal to the tax payable. This
 249 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
 250 The maximum 180-day period following the sale of a qualifying
 251 boat tax-exempt to a nonresident may not be tolled for any
 252 reason.

253 (b) At the rate of 6 percent of the cost price of each item
 254 or article of tangible personal property when the same is not
 255 sold but is used, consumed, distributed, or stored for use or
 256 consumption in this state; however, for tangible property
 257 originally purchased exempt from tax for use exclusively for
 258 lease and which is converted to the owner's own use, tax may be
 259 paid on the fair market value of the property at the time of
 260 conversion. If the fair market value of the property cannot be
 261 determined, use tax at the time of conversion shall be based on

Page 9 of 37

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

23-00203-20

2020126__

262 the owner's acquisition cost. Under no circumstances may the
 263 aggregate amount of sales tax from leasing the property and use
 264 tax due at the time of conversion be less than the total sales
 265 tax that would have been due on the original acquisition cost
 266 paid by the owner.

267 (c) At the rate of 6 percent of the gross proceeds derived
 268 from the lease or rental of tangible personal property, as
 269 defined herein; however, the following special provisions apply
 270 to the lease or rental of motor vehicles:

271 1. When a motor vehicle is leased or rented for a period of
 272 less than 12 months:

273 a. If the motor vehicle is rented in Florida, the entire
 274 amount of such rental is taxable, even if the vehicle is dropped
 275 off in another state.

276 b. If the motor vehicle is rented in another state and
 277 dropped off in Florida, the rental is exempt from Florida tax.

278 2. Except as provided in subparagraph 3., for the lease or
 279 rental of a motor vehicle for a period of not less than 12
 280 months, sales tax is due on the lease or rental payments if the
 281 vehicle is registered in this state; provided, however, that no
 282 tax shall be due if the taxpayer documents use of the motor
 283 vehicle outside this state and tax is being paid on the lease or
 284 rental payments in another state.

285 3. The tax imposed by this chapter does not apply to the
 286 lease or rental of a commercial motor vehicle as defined in s.
 287 316.003(13)(a) to one lessee or rentee for a period of not less
 288 than 12 months when tax was paid on the purchase price of such
 289 vehicle by the lessor. To the extent tax was paid with respect
 290 to the purchase of such vehicle in another state, territory of

Page 10 of 37

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

23-00203-20

2020126__

291 the United States, or the District of Columbia, the Florida tax
 292 payable shall be reduced in accordance with the provisions of s.
 293 212.06(7). This subparagraph shall only be available when the
 294 lease or rental of such property is an established business or
 295 part of an established business or the same is incidental or
 296 germane to such business.

297 (d) At the rate of 6 percent of the lease or rental price
 298 paid by a lessee or rentee, or contracted or agreed to be paid
 299 by a lessee or rentee, to the owner of the tangible personal
 300 property.

301 (e)1. At the rate of 6 percent on charges for:

302 a. Prepaid calling arrangements. The tax on charges for
 303 prepaid calling arrangements shall be collected at the time of
 304 sale and remitted by the selling dealer.

305 (I) "Prepaid calling arrangement" has the same meaning as
 306 provided in s. 202.11.

307 (II) If the sale or recharge of the prepaid calling
 308 arrangement does not take place at the dealer's place of
 309 business, it shall be deemed to have taken place at the
 310 customer's shipping address or, if no item is shipped, at the
 311 customer's address or the location associated with the
 312 customer's mobile telephone number.

313 (III) The sale or recharge of a prepaid calling arrangement
 314 shall be treated as a sale of tangible personal property for
 315 purposes of this chapter, regardless of whether a tangible item
 316 evidencing such arrangement is furnished to the purchaser, and
 317 such sale within this state subjects the selling dealer to the
 318 jurisdiction of this state for purposes of this subsection.

319 (IV) No additional tax under this chapter or chapter 202 is

23-00203-20

2020126__

320 due or payable if a purchaser of a prepaid calling arrangement
 321 who has paid tax under this chapter on the sale or recharge of
 322 such arrangement applies one or more units of the prepaid
 323 calling arrangement to obtain communications services as
 324 described in s. 202.11(9)(b)3., other services that are not
 325 communications services, or products.

326 b. The installation of telecommunication and telegraphic
 327 equipment.

328 c. Electrical power or energy, except that the tax rate for
 329 charges for electrical power or energy is 4.35 percent. Charges
 330 for electrical power and energy do not include taxes imposed
 331 under ss. 166.231 and 203.01(1)(a)3.

332 2. Section 212.17(3), regarding credit for tax paid on
 333 charges subsequently found to be worthless, is equally
 334 applicable to any tax paid under this section on charges for
 335 prepaid calling arrangements, telecommunication or telegraph
 336 services, or electric power subsequently found to be
 337 uncollectible. As used in this paragraph, the term "charges"
 338 does not include any excise or similar tax levied by the Federal
 339 Government, a political subdivision of this state, or a
 340 municipality upon the purchase, sale, or recharge of prepaid
 341 calling arrangements or upon the purchase or sale of
 342 telecommunication, television system program, or telegraph
 343 service or electric power, which tax is collected by the seller
 344 from the purchaser.

345 (f) At the rate of 6 percent on the sale, rental, use,
 346 consumption, or storage for use in this state of machines and
 347 equipment, and parts and accessories therefor, used in
 348 manufacturing, processing, compounding, producing, mining, or

23-00203-20 2020126__

349 quarrying personal property for sale or to be used in furnishing
 350 communications, transportation, or public utility services.

351 (g)1. At the rate of 6 percent on the retail price of
 352 newspapers and magazines sold or used in Florida.

353 2. Notwithstanding other provisions of this chapter,
 354 inserts of printed materials which are distributed with a
 355 newspaper or magazine are a component part of the newspaper or
 356 magazine, and neither the sale nor use of such inserts is
 357 subject to tax when:

358 a. Printed by a newspaper or magazine publisher or
 359 commercial printer and distributed as a component part of a
 360 newspaper or magazine, which means that the items after being
 361 printed are delivered directly to a newspaper or magazine
 362 publisher by the printer for inclusion in editions of the
 363 distributed newspaper or magazine;

364 b. Such publications are labeled as part of the designated
 365 newspaper or magazine publication into which they are to be
 366 inserted; and

367 c. The purchaser of the insert presents a resale
 368 certificate to the vendor stating that the inserts are to be
 369 distributed as a component part of a newspaper or magazine.

370 (h)1. A tax is imposed at the rate of 4 percent on the
 371 charges for the use of coin-operated amusement machines. The tax
 372 shall be calculated by dividing the gross receipts from such
 373 charges for the applicable reporting period by a divisor,
 374 determined as provided in this subparagraph, to compute gross
 375 taxable sales, and then subtracting gross taxable sales from
 376 gross receipts to arrive at the amount of tax due. For counties
 377 that do not impose a discretionary sales surtax, the divisor is

23-00203-20 2020126__

378 equal to 1.04; for counties that impose a 0.5 percent
 379 discretionary sales surtax, the divisor is equal to 1.045; for
 380 counties that impose a 1 percent discretionary sales surtax, the
 381 divisor is equal to 1.050; and for counties that impose a 2
 382 percent sales surtax, the divisor is equal to 1.060. If a county
 383 imposes a discretionary sales surtax that is not listed in this
 384 subparagraph, the department shall make the applicable divisor
 385 available in an electronic format or otherwise. Additional
 386 divisors shall bear the same mathematical relationship to the
 387 next higher and next lower divisors as the new surtax rate bears
 388 to the next higher and next lower surtax rates for which
 389 divisors have been established. When a machine is activated by a
 390 slug, token, coupon, or any similar device which has been
 391 purchased, the tax is on the price paid by the user of the
 392 device for such device.

393 2. As used in this paragraph, the term "operator" means any
 394 person who possesses a coin-operated amusement machine for the
 395 purpose of generating sales through that machine and who is
 396 responsible for removing the receipts from the machine.

397 a. If the owner of the machine is also the operator of it,
 398 he or she shall be liable for payment of the tax without any
 399 deduction for rent or a license fee paid to a location owner for
 400 the use of any real property on which the machine is located.

401 b. If the owner or lessee of the machine is also its
 402 operator, he or she shall be liable for payment of the tax on
 403 the purchase or lease of the machine, as well as the tax on
 404 sales generated through the machine.

405 c. If the proprietor of the business where the machine is
 406 located does not own the machine, he or she shall be deemed to

23-00203-20

2020126__

407 be the lessee and operator of the machine and is responsible for
 408 the payment of the tax on sales, unless such responsibility is
 409 otherwise provided for in a written agreement between him or her
 410 and the machine owner.

411 3.a. An operator of a coin-operated amusement machine may
 412 not operate or cause to be operated in this state any such
 413 machine until the operator has registered with the department
 414 and has conspicuously displayed an identifying certificate
 415 issued by the department. The identifying certificate shall be
 416 issued by the department upon application from the operator. The
 417 identifying certificate shall include a unique number, and the
 418 certificate shall be permanently marked with the operator's
 419 name, the operator's sales tax number, and the maximum number of
 420 machines to be operated under the certificate. An identifying
 421 certificate shall not be transferred from one operator to
 422 another. The identifying certificate must be conspicuously
 423 displayed on the premises where the coin-operated amusement
 424 machines are being operated.

425 b. The operator of the machine must obtain an identifying
 426 certificate before the machine is first operated in the state
 427 and by July 1 of each year thereafter. The annual fee for each
 428 certificate shall be based on the number of machines identified
 429 on the application times \$30 and is due and payable upon
 430 application for the identifying device. The application shall
 431 contain the operator's name, sales tax number, business address
 432 where the machines are being operated, and the number of
 433 machines in operation at that place of business by the operator.
 434 No operator may operate more machines than are listed on the
 435 certificate. A new certificate is required if more machines are

Page 15 of 37

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

23-00203-20

2020126__

436 being operated at that location than are listed on the
 437 certificate. The fee for the new certificate shall be based on
 438 the number of additional machines identified on the application
 439 form times \$30.

440 c. A penalty of \$250 per machine is imposed on the operator
 441 for failing to properly obtain and display the required
 442 identifying certificate. A penalty of \$250 is imposed on the
 443 lessee of any machine placed in a place of business without a
 444 proper current identifying certificate. Such penalties shall
 445 apply in addition to all other applicable taxes, interest, and
 446 penalties.

447 d. Operators of coin-operated amusement machines must
 448 obtain a separate sales and use tax certificate of registration
 449 for each county in which such machines are located. One sales
 450 and use tax certificate of registration is sufficient for all of
 451 the operator's machines within a single county.

452 4. The provisions of this paragraph do not apply to coin-
 453 operated amusement machines owned and operated by churches or
 454 synagogues.

455 5. In addition to any other penalties imposed by this
 456 chapter, a person who knowingly and willfully violates any
 457 provision of this paragraph commits a misdemeanor of the second
 458 degree, punishable as provided in s. 775.082 or s. 775.083.

459 6. The department may adopt rules necessary to administer
 460 the provisions of this paragraph.

461 (i)1. At the rate of 6 percent on charges for all:

462 a. Detective, burglar protection, and other protection
 463 services (NAICS National Numbers 561611, 561612, 561613, and
 464 561621). Fingerprint services required under s. 790.06 or s.

Page 16 of 37

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

23-00203-20

2020126__

465 790.062 are not subject to the tax. Any law enforcement officer,
 466 as defined in s. 943.10, who is performing approved duties as
 467 determined by his or her local law enforcement agency in his or
 468 her capacity as a law enforcement officer, and who is subject to
 469 the direct and immediate command of his or her law enforcement
 470 agency, and in the law enforcement officer's uniform as
 471 authorized by his or her law enforcement agency, is performing
 472 law enforcement and public safety services and is not performing
 473 detective, burglar protection, or other protective services, if
 474 the law enforcement officer is performing his or her approved
 475 duties in a geographical area in which the law enforcement
 476 officer has arrest jurisdiction. Such law enforcement and public
 477 safety services are not subject to tax irrespective of whether
 478 the duty is characterized as "extra duty," "off-duty," or
 479 "secondary employment," and irrespective of whether the officer
 480 is paid directly or through the officer's agency by an outside
 481 source. The term "law enforcement officer" includes full-time or
 482 part-time law enforcement officers, and any auxiliary law
 483 enforcement officer, when such auxiliary law enforcement officer
 484 is working under the direct supervision of a full-time or part-
 485 time law enforcement officer.

486 b. Nonresidential cleaning, excluding cleaning of the
 487 interiors of transportation equipment, and nonresidential
 488 building pest control services (NAICS National Numbers 561710
 489 and 561720).

490 2. As used in this paragraph, "NAICS" means those
 491 classifications contained in the North American Industry
 492 Classification System, as published in 2007 by the Office of
 493 Management and Budget, Executive Office of the President.

Page 17 of 37

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

23-00203-20

2020126__

494 3. Charges for detective, burglar protection, and other
 495 protection security services performed in this state but used
 496 outside this state are exempt from taxation. Charges for
 497 detective, burglar protection, and other protection security
 498 services performed outside this state and used in this state are
 499 subject to tax.

500 4. If a transaction involves both the sale or use of a
 501 service taxable under this paragraph and the sale or use of a
 502 service or any other item not taxable under this chapter, the
 503 consideration paid must be separately identified and stated with
 504 respect to the taxable and exempt portions of the transaction or
 505 the entire transaction shall be presumed taxable. The burden
 506 shall be on the seller of the service or the purchaser of the
 507 service, whichever applicable, to overcome this presumption by
 508 providing documentary evidence as to which portion of the
 509 transaction is exempt from tax. The department is authorized to
 510 adjust the amount of consideration identified as the taxable and
 511 exempt portions of the transaction; however, a determination
 512 that the taxable and exempt portions are inaccurately stated and
 513 that the adjustment is applicable must be supported by
 514 substantial competent evidence.

515 5. Each seller of services subject to sales tax pursuant to
 516 this paragraph shall maintain a monthly log showing each
 517 transaction for which sales tax was not collected because the
 518 services meet the requirements of subparagraph 3. for out-of-
 519 state use. The log must identify the purchaser's name, location
 520 and mailing address, and federal employer identification number,
 521 if a business, or the social security number, if an individual,
 522 the service sold, the price of the service, the date of sale,

Page 18 of 37

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

23-00203-20

2020126__

523 the reason for the exemption, and the sales invoice number. The
 524 monthly log shall be maintained pursuant to the same
 525 requirements and subject to the same penalties imposed for the
 526 keeping of similar records pursuant to this chapter.

527 (j)1. Notwithstanding any other provision of this chapter,
 528 there is hereby levied a tax on the sale, use, consumption, or
 529 storage for use in this state of any coin or currency, whether
 530 in circulation or not, when such coin or currency:

- 531 a. Is not legal tender;
- 532 b. If legal tender, is sold, exchanged, or traded at a rate
 533 in excess of its face value; or
- 534 c. Is sold, exchanged, or traded at a rate based on its
 535 precious metal content.

536 2. Such tax shall be at a rate of 6 percent of the price at
 537 which the coin or currency is sold, exchanged, or traded, except
 538 that, with respect to a coin or currency which is legal tender
 539 of the United States and which is sold, exchanged, or traded,
 540 such tax shall not be levied.

541 3. There are exempt from this tax exchanges of coins or
 542 currency which are in general circulation in, and legal tender
 543 of, one nation for coins or currency which are in general
 544 circulation in, and legal tender of, another nation when
 545 exchanged solely for use as legal tender and at an exchange rate
 546 based on the relative value of each as a medium of exchange.

547 4. With respect to any transaction that involves the sale
 548 of coins or currency taxable under this paragraph in which the
 549 taxable amount represented by the sale of such coins or currency
 550 exceeds \$500, the entire amount represented by the sale of such
 551 coins or currency is exempt from the tax imposed under this

23-00203-20

2020126__

552 paragraph. The dealer must maintain proper documentation, as
 553 prescribed by rule of the department, to identify that portion
 554 of a transaction which involves the sale of coins or currency
 555 and is exempt under this subparagraph.

556 (k) At the rate of 6 percent of the sales price of each
 557 gallon of diesel fuel not taxed under chapter 206 purchased for
 558 use in a vessel, except dyed diesel fuel that is exempt pursuant
 559 to s. 212.08(4)(a)4.

560 (l) Florists located in this state are liable for sales tax
 561 on sales to retail customers regardless of where or by whom the
 562 items sold are to be delivered. Florists located in this state
 563 are not liable for sales tax on payments received from other
 564 florists for items delivered to customers in this state.

565 (m) Operators of game concessions or other concessionaires
 566 who customarily award tangible personal property as prizes may,
 567 in lieu of paying tax on the cost price of such property, pay
 568 tax on 25 percent of the gross receipts from such concession
 569 activity.

570 (2) The tax shall be collected by the dealer, as defined
 571 herein, and remitted by the dealer to the state at the time and
 572 in the manner as hereinafter provided.

573 (3) The tax so levied is in addition to all other taxes,
 574 whether levied in the form of excise, license, or privilege
 575 taxes, and in addition to all other fees and taxes levied.

576 (4) The tax imposed pursuant to this chapter shall be due
 577 and payable according to the brackets set forth in s. 212.12.

578 (5) Notwithstanding any other provision of this chapter,
 579 the maximum amount of tax imposed under this chapter and
 580 collected on each sale or use of a boat in this state may not

23-00203-20

2020126__

581 exceed \$18,000 and on each repair of a boat in this state may
582 not exceed \$60,000.

583 Section 4. Section 212.0596, Florida Statutes, is amended
584 to read:

585 212.0596 Taxation of ~~remote mail order~~ sales.—

586 (1) For purposes of this chapter, a "~~remote mail order~~
587 sale" is a retail sale of tangible personal property, ~~ordered by~~
588 mail, telephone, the Internet, or other means of communication,
589 ~~from a dealer who receives the order outside of this state in~~
590 ~~another state of the United States, or in a commonwealth,~~
591 ~~territory, or other area under the jurisdiction of the United~~
592 ~~States,~~ and transports the property or causes the property to be
593 transported, ~~whether or not by mail,~~ from any jurisdiction ~~of~~
594 ~~the United States,~~ including this state, to a person in this
595 state, including the person who ordered the property.

596 (2) Every dealer as defined in s. 212.06(2)(c) who makes a
597 ~~remote mail order~~ sale is subject to the power of this state to
598 levy and collect the tax imposed by this chapter when any of the
599 following applies:

600 (a) The dealer is a corporation doing business under the
601 laws of this state or is a person domiciled in, a resident of,
602 or a citizen of, ~~this state.~~

603 (b) The dealer maintains retail establishments or offices
604 in this state, regardless of whether the ~~remote mail order~~ sales
605 thus subject to taxation by this state result from or are
606 related in any other way to the activities of such
607 establishments or offices.

608 (c) The dealer has agents in this state who solicit
609 business or transact business on behalf of the dealer,

Page 21 of 37

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

23-00203-20

2020126__

610 regardless of whether the ~~remote mail order~~ sales thus subject
611 to taxation by this state result from or are related in any
612 other way to such solicitation or transaction of business. For
613 purposes of this paragraph, ~~except that~~ a printer who mails or
614 delivers for an out-of-state print purchaser material the
615 printer printed for it ~~is shall not be~~ deemed to be the print
616 purchaser's agent. ~~for purposes of this paragraph.~~

617 (d) The property was delivered in this state in fulfillment
618 of a sales contract that was entered into in this state, in
619 accordance with applicable conflict of laws rules, when a person
620 in this state accepted an offer by ordering the property.

621 (e) The dealer, by purposefully or systematically
622 exploiting the market provided by this state by any media-
623 assisted, media-facilitated, or media-solicited means,
624 including, but not limited to, direct mail advertising,
625 unsolicited distribution of catalogs, computer-assisted
626 shopping, television, radio, or other electronic media, or
627 magazine or newspaper advertisements or other media, creates
628 nexus with this state.

629 (f) Through compact or reciprocity with another
630 jurisdiction of the United States, that jurisdiction uses its
631 taxing power and its jurisdiction over the retailer in support
632 of this state's taxing power.

633 (g) The dealer consents, expressly or by implication, to
634 the imposition of the tax imposed by this chapter.

635 (h) The dealer is subject to service of process under s.
636 48.181.

637 (i) The dealer's ~~remote mail order~~ sales are subject to the
638 power of this state to tax sales or to require the dealer to

Page 22 of 37

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

23-00203-20

2020126__

639 collect use taxes under a statute or statutes of the United
640 States.

641 (j) The dealer owns real property or tangible personal
642 property that is physically in this state. For purposes of this
643 paragraph, except that a dealer whose only property, ~~(including~~
644 ~~property owned by an affiliate,~~) in this state is located at the
645 premises of a printer with which the vendor has contracted for
646 printing, and is either a final printed product, ~~or~~ property
647 that which becomes a part of the final printed product, or
648 property from which the printed product is produced, is not
649 deemed to own such property. ~~for purposes of this paragraph.~~

650 (k) The dealer, while not having nexus with this state on
651 any of the bases described in paragraphs (a)-(j) or paragraph
652 (l), is a corporation that is a member of an affiliated group of
653 corporations, as defined in s. 1504(a) of the Internal Revenue
654 Code, whose members are includable under s. 1504(b) of the
655 Internal Revenue Code and whose members are eligible to file a
656 consolidated tax return for federal corporate income tax
657 purposes and any parent or subsidiary corporation in the
658 affiliated group has nexus with this state on one or more of the
659 bases described in paragraphs (a)-(j) or paragraph (l). ~~or~~

660 (l) The dealer or the dealer's activities, ~~have sufficient~~
661 ~~connection with or relationship to this state or its residents~~
662 ~~of some type~~ other than those described in paragraphs (a)-(k),
663 result in making a substantial number of remote sales under
664 subsection (3) to create nexus empowering this state to tax its
665 ~~mail order sales or to require the dealer to collect sales tax~~
666 ~~or accrue use tax.~~

667 (3)(a) Every person dealer engaged in the business of

Page 23 of 37

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

23-00203-20

2020126__

668 making a substantial number of remote mail order sales is a
669 dealer for purposes of this chapter subject to the requirements
670 ~~of this chapter for cooperation of dealers in collection of~~
671 ~~taxes and in administration of this chapter, except that no fee~~
672 ~~shall be imposed upon such dealer for carrying out any required~~
673 ~~activity.~~

674 (b) As used in this section, the term "making a substantial
675 number of remote sales" means:

- 676 1. Conducting 200 or more retail sales of tangible personal
677 property in the previous calendar year to be delivered to a
678 location within this state; or
- 679 2. Conducting any number of retail sales of tangible
680 personal property in an amount exceeding \$100,000 in the
681 previous calendar year to be delivered to a location within this
682 state.

683
684 For purposes of this paragraph, tangible personal property
685 delivered to a location within this state is presumed to be
686 used, consumed, distributed, or stored to be used or consumed in
687 this state.

688 (4) The department shall, with the consent of another
689 jurisdiction of the United States whose cooperation is needed,
690 enforce this chapter in that jurisdiction, either directly or,
691 at the option of that jurisdiction, through its officers or
692 employees.

693 (5) The tax required under this section to be collected and
694 any amount unreturned to a purchaser that is not tax but was
695 collected from the purchaser under the representation that it
696 was tax constitute funds of the State of Florida from the moment

Page 24 of 37

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

23-00203-20

2020126__

697 of collection.

698 (6) ~~Notwithstanding other provisions of law, a dealer who~~
 699 ~~makes a mail order sale in this state is exempt from collecting~~
 700 ~~and remitting any local option surtax on the sale, unless the~~
 701 ~~dealer is located in a county that imposes a surtax within the~~
 702 ~~meaning of s. 212.054(3)(a), the order is placed through the~~
 703 ~~dealer's location in such county, and the property purchased is~~
 704 ~~delivered into such county or into another county in this state~~
 705 ~~that levies the surtax, in which case the provisions of s.~~
 706 ~~212.054(3)(a) are applicable.~~

707 ~~(7)~~ The department may establish by rule procedures for
 708 collecting the use tax from unregistered persons who but for
 709 their remote mail order purchases would not be required to remit
 710 sales or use tax directly to the department. The procedures may
 711 provide for waiver of registration, provisions for irregular
 712 remittance of tax, elimination of the collection allowance, and
 713 nonapplication of local option surtaxes.

714 Section 5. Effective October 1, 2020, section 212.05965,
 715 Florida Statutes, is created to read:

716 212.05965 Taxation of marketplace sales.-

717 (1) As used in this section, the term:

718 (a) "Marketplace" means any physical place or electronic
 719 medium through which tangible personal property is offered for
 720 sale.

721 (b) "Marketplace provider" means a person who facilitates a
 722 retail sale by a marketplace seller by listing or advertising
 723 for sale by the marketplace seller tangible personal property in
 724 a marketplace, and who directly, or indirectly through
 725 agreements or arrangements with third parties, collects payment

23-00203-20

2020126__

726 from the customer and transmits the payment to the marketplace
 727 seller, regardless of whether the marketplace provider receives
 728 compensation or other consideration in exchange for its
 729 services.

730 1. The term does not include a person who solely provides
 731 travel agency services. As used in this subparagraph, the term
 732 "travel agency services" means arranging, booking, or otherwise
 733 facilitating for a commission, fee, or other consideration
 734 vacation or travel packages, rental cars, or other travel
 735 reservations; tickets for domestic or foreign travel by air,
 736 rail, ship, bus, or other mode of transportation; or hotel or
 737 other lodging accommodations.

738 2. The term does not include a person who is a delivery
 739 network company unless the delivery network company is a
 740 registered dealer for purposes of this chapter and the delivery
 741 network company notifies all local merchants that sell through
 742 the delivery network company's website or mobile application
 743 that the delivery network company is subject to the requirements
 744 of a marketplace provider under this section. As used in this
 745 subparagraph, the term:

746 a. "Delivery network company" means a person who maintains
 747 a website or mobile application used to facilitate delivery
 748 services, the sale of local products, or both.

749 b. "Delivery network courier" means an individual who
 750 provides delivery services through a delivery network company
 751 website or mobile application using a personal means of
 752 transportation, such as a motor vehicle as defined in s.
 753 320.01(1), bicycle, scooter, or other similar means of
 754 transportation; using public transportation; or by walking.

23-00203-20

2020126__

755 c. "Delivery services" means the pickup and delivery by a
 756 delivery network courier of one or more local products from a
 757 local merchant to a customer, which may include the selection,
 758 collection, and purchase of the local product in connection with
 759 the delivery. The term does not include any delivery requiring
 760 more than 75 miles of travel from the local merchant to the
 761 customer.

762 d. "Local merchant" means a kitchen, restaurant, or a
 763 third-party merchant, including a grocery store, retail store,
 764 convenience store, or business of another type, which is not
 765 under common ownership or control of the delivery network
 766 company.

767 e. "Local product" means any tangible personal property,
 768 including food, but excluding freight, mail, or a package to
 769 which postage has been affixed.

770 (c) "Marketplace seller" means a person who has an
 771 agreement with a marketplace provider and who makes retail sales
 772 of tangible personal property through a marketplace owned,
 773 operated, or controlled by the marketplace provider.

774 (2) Every marketplace provider that has a physical presence
 775 in this state or that is making or facilitating through a
 776 marketplace a substantial number of remote sales as defined in
 777 s. 212.0596(3)(b) is subject to the requirements imposed by this
 778 chapter on dealers for registration and for the collection and
 779 remittance of taxes.

780 (3) A marketplace provider shall certify to its marketplace
 781 sellers that it will collect and remit the tax imposed under
 782 this chapter on taxable retail sales made through the
 783 marketplace. Such certification may be included in the agreement

23-00203-20

2020126__

784 between the marketplace provider and marketplace seller.

785 (4) (a) A marketplace seller may not collect and remit the
 786 tax under this chapter on a taxable retail sale when the sale is
 787 made through the marketplace and the marketplace provider
 788 certifies, as required under subsection (3), that it will
 789 collect and remit such tax. A marketplace seller shall exclude
 790 such sales made through the marketplace from the marketplace
 791 seller's tax return under s. 212.11.

792 (b)1. A marketplace seller that has a physical presence in
 793 this state shall register and shall collect and remit the tax
 794 imposed under this chapter on all taxable retail sales made
 795 outside of the marketplace.

796 2. A marketplace seller making a substantial number of
 797 remote sales as defined in s. 212.0596(3)(b) shall register and
 798 shall collect and remit the tax imposed under this chapter on
 799 all taxable retail sales made outside of the marketplace. Sales
 800 made through the marketplace are not considered for the purposes
 801 of determining whether the seller has made a substantial number
 802 of remote sales.

803 (5) (a) A marketplace provider shall allow the department to
 804 examine and audit its books and records pursuant to s. 212.13.
 805 For retail sales facilitated through a marketplace, the
 806 department may not examine or audit the books and records of
 807 marketplace sellers, nor may the department assess marketplace
 808 sellers except to the extent the marketplace provider seeks
 809 relief under paragraph (b). The department may examine, audit,
 810 and assess a marketplace seller for retail sales made outside of
 811 the marketplace under paragraph (4)(b).

812 (b) The marketplace provider is relieved of liability for

23-00203-20

2020126__

813 the tax on the retail sale and the marketplace seller or
 814 customer is liable for the tax imposed under this chapter if the
 815 marketplace provider demonstrates to the department's
 816 satisfaction that the marketplace provider made a reasonable
 817 effort to obtain accurate information related to the retail
 818 sales facilitated through the marketplace from the marketplace
 819 seller, but that the failure to collect and pay the correct
 820 amount of tax imposed under this chapter was due to the
 821 marketplace seller providing incorrect or incomplete information
 822 to the marketplace provider. This paragraph does not apply to a
 823 retail sale for which the marketplace provider is the seller if
 824 the marketplace provider and marketplace seller are related
 825 parties or if transactions between a marketplace seller and
 826 marketplace buyer are not conducted at arm's length.

827 (6) For purposes of registration pursuant to s. 212.18, a
 828 marketplace is deemed a separate place of business.

829 (7) A marketplace provider and marketplace seller may agree
 830 by contract or otherwise that if a marketplace provider pays the
 831 tax imposed under this chapter on a retail sale facilitated
 832 through a marketplace for a marketplace seller as a result of an
 833 audit or otherwise, the marketplace provider has the right to
 834 recover such tax and any associated interest and penalties from
 835 the marketplace seller.

836 (8) Consistent with s. 213.21, the department may settle
 837 and compromise any tax, interest, or penalty assessed on retail
 838 sales conducted through a marketplace.

839 (9) For purposes of this section, the limitations in ss.
 840 213.30(3) and 213.756(2) apply.

841 (10) This section may not be construed to authorize the

23-00203-20

2020126__

842 state to collect sales tax from both the marketplace provider
 843 and the marketplace seller on the same retail sale.

844 Section 6. Paragraph (c) of subsection (2) and paragraph
 845 (a) of subsection (5) of section 212.06, Florida Statutes, are
 846 amended to read:

847 212.06 Sales, storage, use tax; collectible from dealers;
 848 "dealer" defined; dealers to collect from purchasers;
 849 legislative intent as to scope of tax.—

850 (2)

851 (c) The term "dealer" is further defined to mean every
 852 person, as used in this chapter, who sells at retail or who
 853 offers for sale at retail, or who has in his or her possession
 854 for sale at retail; or for use, consumption, or distribution; or
 855 for storage to be used or consumed in this state, tangible
 856 personal property as defined herein, including a retailer who
 857 transacts a remote mail order sale or who is a marketplace
 858 provider under s. 212.05965.

859 (5)(a)1. Except as provided in subparagraph 2., it is not
 860 the intention of this chapter to levy a tax upon tangible
 861 personal property imported, produced, or manufactured in this
 862 state for export, provided that tangible personal property may
 863 not be considered as being imported, produced, or manufactured
 864 for export unless the importer, producer, or manufacturer
 865 delivers the same to a licensed exporter for exporting or to a
 866 common carrier for shipment outside the state or mails the same
 867 by United States mail to a destination outside the state; or, in
 868 the case of aircraft being exported under their own power to a
 869 destination outside the continental limits of the United States,
 870 by submission to the department of a duly signed and validated

23-00203-20

2020126__

871 United States customs declaration, showing the departure of the
 872 aircraft from the continental United States; and further with
 873 respect to aircraft, the canceled United States registry of said
 874 aircraft; or in the case of parts and equipment installed on
 875 aircraft of foreign registry, by submission to the department of
 876 documentation, the extent of which shall be provided by rule,
 877 showing the departure of the aircraft from the continental
 878 United States; nor is it the intention of this chapter to levy a
 879 tax on any sale which the state is prohibited from taxing under
 880 the Constitution or laws of the United States. Every retail sale
 881 made to a person physically present at the time of sale shall be
 882 presumed to have been delivered in this state.

883 2.a. Notwithstanding subparagraph 1., a tax is levied on
 884 each sale of tangible personal property to be transported to a
 885 cooperating state as defined in sub-subparagraph c., at the rate
 886 specified in sub-subparagraph d. However, a Florida dealer will
 887 be relieved from the requirements of collecting taxes pursuant
 888 to this subparagraph if the Florida dealer obtains from the
 889 purchaser an affidavit setting forth the purchaser's name,
 890 address, state taxpayer identification number, and a statement
 891 that the purchaser is aware of his or her state's use tax laws,
 892 is a registered dealer in Florida or another state, or is
 893 purchasing the tangible personal property for resale or is
 894 otherwise not required to pay the tax on the transaction. The
 895 department may, by rule, provide a form to be used for the
 896 purposes set forth herein.

897 b. For purposes of this subparagraph, "a cooperating state"
 898 is one determined by the executive director of the department to
 899 cooperate satisfactorily with this state in collecting taxes on

Page 31 of 37

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

23-00203-20

2020126__

900 remote mail-order sales. No state shall be so determined unless
 901 it meets all the following minimum requirements:

902 (I) It levies and collects taxes on remote mail-order sales
 903 of property transported from that state to persons in this
 904 state, as described in s. 212.0596, upon request of the
 905 department.

906 (II) The tax so collected shall be at the rate specified in
 907 s. 212.05, not including any local option or tourist or
 908 convention development taxes collected pursuant to s. 125.0104
 909 or this chapter.

910 (III) Such state agrees to remit to the department all
 911 taxes so collected no later than 30 days from the last day of
 912 the calendar quarter following their collection.

913 (IV) Such state authorizes the department to audit dealers
 914 within its jurisdiction who make remote mail-order sales that
 915 are the subject of s. 212.0596, or makes arrangements deemed
 916 adequate by the department for auditing them with its own
 917 personnel.

918 (V) Such state agrees to provide to the department records
 919 obtained by it from retailers or dealers in such state showing
 920 delivery of tangible personal property into this state upon
 921 which no sales or use tax has been paid in a manner similar to
 922 that provided in sub-subparagraph g.

923 c. For purposes of this subparagraph, "sales of tangible
 924 personal property to be transported to a cooperating state"
 925 means remote mail-order sales to a person who is in the
 926 cooperating state at the time the order is executed, from a
 927 dealer who receives that order in this state.

928 d. The tax levied by sub-subparagraph a. shall be at the

Page 32 of 37

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

23-00203-20

2020126__

929 rate at which such a sale would have been taxed pursuant to the
 930 cooperating state's tax laws if consummated in the cooperating
 931 state by a dealer and a purchaser, both of whom were physically
 932 present in that state at the time of the sale.

933 e. The tax levied by sub-subparagraph a., when collected,
 934 shall be held in the State Treasury in trust for the benefit of
 935 the cooperating state and shall be paid to it at a time agreed
 936 upon between the department, acting for this state, and the
 937 cooperating state or the department or agency designated by it
 938 to act for it; however, such payment shall in no event be made
 939 later than 30 days from the last day of the calendar quarter
 940 after the tax was collected. Funds held in trust for the benefit
 941 of a cooperating state shall not be subject to the service
 942 charges imposed by s. 215.20.

943 f. The department is authorized to perform such acts and to
 944 provide such cooperation to a cooperating state with reference
 945 to the tax levied by sub-subparagraph a. as is required of the
 946 cooperating state by sub-subparagraph b.

947 g. In furtherance of this act, dealers selling tangible
 948 personal property for delivery in another state shall make
 949 available to the department, upon request of the department,
 950 records of all tangible personal property so sold. Such records
 951 shall include a description of the property, the name and
 952 address of the purchaser, the name and address of the person to
 953 whom the property was sent, the purchase price of the property,
 954 information regarding whether sales tax was paid in this state
 955 on the purchase price, and such other information as the
 956 department may by rule prescribe.

957 Section 7. Paragraph (a) of subsection (1) and paragraph

Page 33 of 37

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

23-00203-20

2020126__

958 (a) of subsection (5) of section 212.12, Florida Statutes, are
 959 amended to read:

960 212.12 Dealer's credit for collecting tax; penalties for
 961 noncompliance; powers of Department of Revenue in dealing with
 962 delinquents; brackets applicable to taxable transactions;
 963 records required.—

964 (1) (a) ~~1-~~ Notwithstanding any other law and for the purpose
 965 of compensating persons granting licenses for and the lessors of
 966 real and personal property taxed hereunder, for the purpose of
 967 compensating dealers in tangible personal property, for the
 968 purpose of compensating dealers providing communication services
 969 and taxable services, for the purpose of compensating owners of
 970 places where admissions are collected, and for the purpose of
 971 compensating remitters of any taxes or fees reported on the same
 972 documents utilized for the sales and use tax, as compensation
 973 for the keeping of prescribed records, filing timely tax
 974 returns, and the proper accounting and remitting of taxes by
 975 them, such seller, person, lessor, dealer, owner, and remitter
 976 ~~(except dealers who make mail order sales)~~ who files the return
 977 required pursuant to s. 212.11 only by electronic means and who
 978 pays the amount due on such return only by electronic means
 979 shall be allowed 2.5 percent of the amount of the tax due,
 980 accounted for, and remitted to the department in the form of a
 981 deduction. However, if the amount of the tax due and remitted to
 982 the department by electronic means for the reporting period
 983 exceeds \$1,200, an allowance is not allowed for all amounts in
 984 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
 985 the term "electronic means" has the same meaning as provided in
 986 s. 213.755(2)(c).

Page 34 of 37

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

23-00203-20

2020126__

987 2. ~~The executive director of the department is authorized~~
 988 ~~to negotiate a collection allowance, pursuant to rules~~
 989 ~~promulgated by the department, with a dealer who makes mail~~
 990 ~~order sales. The rules of the department shall provide~~
 991 ~~guidelines for establishing the collection allowance based upon~~
 992 ~~the dealer's estimated costs of collecting the tax, the volume~~
 993 ~~and value of the dealer's mail order sales to purchasers in this~~
 994 ~~state, and the administrative and legal costs and likelihood of~~
 995 ~~achieving collection of the tax absent the cooperation of the~~
 996 ~~dealer. However, in no event shall the collection allowance~~
 997 ~~negotiated by the executive director exceed 10 percent of the~~
 998 ~~tax remitted for a reporting period.~~

999 (5) (a) The department is authorized to audit or inspect the
 1000 records and accounts of dealers defined herein, including audits
 1001 or inspections of dealers who make remote mail order sales ~~to~~
 1002 ~~the extent permitted by another state, and to correct by credit~~
 1003 ~~any overpayment of tax, and, in the event of a deficiency, an~~
 1004 ~~assessment shall be made and collected. No administrative~~
 1005 ~~finding of fact is necessary prior to the assessment of any tax~~
 1006 ~~deficiency.~~

1007 Section 8. Paragraph (f) of subsection (3) of section
 1008 212.18, Florida Statutes, is amended to read:

1009 212.18 Administration of law; registration of dealers;
 1010 rules.-

1011 (3)

1012 (f) As used in this paragraph, the term "exhibitor" means a
 1013 person who enters into an agreement authorizing the display of
 1014 tangible personal property or services at a convention or a
 1015 trade show. The following provisions apply to the registration

23-00203-20

2020126__

1016 of exhibitors as dealers under this chapter:

1017 1. An exhibitor whose agreement prohibits the sale of
 1018 tangible personal property or services subject to the tax
 1019 imposed in this chapter is not required to register as a dealer.

1020 2. An exhibitor whose agreement provides for the sale at
 1021 wholesale only of tangible personal property or services subject
 1022 to the tax imposed by this chapter must obtain a resale
 1023 certificate from the purchasing dealer but is not required to
 1024 register as a dealer.

1025 3. An exhibitor whose agreement authorizes the retail sale
 1026 of tangible personal property or services subject to the tax
 1027 imposed by this chapter must register as a dealer and collect
 1028 the tax on such sales.

1029 4. An exhibitor who makes a remote mail order sale pursuant
 1030 to s. 212.0596 must register as a dealer.

1031 A person who conducts a convention or a trade show must make his
 1032 or her exhibitor's agreements available to the department for
 1033 inspection and copying.

1034 Section 9. For the purpose of incorporating the amendment
 1035 made by this act to section 212.0596, Florida Statutes, in a
 1036 reference thereto, subsection (4) of section 212.20, Florida
 1037 Statutes, is reenacted to read:

1038 212.20 Funds collected, disposition; additional powers of
 1039 department; operational expense; refund of taxes adjudicated
 1040 unconstitutionally collected.-

1041 (4) When there has been a final adjudication that any tax
 1042 pursuant to s. 212.0596 was levied, collected, or both, contrary
 1043 to the Constitution of the United States or the State
 1044

23-00203-20

2020126__

1045 Constitution, the department shall, in accordance with rules,
1046 determine, based upon claims for refund and other evidence and
1047 information, who paid such tax or taxes, and refund to each such
1048 person the amount of tax paid. For purposes of this subsection,
1049 a "final adjudication" is a decision of a court of competent
1050 jurisdiction from which no appeal can be taken or from which the
1051 official or officials of this state with authority to make such
1052 decisions has or have decided not to appeal.

1053 Section 10. (1) The Department of Revenue is authorized,
1054 and all conditions are deemed met, to adopt emergency rules
1055 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
1056 administering this act.

1057 (2) Notwithstanding any other law, emergency rules adopted
1058 pursuant to subsection (1) are effective for 6 months after
1059 adoption and may be renewed during the pendency of procedures to
1060 adopt permanent rules addressing the subject of the emergency
1061 rules.

1062 (3) This section shall take effect upon this act becoming a
1063 law and expires July 1, 2021.

1064 Section 11. If any provision of this act or its application
1065 to any person or circumstance is held invalid, the invalidity
1066 does not affect other provisions or applications of the act
1067 which can be given effect without the invalid provision or
1068 application, and to this end the provisions of this act are
1069 severable.

1070 Section 12. Except as otherwise expressly provided in this
1071 act and except for this section, which shall take effect upon
1072 this act becoming a law, this act shall take effect July 1,
1073 2020.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: SB 126
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS	2/13/2020 ¹ Motion to vote "YEA" after Roll Call					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
VA		Stargel						
X		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
8	0	TOTALS	FAV	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

December 4, 2019

The Honorable George Gainer, Chair
Committee Finance and Tax
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 126, Sales and Use Tax be placed on the agenda of the next Finance and Tax meeting.

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

Warm regards,

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

Joe Gruters

cc: Jose Diez-Arguelles, Staff Director
Lynn Wells, Senior Administrative Assistant

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-13-21

126

*Meeting Date**Bill Number (if applicable)*Topic Sales Tax (E-Fairness)*Amendment Barcode (if applicable)*Name Kurt WennerJob Title Vice PresidentAddress 106 N. BronoughPhone 850-222-5052*Street*TallahasseeFL32301Email kwenner@floridataxwatch.org*City**State**Zip*Speaking: For Against InformationWaive Speaking: In Support Against
*(The Chair will read this information into the record.)*Representing Florida TaxWatchAppearing at request of Chair: Yes NoLobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

126
Bill Number (if applicable) _____

Topic SALES TAX

Amendment Barcode (if applicable) _____

Name JENNIFER GREEN

Job Title _____

Address 113 E. COLLEGE AVE. #400

Phone 850/841-7726

Street

THT FL 32301

Email _____

City State Zip

Speaking: For Against Information

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

Representing BEST BUY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/2020

Meeting Date

126

Bill Number (if applicable)

Topic Sales & Use Tax

Amendment Barcode (if applicable)

Name Carol Bracy

Job Title Consultant

Address 201 East Park Avenue, 5th Floor

Phone 850.577.0444

Street

Tallahassee

FL

32301

Email carol@ballardpartners.com

City

State

Zip

Speaking: For Against Information

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

Representing Amazon.com

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20

Meeting Date

126

Bill Number (if applicable)

Topic Sales & Use Tax

Amendment Barcode (if applicable)

Name CAROLYN JOHNSON

Job Title Policy Analyst

Address 136 S. Bronagh St.

Phone 850-521-1200

Tallahassee FL 32301

Email cjohnson@flchamber.com

Speaking: For Against Information

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

Representing FLORIDA CHAMBER of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20

Meeting Date

126

Bill Number (if applicable)

Topic Sales and Use Tax

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/2020

Meeting Date

126

Bill Number (if applicable)

Topic Sales Tax

Amendment Barcode (if applicable)

Name Jason Unger

Job Title _____

Address 301 South Bronough Street

Phone 577-9090

Street

Tallahassee

FL

32301

Email junger@gray-robinson.com

City

State

Zip

Speaking: For Against Information

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

Representing Target Corporation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb. 13, 2020
Meeting Date

126
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title Vice President of Government Affairs

Address 227 S Adams St

Phone 850 222-4082

Tallahassee FL 32301
City State Zip

Email Grace@frf.org

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/2020
Meeting Date

SB 126
Bill Number (if applicable)

Topic E-Fairness

Amendment Barcode (if applicable)

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place
Street

Phone _____

TLH
City

FL
State

32308
Zip

Email greg@waypointstrat.com

Speaking: For Against Information

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

Representing International Council of Shopping Centers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20
Meeting Date

126
Bill Number (if applicable)

Topic Sales Tax

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr Legislative Advocate

Address PO Box 1757

Phone 701-3621

Tall. FL 32302
City State Zip

Email ahughes@flcities

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20

Meeting Date

124

Bill Number (if applicable)

Topic Gas & Use Tax

Amendment Barcode (if applicable)

Name Matthew Baker

Job Title _____

Address 112 E SEVERSON STREET

Phone 813 527 0172

Street

TALLAHASSEE FL 32301

City

State

Zip

Email math@corcoranpartners.com

Speaking: For Against Information

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

Representing WALMART

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SJR 146

INTRODUCER: Senator Brandes

SUBJECT: Homestead Property Tax Assessments/Increased Portability Period

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SJR 146 proposes an amendment to the Florida Constitution to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

The Revenue Estimating Conference has determined that, if adopted by the electors, the proposed amendment will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

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

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ on real estate or tangible personal property, and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.¹¹ The Save Our Homes assessment limitation limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹² The accumulated difference between the assessed value and the just value is the Save Our Homes benefit.

In 2008, Florida voters further amended the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation.¹³ The amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued Save Our Homes benefit to the new homestead. To transfer the Save Our Homes benefit, the homestead owner must establish a new homestead within 2 years of January 1 of the year he or she abandoned the old homestead (not 2 years after the sale).¹⁴

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Save Our Homes amendment in s. 193.155, F.S.

¹² FLA. CONST. art. VII, s. 4(d).

¹³ FLA. CONST. art. VII, s. (4)(d)(8). The Florida Legislature implemented the portability amendment in s. 193.155(8), F.S.

¹⁴ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure *available at* <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Feb. 6, 2020).

benefit from a prior homestead property to a new homestead property. The joint resolution also deletes obsolete provisions pertaining to 2008 homestead property assessments.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, Section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, Section 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election¹⁵ held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.¹⁶

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

¹⁵ Section 97.021(16), F.S., defines "general election" as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

¹⁶ Section 101.161(1), F.S.

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

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that, if adopted by the electors, the proposed amendment will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, homeowners will have an additional year to transfer their existing homestead Save Our Homes benefit to a new homestead property.

C. Government Sector Impact:

The Division of Elections (Division) is required to advertise the full text of proposed constitutional amendments in English and Spanish¹⁷ twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.¹⁸

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be, at a minimum, \$63,378.26.¹⁹ Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.²⁰

According to the Florida Department of Revenue, if SJR 146 and the implementing language in SB 148 are approved, the department would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH, and amend Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.²¹

¹⁷ The requirement to provide these publications in Spanish stems from Section 203 of the Federal Voting Rights Act.

¹⁸ E-mail from Brittany N. Dover, Legislative Affairs Director, Florida Department of State (Oct. 2, 2019) (on file with the Senate Committee on Finance and Tax).

¹⁹ *Id.*

²⁰ *Id.*

²¹ Florida Department of Revenue, *SJR 146 Agency Analysis* (Oct. 13, 2019) (on file with the Senate Committee on Finance and Tax).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Article VII, section 4 of the Florida Constitution and creates a new section in Article XII of the Florida Constitution.

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

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

None.

B. Amendments:

None.

By Senator Brandes

24-00217-20

2020146__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution to increase the period of time during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead, and to provide an effective date.

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

That the following amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

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

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

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general

Page 1 of 8

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

24-00217-20

2020146__

law and assessed solely on the basis of character or use.

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

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

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

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

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

(2) No assessment shall exceed just value.

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

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided in this subsection.

Page 2 of 8

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

24-00217-20

2020146__

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

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

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

71 (8)a. A person who establishes a new homestead as of
72 January 1, ~~2009, or January 1 of any subsequent year~~ and who has
73 received a homestead exemption pursuant to Section 6 of this
74 Article as of January 1 of any either of the three two years
75 immediately preceding the establishment of the new homestead is
76 entitled to have the new homestead assessed at less than just
77 value. ~~If this revision is approved in January of 2008, a person
78 who establishes a new homestead as of January 1, 2008, is
79 entitled to have the new homestead assessed at less than just
80 value only if that person received a homestead exemption on
81 January 1, 2007.~~ The assessed value of the newly established
82 homestead shall be determined as follows:

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

Page 3 of 8

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

24-00217-20

2020146__

88 \$500,000 or the difference between the just value and the
89 assessed value of the prior homestead as of January 1 of the
90 year in which the prior homestead was abandoned. Thereafter, the
91 homestead shall be assessed as provided in this subsection.

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

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

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

116 (f) A county may, in the manner prescribed by general law,

Page 4 of 8

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

24-00217-20

2020146__

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

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

128 (2) Twenty percent of the total assessed value of the
 129 property as improved.

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

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

139 (2) No assessment shall exceed just value.

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

145 (4) Changes, additions, reductions, or improvements to such

24-00217-20

2020146__

146 property shall be assessed as provided for by general law;
 147 however, after the adjustment for any change, addition,
 148 reduction, or improvement, the property shall be assessed as
 149 provided in this subsection.

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

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

158 (2) No assessment shall exceed just value.

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

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

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

24-00217-20

2020146__

175 (i) The legislature, by general law and subject to
 176 conditions specified therein, may prohibit the consideration of
 177 the following in the determination of the assessed value of real
 178 property:

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

182 (2) The installation of a solar or renewable energy source
 183 device.

184 (j)(1) The assessment of the following working waterfront
 185 properties shall be based upon the current use of the property:
 186 a. Land used predominantly for commercial fishing purposes.
 187 b. Land that is accessible to the public and used for
 188 vessel launches into waters that are navigable.
 189 c. Marinas and drystacks that are open to the public.
 190 d. Water-dependent marine manufacturing facilities,
 191 commercial fishing facilities, and marine vessel construction
 192 and repair facilities and their support activities.

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

ARTICLE XII

SCHEDULE

198 Transfer of the accrued benefit from specified limitations
 199 on homestead property tax assessments; increased portability
 200 period.—This section and the amendment to Section 4 of Article
 201 VII, which extends to three years the time period during which
 202 the accrued benefit from specified limitations on homestead
 203 property tax assessments may be transferred from a prior

Page 7 of 8

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

24-00217-20

2020146__

204 homestead to a new homestead, shall take effect January 1, 2021.

205 BE IT FURTHER RESOLVED that the following statement be
 206 placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

ARTICLE XII

210 LIMITATIONS ON HOMESTEAD PROPERTY TAX ASSESSMENTS;
 211 INCREASED PORTABILITY PERIOD TO TRANSFER ACCRUED BENEFIT.—
 212 Proposing an amendment to the State Constitution to increase,
 213 from 2 years to 3 years, the period of time during which accrued
 214 Save-Our-Homes benefits may be transferred from a prior
 215 homestead to a new homestead. This amendment takes effect
 216 January 1, 2021.

Page 8 of 8

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: SJR 146
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS	2/13/2020 ¹ Motion to vote "NAY" after Roll Call		2/13/2020 ² Motion to vote "YEA" after Roll Call			
			Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
	VA	Bradley						
X		Pizzo						
X		Powell						
VA		Stargel						
X		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
7	1	TOTALS	FAV	-	FAV	-	Yea	Nay
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



The Florida Senate

Committee Agenda Request

To: Senator George Gainer
Committee on Finance And Tax

Subject: Committee Agenda Request

Date: October 15, 2019

I respectfully request that **Senate Bill #146**, relating to **Homestead Property Tax Assessments**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24

From: [Dover, Brittany N.](#)
To: [Toman, John](#)
Subject: Constitutional Amendments Costs
Date: Tuesday, October 1, 2019 3:39:15 PM

Good afternoon, John.

I apologize for my delay as I have been out of the office for a few days. Below is our current description as it relates to our 2020 general election constitutional amendments. Please let me know if you need any additional information or have any questions. Happy to help.

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish* twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be \$ 63,378.26, at a minimum. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.

*The requirement to provide these publications in Spanish stems from Section 203 of the federal Voting Rights act.

Thank you,

Brittany N. Dover
Legislative Affairs Director
Department of State
850.245.6509 (office)
850.274.3105 (cell)

From: [Dover, Brittany N.](#)
To: [Toman, John](#)
Subject: Constitutional Amendments Costs
Date: Tuesday, October 1, 2019 3:39:15 PM

Good afternoon, John.

I apologize for my delay as I have been out of the office for a few days. Below is our current description as it relates to our 2020 general election constitutional amendments. Please let me know if you need any additional information or have any questions. Happy to help.

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish* twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The Division is also responsible for translating the amendments into Spanish. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election could be \$ 63,378.26, at a minimum. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.

*The requirement to provide these publications in Spanish stems from Section 203 of the federal Voting Rights act.

Thank you,

Brittany N. Dover
Legislative Affairs Director
Department of State
850.245.6509 (office)
850.274.3105 (cell)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.13.20

Meeting Date

146

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Albert Balido

Job Title _____

Address 201 W Park Ave

Phone 8502573440

Tam FL 33301

City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Assor. of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 148

INTRODUCER: Community Affairs Committee and Senator Brandes

SUBJECT: Limitations on Homestead Assessments

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 148 is the implementing bill for SJR 146, which proposes an amendment to the Florida Constitution to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property.

The bill will take effect on the effective date of the amendment proposed by SJR 146 or a similar joint resolution having the substantially the same specific intent and purpose. If approved by the electors, the proposed amendment and CS/SB 148 first apply to the 2021 tax roll.

The Revenue Estimating Conference has determined that, if the proposed amendment is approved by 60 percent of the electors, the bill will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

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

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

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Save our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save our Homes amendment to the Florida Constitution.¹¹ The Save our Homes assessment limitation limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹² The accumulated difference between the assessed value and the just value is the Save Our Homes benefit.

In 2008, Florida voters further amended the Florida Constitution to provide for the portability of the accrued benefit under the Save our Homes assessment limitation.¹³ The amendment allows homestead property owners who relocate to a new homestead to transfer, or “port,” up to \$500,000 of the accrued Save our Homes benefit to the new homestead. To transfer the Save Our

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Save Our Homes amendment in s. 193.155, F.S.

¹² FLA. CONST. art. VII, s. 4(d).

¹³ FLA. CONST. art VII, s. (4)(d)(8). The Florida Legislature implemented the portability amendment in s. 193.155(8), F.S.

Homes benefit, the homestead owner must establish a new homestead within 2 years of January 1 of the year he or she abandoned the old homestead (not 2 years after the sale).¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 193.155, F.S., to extend by one year the period during which a person may transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property. The section also removes obsolete provisions pertaining to the 2008 homestead property assessments.

Section 2 provides that the act applies beginning with the 2021 tax roll.

Section 3 provides that the act shall take effect on the effective date of the amendment to the Florida Constitution proposed by SJR 146 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the Florida Constitution is approved at the general election¹⁵ held in November 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, section 18 of the Constitution, do not apply to bills that implement constitutional amendments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

¹⁴ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure *available at* <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Feb. 6, 2020).

¹⁵ Section 97.021(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

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

The Revenue Estimating Conference has determined that, if the amendment proposed by SJR 146 is adopted by the electors, the bill will reduce local property tax receipts by \$1.8 million beginning in Fiscal Year 2021-2022, increasing to \$10.2 million by Fiscal Year 2025-2026.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, homeowners will have an additional year to transfer their Save Our Homes benefit to a new homestead property.

C. Government Sector Impact:

According to the Florida Department of Revenue, if the proposed amendment and the implementing language in the bill are approved, the department would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH, and amend Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 193.155 of the Florida Statutes.

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

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

CS by Community Affairs on November 4, 2019:

The committee substitute made a technical amendment to reference SJR 146.

B. Amendments:

None.

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

¹⁶ Florida Department of Revenue, *SJR 146 Agency Analysis* (Oct. 8, 2019) (on file with the Senate Committee on Finance and Tax).

By the Committee on Community Affairs; and Senator Brandes

578-01159-20

2020148c1

1 A bill to be entitled
 2 An act relating to limitations on homestead
 3 assessments; amending s. 193.155, F.S.; revising the
 4 timeframe during which the accrued benefit from
 5 specified limitations on homestead property tax
 6 assessments may be transferred from a prior homestead
 7 to a new homestead; deleting obsolete provisions;
 8 revising the timeframe during which an owner of
 9 homestead property significantly damaged or destroyed
 10 by a named tropical storm or hurricane must establish
 11 a new homestead to make a certain election; providing
 12 applicability; providing a contingent effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Subsection (8) of section 193.155, Florida
 17 Statutes, is amended to read:
 18 193.155 Homestead assessments.—Homestead property shall be
 19 assessed at just value as of January 1, 1994. Property receiving
 20 the homestead exemption after January 1, 1994, shall be assessed
 21 at just value as of January 1 of the year in which the property
 22 receives the exemption unless the provisions of subsection (8)
 23 apply.
 24 (8) Property assessed under this section shall be assessed
 25 at less than just value when the person who establishes a new
 26 homestead has received a homestead exemption as of January 1 of
 27 any either of the 3 2 immediately preceding years. ~~A person who~~
 28 ~~establishes a new homestead as of January 1, 2008, is entitled~~
 29 ~~to have the new homestead assessed at less than just value only~~

Page 1 of 11

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

578-01159-20

2020148c1

30 ~~if that person received a homestead exemption on January 1,~~
 31 ~~2007, and only if this subsection applies retroactive to January~~
 32 ~~1, 2008.~~ For purposes of this subsection, a husband and wife who
 33 owned and both permanently resided on a previous homestead shall
 34 each be considered to have received the homestead exemption even
 35 though only the husband or the wife applied for the homestead
 36 exemption on the previous homestead. The assessed value of the
 37 newly established homestead shall be determined as provided in
 38 this subsection.
 39 (a) If the just value of the new homestead as of January 1
 40 is greater than or equal to the just value of the immediate
 41 prior homestead as of January 1 of the year in which the
 42 immediate prior homestead was abandoned, the assessed value of
 43 the new homestead shall be the just value of the new homestead
 44 minus an amount equal to the lesser of \$500,000 or the
 45 difference between the just value and the assessed value of the
 46 immediate prior homestead as of January 1 of the year in which
 47 the prior homestead was abandoned. Thereafter, the homestead
 48 shall be assessed as provided in this section.
 49 (b) If the just value of the new homestead as of January 1
 50 is less than the just value of the immediate prior homestead as
 51 of January 1 of the year in which the immediate prior homestead
 52 was abandoned, the assessed value of the new homestead shall be
 53 equal to the just value of the new homestead divided by the just
 54 value of the immediate prior homestead and multiplied by the
 55 assessed value of the immediate prior homestead. However, if the
 56 difference between the just value of the new homestead and the
 57 assessed value of the new homestead calculated pursuant to this
 58 paragraph is greater than \$500,000, the assessed value of the

Page 2 of 11

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

578-01159-20

2020148c1

59 new homestead shall be increased so that the difference between
60 the just value and the assessed value equals \$500,000.
61 Thereafter, the homestead shall be assessed as provided in this
62 section.

63 (c) If two or more persons who have each received a
64 homestead exemption as of January 1 of any ~~either~~ of the 3 ~~2~~
65 immediately preceding years and who would otherwise be eligible
66 to have a new homestead property assessed under this subsection
67 establish a single new homestead, the reduction from just value
68 is limited to the higher of the difference between the just
69 value and the assessed value of either of the prior eligible
70 homesteads as of January 1 of the year in which either of the
71 eligible prior homesteads was abandoned, but may not exceed
72 \$500,000.

73 (d) If two or more persons abandon jointly owned and
74 jointly titled property that received a homestead exemption as
75 of January 1 of any ~~either~~ of the 3 ~~2~~ immediately preceding
76 years, and one or more such persons who were entitled to and
77 received a homestead exemption on the abandoned property
78 establish a new homestead that would otherwise be eligible for
79 assessment under this subsection, each such person establishing
80 a new homestead is entitled to a reduction from just value for
81 the new homestead equal to the just value of the prior homestead
82 minus the assessed value of the prior homestead divided by the
83 number of owners of the prior homestead who received a homestead
84 exemption, unless the title of the property contains specific
85 ownership shares, in which case the share of reduction from just
86 value shall be proportionate to the ownership share. In the case
87 of a husband and wife abandoning jointly titled property, the

Page 3 of 11

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

578-01159-20

2020148c1

88 husband and wife may designate the ownership share to be
89 attributed to each spouse by following the procedure in
90 paragraph (f). To qualify to make such a designation, the
91 husband and wife must be married on the date that the jointly
92 owned property is abandoned. In calculating the assessment
93 reduction to be transferred from a prior homestead that has an
94 assessment reduction for living quarters of parents or
95 grandparents pursuant to s. 193.703, the value calculated
96 pursuant to s. 193.703(6) must first be added back to the
97 assessed value of the prior homestead. The total reduction from
98 just value for all new homesteads established under this
99 paragraph may not exceed \$500,000. There shall be no reduction
100 from just value of any new homestead unless the prior homestead
101 is reassessed at just value or is reassessed under this
102 subsection as of January 1 after the abandonment occurs.

103 (e) If one or more persons who previously owned a single
104 homestead and each received the homestead exemption qualify for
105 a new homestead where all persons who qualify for homestead
106 exemption in the new homestead also qualified for homestead
107 exemption in the previous homestead without an additional person
108 qualifying for homestead exemption in the new homestead, the
109 reduction in just value shall be calculated pursuant to
110 paragraph (a) or paragraph (b), without application of paragraph
111 (c) or paragraph (d).

112 (f) A husband and wife abandoning jointly titled property
113 who wish to designate the ownership share to be attributed to
114 each person for purposes of paragraph (d) must file a form
115 provided by the department with the property appraiser in the
116 county where such property is located. The form must include a

Page 4 of 11

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

578-01159-20

2020148c1

117 sworn statement by each person designating the ownership share
 118 to be attributed to each person for purposes of paragraph (d)
 119 and must be filed prior to either person filing the form
 120 required under paragraph (h) to have a parcel of property
 121 assessed under this subsection. Such a designation, once filed
 122 with the property appraiser, is irrevocable.

123 (g) For purposes of receiving an assessment reduction
 124 pursuant to this subsection, a person entitled to assessment
 125 under this section may abandon his or her homestead even though
 126 it remains his or her primary residence by notifying the
 127 property appraiser of the county where the homestead is located.
 128 This notification must be in writing and delivered at the same
 129 time as or before timely filing a new application for homestead
 130 exemption on the property.

131 (h) In order to have his or her homestead property assessed
 132 under this subsection, a person must file a form provided by the
 133 department as an attachment to the application for homestead
 134 exemption, including a copy of the form required to be filed
 135 under paragraph (f), if applicable. The form, which must include
 136 a sworn statement attesting to the applicant's entitlement to
 137 assessment under this subsection, shall be considered sufficient
 138 documentation for applying for assessment under this subsection.
 139 The department shall require by rule that the required form be
 140 submitted with the application for homestead exemption under the
 141 timeframes and processes set forth in chapter 196 to the extent
 142 practicable.

143 (i)1. If the previous homestead was located in a different
 144 county than the new homestead, the property appraiser in the
 145 county where the new homestead is located must transmit a copy

Page 5 of 11

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

578-01159-20

2020148c1

146 of the completed form together with a completed application for
 147 homestead exemption to the property appraiser in the county
 148 where the previous homestead was located. If the previous
 149 homesteads of applicants for transfer were in more than one
 150 county, each applicant from a different county must submit a
 151 separate form.

152 2. The property appraiser in the county where the previous
 153 homestead was located must return information to the property
 154 appraiser in the county where the new homestead is located by
 155 April 1 or within 2 weeks after receipt of the completed
 156 application from that property appraiser, whichever is later. As
 157 part of the information returned, the property appraiser in the
 158 county where the previous homestead was located must provide
 159 sufficient information concerning the previous homestead to
 160 allow the property appraiser in the county where the new
 161 homestead is located to calculate the amount of the assessment
 162 limitation difference which may be transferred and must certify
 163 whether the previous homestead was abandoned and has been or
 164 will be reassessed at just value or reassessed according to the
 165 provisions of this subsection as of the January 1 following its
 166 abandonment.

167 3. Based on the information provided on the form from the
 168 property appraiser in the county where the previous homestead
 169 was located, the property appraiser in the county where the new
 170 homestead is located shall calculate the amount of the
 171 assessment limitation difference which may be transferred and
 172 apply the difference to the January 1 assessment of the new
 173 homestead.

174 4. All property appraisers having information-sharing

Page 6 of 11

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

578-01159-20

2020148c1

175 agreements with the department are authorized to share
 176 confidential tax information with each other pursuant to s.
 177 195.084, including social security numbers and linked
 178 information on the forms provided pursuant to this section.

179 5. The transfer of any limitation is not final until any
 180 values on the assessment roll on which the transfer is based are
 181 final. If such values are final after tax notice bills have been
 182 sent, the property appraiser shall make appropriate corrections
 183 and a corrected tax notice bill shall be sent. Any values that
 184 are under administrative or judicial review shall be noticed to
 185 the tribunal or court for accelerated hearing and resolution so
 186 that the intent of this subsection may be carried out.

187 6. If the property appraiser in the county where the
 188 previous homestead was located has not provided information
 189 sufficient to identify the previous homestead and the assessment
 190 limitation difference is transferable, the taxpayer may file an
 191 action in circuit court in that county seeking to establish that
 192 the property appraiser must provide such information.

193 7. If the information from the property appraiser in the
 194 county where the previous homestead was located is provided
 195 after the procedures in this section are exercised, the property
 196 appraiser in the county where the new homestead is located shall
 197 make appropriate corrections and a corrected tax notice and tax
 198 bill shall be sent.

199 8. This subsection does not authorize the consideration or
 200 adjustment of the just, assessed, or taxable value of the
 201 previous homestead property.

202 9. The property appraiser in the county where the new
 203 homestead is located shall promptly notify a taxpayer if the

Page 7 of 11

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

578-01159-20

2020148c1

204 information received, or available, is insufficient to identify
 205 the previous homestead and the amount of the assessment
 206 limitation difference which is transferable. Such notification
 207 shall be sent on or before July 1 as specified in s. 196.151.

208 10. The taxpayer may correspond with the property appraiser
 209 in the county where the previous homestead was located to
 210 further seek to identify the homestead and the amount of the
 211 assessment limitation difference which is transferable.

212 11. If the property appraiser in the county where the
 213 previous homestead was located supplies sufficient information
 214 to the property appraiser in the county where the new homestead
 215 is located, such information shall be considered timely if
 216 provided in time for inclusion on the notice of proposed
 217 property taxes sent pursuant to ss. 194.011 and 200.065(1).

218 12. If the property appraiser has not received information
 219 sufficient to identify the previous homestead and the amount of
 220 the assessment limitation difference which is transferable
 221 before mailing the notice of proposed property taxes, the
 222 taxpayer may file a petition with the value adjustment board in
 223 the county where the new homestead is located.

224 (j) Any person who is qualified to have his or her property
 225 assessed under this subsection and who fails to file an
 226 application by March 1 may file an application for assessment
 227 under this subsection and may, pursuant to s. 194.011(3), file a
 228 petition with the value adjustment board requesting that an
 229 assessment under this subsection be granted. Such petition may
 230 be filed at any time during the taxable year on or before the
 231 25th day following the mailing of the notice by the property
 232 appraiser as provided in s. 194.011(1). Notwithstanding s.

Page 8 of 11

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

578-01159-20

2020148c1

233 194.013, such person must pay a nonrefundable fee of \$15 upon
 234 filing the petition. Upon reviewing the petition, if the person
 235 is qualified to receive the assessment under this subsection and
 236 demonstrates particular extenuating circumstances judged by the
 237 property appraiser or the value adjustment board to warrant
 238 granting the assessment, the property appraiser or the value
 239 adjustment board may grant an assessment under this subsection.
 240 ~~For the 2008 assessments, all petitioners for assessment under~~
 241 ~~this subsection shall be considered to have demonstrated~~
 242 ~~particular extenuating circumstances.~~

243 (k) Any person who is qualified to have his or her property
 244 assessed under this subsection and who fails to timely file an
 245 application for his or her new homestead in the first year
 246 following eligibility may file in a subsequent year. The
 247 assessment reduction shall be applied to assessed value in the
 248 year the transfer is first approved, and refunds of tax may not
 249 be made for previous years.

250 (l) The property appraisers of the state shall, as soon as
 251 practicable after March 1 of each year and on or before July 1
 252 of that year, carefully consider all applications for assessment
 253 under this subsection which have been filed in their respective
 254 offices on or before March 1 of that year. If, upon
 255 investigation, the property appraiser finds that the applicant
 256 is entitled to assessment under this subsection, the property
 257 appraiser shall make such entries upon the tax rolls of the
 258 county as are necessary to allow the assessment. If, after due
 259 consideration, the property appraiser finds that the applicant
 260 is not entitled to the assessment under this subsection, the
 261 property appraiser shall immediately prepare a notice of such

578-01159-20

2020148c1

262 disapproval, giving his or her reasons therefor, and a copy of
 263 the notice must be served upon the applicant by the property
 264 appraiser by personal delivery or by registered mail to the post
 265 office address given by the applicant. The applicant may appeal
 266 the decision of the property appraiser refusing to allow the
 267 assessment under this subsection to the value adjustment board,
 268 and the board shall review the application and evidence
 269 presented to the property appraiser upon which the applicant
 270 based the claim and hear the applicant in person or by agent on
 271 behalf of his or her right to such assessment. Such appeal shall
 272 be heard by an attorney special magistrate if the value
 273 adjustment board uses special magistrates. The value adjustment
 274 board shall reverse the decision of the property appraiser in
 275 the cause and grant assessment under this subsection to the
 276 applicant if, in its judgment, the applicant is entitled to the
 277 assessment or shall affirm the decision of the property
 278 appraiser. The action of the board is final in the cause unless
 279 the applicant, within 60 days following the date of refusal of
 280 the application by the board, files in the circuit court of the
 281 county in which the homestead is located a proceeding against
 282 the property appraiser for a declaratory judgment as is provided
 283 under chapter 86 or other appropriate proceeding. The failure of
 284 the taxpayer to appear before the property appraiser or value
 285 adjustment board or to file any paper other than the application
 286 as provided in this subsection does not constitute a bar to or
 287 defense in the proceedings.

288 (m) For purposes of receiving an assessment reduction
 289 pursuant to this subsection, an owner of a homestead property
 290 that was significantly damaged or destroyed as a result of a

578-01159-20

2020148c1

291 named tropical storm or hurricane may elect, in the calendar
292 year following the named tropical storm or hurricane, to have
293 the significantly damaged or destroyed homestead deemed to have
294 been abandoned as of the date of the named tropical storm or
295 hurricane even though the owner received a homestead exemption
296 on the property as of January 1 of the year immediately
297 following the named tropical storm or hurricane. The election
298 provided for in this paragraph is available only if the owner
299 establishes a new homestead as of January 1 of the third ~~second~~
300 year immediately following the storm or hurricane. This
301 paragraph shall apply to homestead property damaged or destroyed
302 on or after January 1, 2017.

303 Section 2. This act applies beginning with the 2021 tax
304 roll.

305 Section 3. This act shall take effect on the effective date
306 of the amendment to the State Constitution proposed by SJR 146
307 or a similar joint resolution having substantially the same
308 specific intent and purpose, if such amendment to the State
309 Constitution is approved at the general election held in
310 November 2020 or at an earlier special election specifically
311 authorized by law for that purpose.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: CS/SB 148
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

Table with columns for FINAL VOTE (Yea, Nay), SENATORS, and two voting sessions (2/13/2020 1 and 2) with sub-columns for Yea and Nay. Includes rows for senators like Baxley, Bracy, Bradley, Pizzo, Powell, Stargel, Gruters, and Gainer, and a final row for TOTALS.

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting



The Florida Senate

Committee Agenda Request

To: Senator George Gainer
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: January 13th, 2020

I respectfully request that **Senate Bill #148**, relating to **Limitations on Homestead Assessments**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24



2020 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

BILL INFORMATION

BILL NUMBER:	SJR 146
BILL TITLE:	Homestead Property Tax Assessments/increased Portability Period
BILL SPONSOR:	Senator Brandes
EFFECTIVE DATE:	January 1, 2021, if approved by voters

DL
RW

COMMITTEES OF REFERENCE

1) Community Affairs
2) Finance and Tax
3) Appropriations
4)
5)

CURRENT COMMITTEE

Community Affairs

SIMILAR BILLS

BILL NUMBER:	SB 148
SPONSOR:	Senator Brandes

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	

PREVIOUS LEGISLATION

YEAR/BILL NUMBER/SPONSOR/LAST ACTION: 2019 SB 326/Senator Brandes/Died in Appropriations 2018 SB 454/Senator Brandes/Died in Appropriations Subcommittee on Finance and Tax 2018 SB 452/Senator Brandes/Died in Appropriations Subcommittee on Finance and Tax 2018 HB 503/Representative Ahearn/Died in Ways and Means Committee 2018 HB 501/Representative Ahearn/Died and Ways and Means Committee

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 13, 2019
LEAD AGENCY ANALYST:	Debbie Longman (850) 617-8324

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

PRESENT SITUATION

Taxation: assessments (pp. 1-7)

Paragraph (8) of Section 4, Article VII, of the Florida Constitution states that a person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption under Section 6 as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. It also states that if this revision is approved in January 2008, a person who established a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007.

EFFECT OF THE BILL

This resolution extends the timeframe from two years to three years for a property owner to transfer the accrued benefit from certain assessment limitations on homestead property from a previous homestead property.

The resolution also deletes obsolete provisions pertaining to 2008 homestead property assessments.

Schedule. Transfer of the accrued benefit from specified limitations on homestead property tax assessments; increased portability period (pp. 7-8):

Effective date of January 1, 2021.

Proposed Ballot Language (p. 8):

**CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 4
ARTICLE XII**

LIMITATIONS ON HOMESTEAD PROPERTY TAX ASSESSMENTS; INCREASED PORTABILITY PERIOD TO TRANSFER ACCRUED BENEFIT. - Proposing an amendment to the State Constitution, to increase, from 2 years to 3 years, the period of time during which accrued Save-Our-Homes benefits may be transferred from a prior homestead to a new homestead. This amendment takes effect January 1, 2021.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

If yes, explain:	If this resolution and the implementing language in SB 148 are approved, we would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH. Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.
Rule(s) impacted (provide references to F.A.C., etc.):	See above.

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: <i>(only expenditure impacts on the Department are identified)</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE See Additional Comments section below if it is determined there is a significant operational impact to the Department.
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 4, Article VII, and Article XII, Florida Constitution

11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION? YES NO

If no, go to #12. If yes:

A. Identify bill number or source.

B. Were issues/problems identified? YES NO

a. If yes, have they been resolved? YES NO If no, briefly explain.

C. Are new issues/problems created? YES NO If yes, briefly identify.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

13. OTHER:

THE FLORIDA SENATE
APPEARANCE RECORD

2.13.20

Meeting Date

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

148

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Albert Balido

Job Title _____

Address 201 W Park Dr

Phone 850 257 2447

Street FCM

City DC State DC Zip 32301

Email _____

Speaking: For Against Information

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

Representing Florida Assoc of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 508

INTRODUCER: Finance and Tax Committee and Senator Baxley

SUBJECT: Sales Tax Absorption

DATE: February 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 508 allows businesses to advertise that they will pay some or all of the sales tax due on behalf of their customers. A business that pays its customers' tax must provide an invoice or similar document that (1) states that the business will pay the tax and (2) separately states sale price and the amount of tax due on the sale.

Florida businesses are currently prohibited from absorbing, paying, or refunding their customers' tax, and a business that advertises or absorbs the tax is subject to penalties ranging from a second-degree misdemeanor for a first offense, to a first-degree misdemeanor for any subsequent offense.

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts and local government revenues by an indeterminate amount beginning in Fiscal Year 2020-2021.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² rental of commercial real estate,³ and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize 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.

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. 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."⁴ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2.5 percent.⁵

Florida businesses that sell taxable goods and services must register as a dealer with the Department of Revenue (department).⁶ A dealer must add sales tax to the price of the taxable good or service and collect the tax from a purchaser at the time of sale.⁷ The tax is considered state property at the time the dealer collects it.⁸ A dealer who fails to remit the tax to the department is guilty of theft, punishable by up to a first-degree felony, depending on the amount stolen and prior occurrences.⁹

A dealer must also provide a purchaser with an invoice at the time of the sale that separately states the amount of sales tax charged, unless it is impracticable to do so.¹⁰ If a dealer fails to state the tax charged separately on the invoice, it is subject to a second-degree misdemeanor.¹¹

Sales Tax Absorption

Section 212.07(4), F.S., prohibits dealers from advertising, directly or indirectly, that they will absorb, or refund to a purchaser all or part of the sales tax due on a sale. A dealer who violates

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ Section 212.054, F.S.

⁵ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 219-226 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Nov. 8, 2019).

⁶ Florida Dep't. of Revenue, *Business Owner's Guide for Sales and Use Tax* at 4 (Jul. 2019), available at https://floridarevenue.com/Forms_library/current/gt300015.pdf (last visited Nov. 8, 2019).

⁷ Sections 212.06(3)(a) and 212.07(2), F.S.

⁸ Sections 212.15(1) and 213.756 F.S.

⁹ Section 212.15(2), F.S.

¹⁰ Section 212.07(2), F.S.

¹¹ Section 212.07(4), F.S. If a dealer has committed the same violation previously, he or she is subject to a first-degree misdemeanor. A first-degree misdemeanor is punishable by up to 1 year of imprisonment and a \$1,000 fine; a second-degree misdemeanor is punishable by up to 60 days of imprisonment and a \$500 fine. Sections 775.083 and 772.082(4), F.S.

this prohibition, whether by advertising or refunding, is guilty of a second-degree misdemeanor.¹²

Several states, including Arizona,¹³ California,¹⁴ Kentucky,¹⁵ and have similar laws that prohibit dealers from absorbing or refunding taxes to a purchaser.¹⁶ However, a growing number of states permit tax absorption, including Wisconsin,¹⁷ Pennsylvania,¹⁸ and Georgia.¹⁹

Businesses cite various reasons for seeking to absorb sales tax, ranging from quickly moving customers through their lines,²⁰ to preventing confusion during state sales tax holidays when certain items are exempt from sales tax but others are not.²¹

III. Effect of Proposed Changes:

The bill amends s. 212.07(4), F.S., to allow a dealer the option to advertise that it will pay all or part of the sales tax due. To do so, however, the dealer must provide the customer with an invoice or similar document that (1) states that the business will pay the sales tax owed, and (2) separately states the sale price and the amount of tax due on the sale. If a dealer violates this provision, he or she is guilty of a second-degree misdemeanor.²²

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

The bill takes effect on July 1, 2020.

¹² *Id.*

¹³ 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 Jan. 6, 2020).

¹⁴ CA Rev. & Tax Code § 6205 (2018), available at <https://www.cdtfa.ca.gov/lawguides/vol1/sutl/6205.html> (last visited Jan. 6, 2020).

¹⁵ KY Rev. Stat. §139.220 (2011), available at <https://law.justia.com/codes/kentucky/2011/139-00/139-220> (last visited Jan. 6, 2020).

¹⁶ 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 Jan. 6, 2020).

¹⁷ 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 Jan. 6, 2020).

¹⁸ 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 Jan. 6, 2020).

¹⁹ 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 Jan. 6, 2020).

²⁰ *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 Jan. 6, 2020).

²¹ 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 Jan. 6, 2020).

²² A dealer who commits a subsequent violation of s. 212.07(4), F.S., is subject to a first-degree misdemeanor. *Supra* note 12.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{23, 24} which is \$2.2 million or less for Fiscal Year 2020-2021.²⁵

The Revenue Estimating Conference determined that this bill will reduce the authority that counties have to raise revenue from the local options sales tax by an indeterminate amount.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

²³ FLA. CONST. art. VII, s. 18(d).

²⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 09, 2020).

²⁵ Based on the Demographic Estimating Conference's April 1, 2020, estimated population adopted on Dec. 3, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 12, 2019).

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

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts and local government revenues by an indeterminate amount beginning in Fiscal Year 2020-2021.²⁶

B. Private Sector Impact:

Businesses will be able to absorb their customers' sales tax obligation, and advertise their ability to do so.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.07 and 212.15.

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

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

CS by Finance and Tax on February 13, 2020:

The CS:

- Replaces the word “absorb” with “pay.”
- Removes the concept that a dealer can advertise that he or she will refund all or part of the tax when a dealer has elected to pay the tax on behalf of the purchaser.
- Expressly requires a dealer to separately state the sale price on a receipt.
- Provides that a contrary law may not affect the ability for a dealer to pay the sales tax on behalf of the purchaser.

B. Amendments:

None.

²⁶ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Tax Absorption, SB 508-Proposed Amendment*, Dec. 20, 2019, available at: <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/pdf/page177-180.pdf> (last visited Feb. 10, 2020).

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



406954

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (4) and (8) of section 212.07,
Florida Statutes, are amended, and subsection (2) of that
section is republished, to read:

212.07 Sales, storage, use tax; tax added to purchase
price; ~~dealer not to absorb;~~ liability of purchasers who cannot
prove payment of the tax; penalties; general exemptions.-



406954

11 (2) A dealer shall, as far as practicable, add the amount
12 of the tax imposed under this chapter to the sale price, and the
13 amount of the tax shall be separately stated as Florida tax on
14 any charge ticket, sales slip, invoice, or other tangible
15 evidence of sale. Such tax shall constitute a part of such
16 price, charge, or proof of sale which shall be a debt from the
17 purchaser or consumer to the dealer, until paid, and shall be
18 recoverable at law in the same manner as other debts. Where it
19 is impracticable, due to the nature of the business practices
20 within an industry, to separately state Florida tax on any
21 charge ticket, sales slip, invoice, or other tangible evidence
22 of sale, the department may establish an effective tax rate for
23 such industry. The department may also amend this effective tax
24 rate as the industry's pricing or practices change. Except as
25 otherwise specifically provided, any dealer who neglects, fails,
26 or refuses to collect the tax herein provided upon any, every,
27 and all retail sales made by the dealer or the dealer's agents
28 or employees of tangible personal property or services which are
29 subject to the tax imposed by this chapter shall be liable for
30 and pay the tax himself or herself.

31 (4) (a) Except as provided in paragraph (b), a dealer
32 engaged in any business taxable under this chapter may not
33 advertise or hold out to the public, in any manner, directly or
34 indirectly, that he or she will pay ~~absorb~~ all or any part of
35 the tax, or that he or she will relieve the purchaser of the
36 payment of all or any part of the tax, or that the tax will not
37 be added to the selling price of the property or services sold
38 or released or, when added, that it or any part thereof will be
39 refunded either directly or indirectly by any method whatsoever.



406954

40 (b) Notwithstanding any provision of this chapter to the
41 contrary, a dealer may advertise or hold out to the public that
42 he or she will pay all or any part of the tax on behalf of the
43 purchaser, subject to both of the following conditions:

44 1. The dealer must expressly state on any charge ticket,
45 sales slip, invoice, or other tangible evidence of sale given to
46 the purchaser that the dealer will pay the tax imposed by this
47 chapter to the state. The dealer may not indicate or imply that
48 the transaction is exempt or excluded from the tax imposed by
49 this chapter.

50 2. A charge ticket, sales slip, invoice, or other tangible
51 evidence of the sale given to the purchaser must separately
52 state the sale price and the amount of the tax in accordance
53 with subsection (2).

54 (c) A person who violates this subsection commits ~~provision~~
55 ~~with respect to advertising or refund is guilty of a misdemeanor~~
56 of the second degree, punishable as provided in s. 775.082 or s.
57 775.083. A second or subsequent offense constitutes a
58 misdemeanor of the first degree, punishable as provided in s.
59 775.082 or s. 775.083.

60 (8) Any person who has purchased at retail, used, consumed,
61 distributed, or stored for use or consumption in this state
62 tangible personal property, admissions, communication or other
63 services taxable under this chapter, or leased tangible personal
64 property, or who has leased, occupied, or used or was entitled
65 to use any real property, space or spaces in parking lots or
66 garages for motor vehicles, docking or storage space or spaces
67 for boats in boat docks or marinas, and cannot prove that the
68 tax levied by this chapter has been paid to his or her vendor,



406954

69 lessor, or other person or was paid on behalf of the purchaser
70 by a dealer pursuant to subsection (4) is directly liable to the
71 state for any tax, interest, or penalty due on any such taxable
72 transactions.

73 Section 2. Subsection (2) of section 212.15, Florida
74 Statutes, is amended to read:

75 212.15 Taxes declared state funds; penalties for failure to
76 remit taxes; due and delinquent dates; judicial review.—

77 (2) Any person who, with intent to unlawfully deprive or
78 defraud the state of its moneys or the use or benefit thereof,
79 fails to remit taxes collected or paid on behalf of a purchaser
80 under this chapter commits theft of state funds, punishable as
81 follows:

82 (a) If the total amount of stolen revenue is less than
83 \$1,000, the offense is a misdemeanor of the second degree,
84 punishable as provided in s. 775.082 or s. 775.083. Upon a
85 second conviction, the offender commits a misdemeanor of the
86 first degree, punishable as provided in s. 775.082 or s.
87 775.083. Upon a third or subsequent conviction, the offender
88 commits a felony of the third degree, punishable as provided in
89 s. 775.082, s. 775.083, or s. 775.084.

90 (b) If the total amount of stolen revenue is \$1,000 or
91 more, but less than \$20,000, the offense is a felony of the
92 third degree, punishable as provided in s. 775.082, s. 775.083,
93 or s. 775.084.

94 (c) If the total amount of stolen revenue is \$20,000 or
95 more, but less than \$100,000, the offense is a felony of the
96 second degree, punishable as provided in s. 775.082, s. 775.083,
97 or s. 775.084.



406954

98 (d) If the total amount of stolen revenue is \$100,000 or
99 more, the offense is a felony of the first degree, punishable as
100 provided in s. 775.082, s. 775.083, or s. 775.084.

101 Section 3. This act shall take effect July 1, 2020.

102

103 ===== T I T L E A M E N D M E N T =====

104 And the title is amended as follows:

105 Delete everything before the enacting clause
106 and insert:

107 A bill to be entitled
108 An act relating to sales tax absorption; amending s.
109 212.07, F.S.; authorizing dealers, subject to certain
110 conditions, to advertise or hold out to the public
111 that they will pay sales tax on behalf of the
112 purchaser; conforming a provision to changes made by
113 the act; amending s. 212.15, F.S.; conforming a
114 provision to changes made by the act; providing an
115 effective date.

By Senator Baxley

12-00824-20

2020508__

A bill to be entitled

An act relating to sales tax absorption; amending s. 212.07, F.S.; authorizing dealers, subject to specified conditions, to advertise or hold out to the public that they will absorb all or part of the sales and use tax on taxable transactions, or refund any part thereof to the purchaser; revising a criminal penalty; conforming provisions to changes made by the act; amending s. 212.15, F.S.; providing that certain persons who unlawfully fail to remit absorbed sales taxes commit theft of state funds; providing an effective date.

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

Section 1. Subsections (4) and (8) of section 212.07, Florida Statutes, are amended, and subsection (2) of that section is republished, to read:

212.07 Sales, storage, use tax; tax added to purchase price; tax absorption ~~dealer not to absorb~~; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(2) A dealer shall, as far as practicable, add the amount of the tax imposed under this chapter to the sale price, and the amount of the tax shall be separately stated as Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale. Such tax shall constitute a part of such price, charge, or proof of sale which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be

Page 1 of 4

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

12-00824-20

2020508__

recoverable at law in the same manner as other debts. Where it is impracticable, due to the nature of the business practices within an industry, to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, the department may establish an effective tax rate for such industry. The department may also amend this effective tax rate as the industry's pricing or practices change. Except as otherwise specifically provided, any dealer who neglects, fails, or refuses to collect the tax herein provided upon any, every, and all retail sales made by the dealer or the dealer's agents or employees of tangible personal property or services which are subject to the tax imposed by this chapter shall be liable for and pay the tax himself or herself.

(4) (a) A dealer engaged in any business taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that ~~he or she will absorb all or any part of the tax, or that he or she will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property or services sold or released.~~ However, such dealer may advertise or hold out to the public or, when added, that he or she will absorb all or any part of such tax or that it or any part thereof will be refunded to the purchaser subject to both of the following conditions:

1. In so advertising or holding out to the public, the dealer shall expressly state on any charge ticket, sales slip, invoice, or other tangible evidence of sale given to the purchaser that such dealer will pay the tax imposed by this chapter to the state. The dealer may not indicate or imply that

Page 2 of 4

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

12-00824-20 2020508__

59 the transaction is exempt or excluded from the tax imposed by
60 this chapter.

61 2. A charge ticket, sales slip, invoice, or other tangible
62 evidence of sale given to the purchaser must separately state
63 the amount of such tax in accordance with subsection (2) either
64 directly or indirectly by any method whatsoever.

65 (b) A person who violates this subsection commits provision
66 with respect to advertising or refund is guilty of a misdemeanor
67 of the second degree, punishable as provided in s. 775.082 or s.
68 775.083. A second or subsequent offense constitutes a
69 misdemeanor of the first degree, punishable as provided in s.
70 775.082 or s. 775.083.

71 (8) Any person who has purchased at retail, used, consumed,
72 distributed, or stored for use or consumption in this state
73 tangible personal property, admissions, communication or other
74 services taxable under this chapter, or leased tangible personal
75 property, or who has leased, occupied, or used or was entitled
76 to use any real property, space or spaces in parking lots or
77 garages for motor vehicles, docking or storage space or spaces
78 for boats in boat docks or marinas, and cannot prove that the
79 tax levied by this chapter has been paid to his or her vendor,
80 lessor, or other person, or was absorbed by a dealer pursuant to
81 subsection (4), is directly liable to the state for any tax,
82 interest, or penalty due on any such taxable transactions.

83 Section 2. Subsection (2) of section 212.15, Florida
84 Statutes, is amended to read:

85 212.15 Taxes declared state funds; penalties for failure to
86 remit taxes; due and delinquent dates; judicial review.—

87 (2) Any person who, with intent to unlawfully deprive or

12-00824-20 2020508__

88 defraud the state of its moneys or the use or benefit thereof,
89 fails to remit taxes collected or absorbed under this chapter
90 commits theft of state funds, punishable as follows:

91 (a) If the total amount of stolen revenue is less than
92 \$1,000, the offense is a misdemeanor of the second degree,
93 punishable as provided in s. 775.082 or s. 775.083. Upon a
94 second conviction, the offender commits a misdemeanor of the
95 first degree, punishable as provided in s. 775.082 or s.
96 775.083. Upon a third or subsequent conviction, the offender
97 commits a felony of the third degree, punishable as provided in
98 s. 775.082, s. 775.083, or s. 775.084.

99 (b) If the total amount of stolen revenue is \$1,000 or
100 more, but less than \$20,000, the offense is a felony of the
101 third degree, punishable as provided in s. 775.082, s. 775.083,
102 or s. 775.084.

103 (c) If the total amount of stolen revenue is \$20,000 or
104 more, but less than \$100,000, the offense is a felony of the
105 second degree, punishable as provided in s. 775.082, s. 775.083,
106 or s. 775.084.

107 (d) If the total amount of stolen revenue is \$100,000 or
108 more, the offense is a felony of the first degree, punishable as
109 provided in s. 775.082, s. 775.083, or s. 775.084.

110 Section 3. This act shall take effect July 1, 2020.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: SB 508
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS	2/13/2020 Amendment 406954					
Yea	Nay		Baxley		Yea	Nay	Yea	Nay
X		Baxley						
		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
6	0	TOTALS	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

THE FLORIDA SENATE

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

February 7, 2020

The Honorable Chairman George Gainer
302 Senate Office Building
Tallahassee, Florida 32399

Dear Chairman Gainer,

I would like to request that SB 508 Sales Tax Absorption be heard in the next Commerce & Tourism Committee meeting.

Tax absorption by a retailer is good for the customer, good for the retailer, and good for the state. It stimulates sales to cost conscious customers and brings in much-needed revenue for the state.

Thank you for your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley
Senate District 12

DKB/dd

cc: Jose Diez-Arguelles, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20

Meeting Date

508

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 E. Jefferson St.

Phone 850-445-5367

Tallahassee FL 32301
City State Zip

Email tim.nungesser

Speaking: For Against Information

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

Representing National Federation of Independent Business

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

2/13/2020
Meeting Date

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

508

Bill Number (if applicable)

Topic SALES TAX ABSORPTION

Amendment Barcode (if applicable)

Name CHRISTIAN CAMARA

Job Title

Address PO Box 122

Phone 305 608 4308

TALLAHASSEE FL 32302

Email CHRISTIAN@CHAMBERCONSULTANTSFL

Speaking: For Against Information

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

Representing B AND H PHOTO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 514

INTRODUCER: Community Affairs Committee and Senator Gruters

SUBJECT: Homestead Exemptions

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 514 allows a person or family unit to retain a homestead exemption in Florida when they inadvertently also received an exemption in another state, under certain circumstances.

Current law provides that a property owner who is receiving or claiming an ad valorem tax exemption in another state that is conditioned upon permanent residency in that state may not receive the ad valorem homestead exemption in Florida. This provision operates regardless of whether the property owner applied for the exemption in the other state or was granted the exemption without applying for it.

The bill applies to circumstances discovered by a property appraiser after July 1, 2020.

The Revenue Estimating Conference has determined that the bill will reduce local property taxes by an indeterminate amount beginning in Fiscal Year 2020-2021.

The bill takes effect July 1, 2020.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

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

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Homestead Exemption

Every person¹¹ having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹² An additional

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(b), appears to equate a person with a family unit: “Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit.

¹² FLA. CONST. art VII, s. 6(a).

\$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.¹³ This exemption does not apply to ad valorem taxes levied by school districts.

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.¹⁴ The Save Our Homes assessment limitation limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index.¹⁵ The accumulated difference between the assessed value and the just value is the Save Our Homes benefit.

Due to the effects of the homestead exemption and the Save Our Homes assessment limitation, many homestead properties enjoy significant tax savings.

Only One Homestead Exemption

Since Florida's homestead exemption requires that the property owner use the homestead property as a permanent residence, a property owner can only have one homestead exemption.

For persons that own property outside Florida, Florida law provides that a person who is receiving or claiming an ad valorem tax exemption or a tax credit in another state where permanent residency is required as a basis for the granting of that exemption or tax credit is not entitled to a homestead exemption in Florida.¹⁶

If a property appraiser determines that for any year or years within the prior 10 years a property owner was granted a homestead exemption, but was not entitled to it, the property appraiser must send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.¹⁷ The property owner has 30 days to pay the taxes owed, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. If not paid within 30 days of notice, the property appraiser must file a tax lien.¹⁸ The tax lien remains on the property until it is paid or until it expires after 20 years.¹⁹ The lien process applies whether or not the taxpayer applied for the residency-based exemption in the other state.

If a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption is not assessed penalty and interest.²⁰

If a property appraiser determines that a person claiming Florida homestead also has a residency-based exemption in another state, Florida law does not provide any exception to the requirement

¹³ *Id.*

¹⁴ FLA. CONST. art. VII, s. 4(d). The Florida Legislature implemented the Save Our Homes amendment in s. 193.155, F.S.

¹⁵ FLA. CONST. art. VII, s. 4(d).

¹⁶ Section 196.031(5), F.S.

¹⁷ See ss. 196.011(9)(a), 196.075, and 196.161(1)(b), F.S.

¹⁸ *Id.*

¹⁹ Section 95.091(1)(b), F.S.

²⁰ Section 196.161(1)(b), F.S.

that the property appraiser assess the property owner for the tax benefits of claiming homestead in Florida. Situations have arisen wherein Florida homestead owners have been assessed back taxes because of a residency-based tax benefit they received in another state, but for which they never applied.²¹ While sympathetic to taxpayers in this situation, courts have concluded that Florida law requires the property appraiser to make the assessment.²²

Department of Revenue Homestead Exemption Forms

Section 196.121, F.S., directs the Department of Revenue to provide, by electronic means or other methods designated by the department, filing forms for taxpayers claiming to be entitled to a homestead exemption. The forms require the taxpayer to furnish certain information to the property appraiser for the purpose of determining that the taxpayer is a permanent resident.

III. Effect of Proposed Changes:

Section 1 amends s. 196.031, F.S., to specify that a person or family unit that receives or claims an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for granting that exemption or credit may retain the Florida homestead exemption if the person or family unit demonstrates to the satisfaction of the property appraiser that the person or family unit did not apply for the exemption or credit in the other state and is no longer receiving or will no longer receive the tax exemption or tax credit in the other state. An automatic renewal of a tax exemption or tax credit in the other state constitutes an application if the renewal is subsequent to an initial application by the person or family unit.

Section 2 creates an undesignated section of law to provide that the bill's amendment to s. 196.031, F.S., applies to ad valorem tax exemptions or tax credits in another state for which a benefit was received after 2009 and which are discovered by a property appraiser after July 1, 2020.

Section 3 amends s. 196.121, F.S., to authorize the Department of Revenue to include on its forms for homestead exemptions the requirement that the homestead exemption applicant provide information about tax exemptions or tax credits in another state where permanent residency is required as a basis for the tax exemption or tax credit.

Section 4 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (b) of section 18 of the State Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1,

²¹ See *Fitts v. Furst*, 283 So. 3d 833 (Fla. 2nd DCA 2019).

²² *Id.* at 841-842.

1989. However, the mandate requirements do not apply to laws having an insignificant impact,^{23, 24} which is \$2.1 million or less for Fiscal Year 2019-2020.²⁵ The Revenue Estimating Conference has estimated that the bill will reduce local revenues by an indeterminate amount. If the actual reduction exceeds \$2.1 million, the mandates provisions may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the bill will reduce local property taxes by an indeterminate amount beginning in Fiscal Year 2020-2021.²⁶

B. Private Sector Impact:

A property owner that has been found to have a Florida homestead exemption and a similar exemption or credit in another state may continue to qualify for the homestead exemption in Florida if she or he did not apply for the tax exemption or tax credit in the other state and relinquishes the exemption or credit in the other state.

²³ FLA. CONST. art. VII, s. 18(d).

²⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 09, 2020).

²⁵ Based on the Demographic Estimating Conference's population adopted on December 3, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 09, 2020).

²⁶ Office of Economic and Demographic Research, The Florida Legislature, *Homestead Disqualification: CS/SB 514* (Nov. 12, 2019), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page1-12.pdf (last visited Feb. 10, 2020).

C. **Government Sector Impact:**

According to the Florida Department of Revenue, if the bill passes, the department would need to amend Form DR-501 and Rule 12D-16.002, F.A.C.²⁷

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 196.031 and 196.121.

The bill creates an undesignated section of the Florida Statutes.

IX. **Additional Information:**

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

CS by Community Affairs on January 21, 2020:

- Establishes that a person or family unit retaining a Florida homestead exemption must no longer be receiving or will no longer be receiving the tax exemption or tax credit in another state.
- Provides that an automatic renewal of a tax exemption or tax credit constitutes an application if the renewal is subsequent to the initial application.
- Provides that the bill's provisions apply to tax exemption and credit circumstances discovered by a property appraiser after July 1, 2020.

B. **Amendments:**

None.

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

²⁷ Florida Department of Revenue, *HB 223/SB 514 Agency Analysis* (November 5, 2019) (on file with the Senate Committee on Finance and Tax).

By the Committee on Community Affairs; and Senator Gruters

578-02442-20

2020514c1

1 A bill to be entitled
 2 An act relating to homestead exemptions; amending s.
 3 196.031, F.S.; providing that a person or family unit
 4 receiving or claiming the benefit of certain ad
 5 valorem tax exemptions or tax credits in another state
 6 is entitled to the homestead exemption in this state
 7 if the person or family unit demonstrates certain
 8 conditions to the property appraiser; providing
 9 construction and retroactive applicability; amending
 10 s. 196.121, F.S.; providing that homestead exemption
 11 forms prescribed by the Department of Revenue may
 12 include taxpayer information relating to such ad
 13 valorem tax exemptions or tax credits in another
 14 state; providing an effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. Subsection (5) of section 196.031, Florida
 19 Statutes, is amended to read:
 20 196.031 Exemption of homesteads.—
 21 (5) (a) A person or family unit who is receiving or claiming
 22 the benefit of an ad valorem tax exemption or a tax credit in
 23 another state where permanent residency is required as a basis
 24 for the granting of that ad valorem tax exemption or tax credit
 25 is not entitled to the homestead exemption provided by this
 26 section, unless, upon the property appraiser's determination
 27 that the person or family unit is receiving or has received the
 28 tax exemption or tax credit in another state, the person or
 29 family unit demonstrates to the satisfaction of the property

Page 1 of 3

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

578-02442-20

2020514c1

30 appraiser that the person or family unit did not apply for the
 31 tax exemption or tax credit in the other state and that the
 32 person or family unit is no longer receiving, or will no longer
 33 receive, the tax exemption or tax credit in the other state. For
 34 purposes of this paragraph, an automatic renewal of an ad
 35 valorem tax exemption or tax credit constitutes application for
 36 the tax exemption or tax credit if the renewal is subsequent to
 37 an initial application by the person or family unit.
 38 (b) This subsection does not apply to a person or family
 39 unit who has the legal or equitable title to real estate in
 40 Florida and maintains thereon the permanent residence of another
 41 legally or naturally dependent upon the owner.
 42 Section 2. The amendment to s. 196.031, Florida Statutes,
 43 made by this act applies to ad valorem tax exemptions or tax
 44 credits in another state for which a benefit was received after
 45 2009 and which are discovered by a property appraiser after July
 46 1, 2020.
 47 Section 3. Subsection (2) of section 196.121, Florida
 48 Statutes, is amended to read:
 49 196.121 Homestead exemptions; forms.—
 50 (2) The forms shall require the taxpayer to furnish certain
 51 information to the property appraiser for the purpose of
 52 determining that the taxpayer is a permanent resident as defined
 53 in s. 196.012(16). Such information may include, but need not be
 54 limited to, the factors enumerated in s. 196.015 and any ad
 55 valorem tax exemption or tax credit granted in another state
 56 where permanent residency is required as a basis for the
 57 granting of the ad valorem tax exemption or tax credit described
 58 in s. 196.031(5).

Page 2 of 3

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

578-02442-20

2020514c1

59

Section 4. This act shall take effect July 1, 2020.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: CS/SB 514
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS	2/13/2020 ¹ Motion to vote "YEA" after Roll Call					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
VA		Stargel						
X		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
8	0	TOTALS	FAV	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

February 7, 2020

The Honorable George B Gainer, Chair
Finance and Tax Committee
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 514, Homestead Exemptions to be placed on the agenda of the next Finance and Tax Committee meeting.

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

Warm regards,

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

Joe Gruters

cc: Jose Diez-Arguelles, Staff Director
Lynn Wells, Committee Administrative Assistant

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore



2020 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

DL

BILL INFORMATION

BILL NUMBER:	SB 514
BILL TITLE:	Homestead Exemptions
BILL SPONSOR:	Senator Gruters
EFFECTIVE DATE:	July 1, 2020

COMMITTEES OF REFERENCE

1) Community Affairs
2) Finance and Tax
3) Appropriations
4)
5)

CURRENT COMMITTEE

Community Affairs

SIMILAR BILLS

BILL NUMBER:	HB 223
SPONSOR:	Representative Buchanan

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	

PREVIOUS LEGISLATION

YEAR BILL NUMBER/SPONSOR/LAST ACTION: 2019 HB 1151/Representative Buchanan/Died in Community Affairs 2019 SB 856/Senator Gruters/Died in Appropriations 2018 HB 727/Representative Grall/Died in Ways and Means Committee 2018 SB 934/Senator Hukill/Died in Appropriations Subcommittee on Finance and Tax
--

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	November 5, 2019
LEAD AGENCY ANALYST:	Debbie Longman (850) 617-8324

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. Exemption of homesteads (pp. 1-2):

PRESENT SITUATION

Subsection 196.031(5), Florida Statutes, currently states that someone who receives or claims the benefit of an ad valorem tax exemption or tax credit in another state that requires permanent residency as a basis for that exemption or tax credit is not entitled to a homestead exemption in Florida.

EFFECT OF THE BILL

This bill amends subsection 196.031(5), F.S. to provide that unless the person or family unit receiving the tax exemption or tax credit in another state demonstrates to the satisfaction of the property appraiser that the person or family unit did not apply for the tax exemption or tax credit and that the person or family unit has relinquished the tax exemption or tax credit in the other state. Also, it adds that this subsection applies to a person or family unit.

Section 2. Homestead exemptions; lien imposed on property of person claiming exemption although not a permanent resident (p. 2):

PRESENT SITUATION

Section 196.121(2), F.S., provides that homestead exemption forms promulgated by the Department of Revenue should require the taxpayer to furnish information to the property appraiser, so they may determine that the taxpayer is a permanent resident of Florida.

EFFECT OF THE BILL

This bill amends section 196.121(2), F.S., to add that the forms to claim homestead exemption should ask whether the taxpayer receives an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for the granting of that exemption.

Section 3 (p. 2): The amendments to sections 196.031 and 196.121, F.S., made by this act apply to taxable years beginning on or after January 1, 2021.

Section 4. Effective date (p. 2): This will be effective July 1, 2020.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

If yes, explain:	Form DR-501, Original Application for Homestead and Related Tax Exemptions
Rule(s) impacted (provide references to F.A.C., etc.):	12D-16.002, F.A.C.

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.

7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: <i>(only expenditure impacts on the Department are identified)</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE See Additional Comments section below if it is determined there is a significant operational impact to the Department.
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

8. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? The Department of Revenue does not conduct this analysis.

9. DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. STATUTE(S) AFFECTED: Section 196.031 and 196.121, F.S.

11. HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION? YES NO

If no, go to #12. If yes:

A. Identify bill number or source.

HB 223

B. Were issues/problems identified? YES NO

a. If yes, have they been resolved? YES NO If no, briefly explain.

C. Are new issues/problems created? YES NO If yes, briefly identify.

12. DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT? YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

13. OTHER:

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 524

INTRODUCER: Finance and Tax Committee and Senator Gruters

SUBJECT: Sales Tax Holiday for Disaster Preparedness Supplies

DATE: February 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 524 establishes an 18-day “disaster preparedness” sales tax holiday, from Friday, May 29 to Monday, June 15, 2020, during which time certain items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes.

The bill allows the Department of Revenue to adopt emergency rules in order to implement the sales tax holiday.

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020.

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$20.7 million and local government revenue by \$6.1 million Fiscal Year 2020-2021.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ 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.⁴

In addition to the state tax, section 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. 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."⁵ 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 levied vary by county in a range of 0.5 to 2.5 percent.⁶

"Disaster Preparedness" Sales Tax Holidays

Florida has enacted a "disaster preparedness" sales tax holiday six times since 2006, exempting specified items in preparation for the Atlantic hurricane season that officially begins June 1 of each year. The types and values of exempted items have varied, and the length of the exemption periods has varied from 3 to 12 days.⁷

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 to last for a minimum of 7 days.⁸

The Florida Building Code

In 2000, The Legislature authorized the implementation of the Florida Building Code, and the first edition replaced all local codes on March 1, 2002. There have been six editions to date.⁹

Section 1609.1.2 of the Florida Building Code, 6th Edition (2017) Building, (FBC) requires glazed openings in buildings located within a wind-borne region to be impact resistant or

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ See s. 212.07(2), F.S., s. 212.06(3)(a), F.S.

⁵ Section 212.054(2)(a), F.S.

⁶ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Nov. 8, 2019) at 225-226.

⁷ *Id.* at 160.

⁸ Florida Division of Emergency Management, *Plan & Prepare: Disaster Supply Kit*, available at <https://www.floridadisaster.org/planprepare/disaster-supply-kit/> (last visited Jan. 6, 2020).

⁹ 2017 Florida Building Code – Building, Sixth Edition (July 2017) available at <https://codes.iccsafe.org/content/FBC2017> (last visited Feb. 13, 2020).

protected by an impact-resistant covering. The FBC requires that an impact-resistant glazed opening or garage door meet an approved impact-resistant standard, such as:

- ANSI/DASMA 115 (for garage doors and rolling doors).
- TAS 201, 202 and 203.
- AAMA 506.
- ASTM E1996.
- ASTM E1886.

These standards are methods for testing the structural stability and design of the window or door to ensure protection during periods of high wind.

III. Effect of Proposed Changes:

The bill establishes an 18-day period, from Friday, May 29 to Monday, June 15, 2020, during which the following items are exempt from the state sales tax and local discretionary sales surtaxes:

- Portable self-powered light sources selling for \$20 or less;
- Portable self-powered radios, two-way radios, or weather-band radios selling for \$50 or less;
- Tarpaulins or other flexible waterproof sheeting selling for \$50 or less;
- Any items normally sold as, or generally advertised as, ground anchor systems or tie-down kits selling for \$50 or less;
- Gas or diesel fuel tanks selling for \$25 or less;
- Packages of AA-cell, AAA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- Nonelectric food storage coolers selling for \$30 or less;
- Portable generators used to provide light or communications or preserve food selling for \$750 or less;
- Reusable ice selling for \$10 or less;
- Impact-resistant windows, when sold in units of 20 or fewer; and
- Impact-resistant doors and impact-resistant garage doors, when sold in units of 10 or fewer.

The exemptions for impact-resistant windows, doors, and garage doors apply to purchases made by an owner of residential real property where the impact-resistant windows or doors will be installed. The bill defines “impact-resistant” to mean that the window, door, or garage door complies with the standards for protection of openings and for wind-borne debris protection in the Florida Building Code, 6th Edition (2017) Residential, or in the Florida Building Code, 6th Edition (2017) Building.

The exemptions provided for in the bill do not apply to the following:

- 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.

The bill appropriates, for the 2019-2020 fiscal year, \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue for the purpose of implementing the sales

tax holiday. Funds remaining unexpended as of June 30, 2020, shall revert and be re-appropriated for the same purpose in the 2020-2021 Fiscal Year.

The Department of Revenue may adopt emergency rules pursuant s. 120.54(4), F.S., for the purpose of implementing the bill.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{10, 11} which is \$2.2 million or less for Fiscal Year 2020-2021.¹²

The Revenue Estimating Conference determined that this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$3.4 million in Fiscal Year 2020-2021. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

¹⁰ FLA. CONST. art. VII, s. 18(d).

¹¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 8, 2019).

¹² Based on the Demographic Estimating Conference's April 1, 2020, estimated population adopted on Dec. 3, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 12, 2019).

E. Other Constitutional Issues:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$20.7 million and local government revenue by \$6.1 million in Fiscal Year 2020-2021.¹³

B. Private Sector Impact:

Persons purchasing exempted items during the sales tax holidays will realize savings.

C. Government Sector Impact:

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020 to administer the “disaster preparedness” sales tax holiday.

VI. **Technical Deficiencies:**

The bill exempts impact-resistant windows and doors if they are purchased by an owner of residential real property where they will be installed. To administer this exemption, dealers would have to confirm the intended use of the products and that the purchaser is the owner of the residential property where the windows and doors will be installed. The Department of Revenue recommends inserting a provision that would require the purchaser to sign an affidavit and provide it to the dealer stating that the purchaser qualifies for the exemption.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

The bill creates two undesignated sections of chapter law.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Finance and Tax on February 13, 2020:

The CS:

¹³ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Disaster Preparedness Holiday, SB 524*, Feb. 3, 2020, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page47-52.pdf (last visited Feb. 10, 2020).

- Expressly states that garage doors qualify for the exemption if sold in units of 10 or fewer.
- Defines “impact-resistant” to mean that the window, door, or garage door complies with the standards for protection of openings and for windborne debris protection in the Florida Building Code, 6th Edition (2017) Residential, or in the Florida Building Code, 6th Edition (2017) Building.

B. Amendments:

None.

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



130688

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2020	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 39 - 44

and insert:

(k) Impact-resistant doors and impact-resistant garage doors, when sold in units of 10 or fewer.

The exemptions under paragraphs (j) and (k) apply to purchases made by an owner of residential real property where the impact-resistant windows, impact-resistant doors, or impact-resistant



130688

11 garage doors will be installed. For the purposes of this
12 section, the term "impact-resistant" means that the window,
13 door, or garage door complies with the standards for protection
14 of openings and for windborne debris protection in the Florida
15 Building Code, 6th Edition (2017) Residential, or in the Florida
16 Building Code, 6th Edition (2017) Building.

17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete line 6

21 and insert:

22 applicability for certain exemptions; defining the
23 term "impact-resistant"; specifying

By Senator Gruters

23-00669-20

2020524__

A bill to be entitled

An act relating to a sales tax holiday for disaster preparedness supplies; providing exemptions from the sales and use tax for specified disaster preparedness supplies during a specified timeframe; providing applicability for certain exemptions; specifying locations where the exemptions do not apply; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an effective date.

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

Section 1. Disaster preparedness supplies; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on May 29, 2020, through 11:59 p.m. on June 15, 2020, on the sale of:

(a) A portable self-powered light source selling for \$20 or less.

(b) A portable self-powered radio, two-way radio, or weather-band radio selling for \$50 or less.

(c) A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.

(d) An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for \$50 or less.

(e) A gas or diesel fuel tank selling for \$25 or less.

(f) A package of AA-cell, AAA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries,

Page 1 of 3

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

23-00669-20

2020524__

selling for \$30 or less.

(g) A nonelectric food storage cooler selling for \$30 or less.

(h) A portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less.

(i) Reusable ice selling for \$10 or less.

(j) Impact-resistant windows, when sold in units of 20 or fewer.

(k) Impact-resistant doors, when sold in units of 10 or fewer.

The exemptions under paragraphs (j) and (k) apply to purchases made by an owner of residential real property where the impact-resistant windows or impact-resistant doors will be installed.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section. Notwithstanding any other law, emergency rules adopted pursuant to this subsection are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rule.

Section 2. For the 2019-2020 fiscal year, the sum of

Page 2 of 3

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

23-00669-20

2020524

59 \$70,072 in nonrecurring funds is appropriated from the General
60 Revenue Fund to the Department of Revenue for the purpose of
61 implementing this act. Funds remaining unexpended or
62 unencumbered from this appropriation as of June 30, 2020, shall
63 revert and be reappropriated for the same purpose in the 2020-
64 2021 fiscal year.

65 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

December 4, 2019

The Honorable George Gainer, Chair
Committee Finance and Tax
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 524, Sales Tax Holiday for Disaster Preparedness Supplies be placed on the agenda of the next Finance and Tax meeting.

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

Warm regards,

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

Joe Gruters

cc: Jose Diez-Arguelles, Staff Director
Lynn Wells, Senior Administrative Assistant

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-13-21

Meeting Date

524

Bill Number (if applicable)

Topic Disaster Preparedness Sales Tax Holiday

Amendment Barcode (if applicable)

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Phone 850-222-5052

Street

Tallahassee

FL

32301

Email kwenner@floridataxwatch.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida TaxWatch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20

Meeting Date

524

Bill Number (if applicable)

Topic Sales Tax Holiday for Disaster Preparedness Supplies

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13

Meeting Date

SB 524

Bill Number (if applicable)

Topic Sales Tax Holiday for Disaster Preparedness Supplies

Amendment Barcode (if applicable)

Name Jared Rosenstein

Job Title Division of Emergency Management

Leg. Affair Director

Address 2555 Shumard Oak Blvd

Phone 786-247-8716

Tallahassee

City

FL

State

32399

Zip

Email jared.rosenstein@em.myflorida.com

Speaking: For Against Information

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

Representing Division of Emergency Management

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/13/20

Meeting Date

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

524

Bill Number (if applicable)

Topic Sales Tax Holiday for Disaster Preparedness

Amendment Barcode (if applicable)

Name Scott Jenkins

Job Title Senior Govt Consultant

Address 215 S. Monroe St. Ste 500

Phone 850 661 0829

Street

TCH

City

FL

State

32301

Zip

Email sjenkins@carltonkelle.com

Speaking: For Against Information

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

Representing PGT Innovations

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-13-20

524

Meeting Date

Bill Number (if applicable)

Topic Disaster Preparedness

Amendment Barcode (if applicable)

Name Jake Farmer

Job Title Director Gov Affairs

Address 227 S Adams St.

Phone 352 359 6835

Street

Tallahassee FL 32301

City

State

Zip

Email Jake@frf.org

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 542

INTRODUCER: Commerce and Tourism Committee and Senator Perry

SUBJECT: Back-to-school Sales Tax Holiday

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 542 establishes a 10-day “back-to-school” sales tax holiday, from Friday, July 31, 2020 to Sunday, August 9, 2020, for certain clothing, school supplies, personal computers, and personal computer-related accessories.

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$50.3 million in Fiscal Year 2020-2021 and reduce local government revenues by \$14.8 million.

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ 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.⁴

In addition to the state sales tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. 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."⁵ 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 levied vary by county in a range of 0.5 to 2.5 percent.⁶

"Back-to-School" Sales Tax Holidays

Florida has enacted a "back-to-school" sales tax holiday 18 times since 1998. The Florida Residents' Tax Relief Act of 1998 established Florida's first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁷ Backpacks were added to the tax holiday in 1999 and school supplies were added in 2001. In 2013, the Legislature expanded the exemption to include personal computers and related accessories selling for \$750 or less, purchased for noncommercial home or personal use. The duration of "back-to-school" sales tax holidays has varied from 3 to 10 days. The type and value of exempt items have also varied.⁸

Sixty-seven of the 73 school districts in Florida began the 2019-2020 school year on August 12, 2019, and the remaining school districts began by August 19, 2019.⁹

III. Effect of Proposed Changes:

The bill establishes a 10-day period, from July 31 to August 9, 2020, during which the following items are exempt from the state sales tax and local discretionary sales surtaxes:

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ See s. 212.07(2), F.S.

⁵ Section 212.054(2)(a), F.S.

⁶ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 219-226 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Feb. 10, 2020).

⁷ Chapter 98-341, Laws of Fla.

⁸ *Supra* note 6, at 156-160.

⁹ Florida Department of Education, *PK-12 Public School Data Publications and Reports*, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/index.stml> (last visited Jan 6, 2020).

- Clothing with a sales price of \$60 or less per item. “Clothing” is defined as any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and all footwear, excluding skis, swim fins, roller blades, and skates;
- Wallets and bags with a sales price of \$60 or less per item, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags;
- School supplies with a sales price of \$15 or less per item. “School supplies” is defined as pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, staplers and staples used to secure paper products, protractors, compasses, and calculators;
- Personal computers with a sales price of \$1,000 or less per item. “Personal computers” includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers and excludes cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data; and
- Personal computer-related accessories with a sales price of \$1,000 or less per item. “Personal computer-related accessories” includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and non-recreational software regardless of whether the accessories are used in association with a personal computer base unit. The term excludes furniture or systems, devices, software, monitors with a television tuner, or peripherals that are designed or intended primarily for recreational use.

The bill allows a business to opt-out of participating in the sales tax holiday if less than 5 percent of the business’s gross sales of tangible personal property in the prior calendar year consist of items that would be exempt under the bill. A business meeting this threshold must notify the Department of Revenue (DOR), in writing, by July 30, 2020, of its election to collect sales tax during the holiday. The business must post a copy of that notice in a conspicuous location at its place of business.

The exemptions provided in the bill do not apply to the following:

- 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.

The bill appropriates, for Fiscal Year 2019-2020, \$237,000 in nonrecurring funds from the General Revenue Fund to the DOR for the purpose of implementing the sales tax holiday. Funds remaining unexpended as of June 30, 2020, shall revert and be re-appropriated for the same purpose in Fiscal Year 2020-2021.

The DOR may adopt emergency rules pursuant s. 120.54(4), F.S., for the purpose of implementing the bill.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{10, 11} which is \$2.2 million or less for Fiscal Year 2020-2021.¹²

The Revenue Estimating Conference determined that this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$8.3 million in Fiscal Year 2020-2021. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁰ FLA. CONST. art. VII, s. 18(d).

¹¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 12, 2019).

¹² Based on the Demographic Estimating Conference's April 1, 2020, estimated population adopted on July 8, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Nov. 12, 2019).

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

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$50.3 million in Fiscal Year 2020-2021 and reduce local government revenues by \$14.8 million.¹³

B. Private Sector Impact:

Persons purchasing exempted items during the sales tax holidays will realize savings.

C. Government Sector Impact:

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020 to administer the “back-to-school” sales tax holiday.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates two undesignated sections of chapter law.

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

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

CS by Commerce and Tourism Committee on November 12, 2019:

The committee substitute lengthens the period during which personal computers and personal computer-related accessories are exempt from the state sales tax and local discretionary sales surtaxes.

B. Amendments:

None.

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

¹³ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *School Sales Tax Holiday, 10 days, \$60 Clothing/\$15 Supplies/\$1,000 or Less Computers, SB 542*, Feb. 3, 2020, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/pdf/page40-46.pdf> (last visited Feb. 10, 2020).

By the Committee on Commerce and Tourism; and Senator Perry

577-01344-20

2020542c1

A bill to be entitled

An act relating to a back-to-school sales tax holiday; providing exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories during a specified timeframe; defining terms; specifying locations where the exemptions do not apply; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an effective date.

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

Section 1. Clothing, school supplies, personal computers, and personal computer-related accessories; sales tax holiday.

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on July 31, 2020, through 11:59 p.m. on August 9, 2020, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$60 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry,

Page 1 of 4

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

577-01344-20

2020542c1

umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of \$15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, staplers and staples used to secure paper products, protractors, compasses, and calculators.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on July 31, 2020, through 11:59 p.m. on August 9, 2020, on the retail sale of personal computers or personal computer-related accessories having a sales price of \$1,000 or less per item and purchased for noncommercial home or personal use. As used in this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. The term does not include furniture or systems, devices, software, monitors

Page 2 of 4

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

577-01344-20

2020542c1

59 with a television tuner, or peripherals that are designed or
 60 intended primarily for recreational use.

61 (3) The tax exemptions provided in this section do not
 62 apply to sales within a theme park or entertainment complex as
 63 defined in s. 509.013(9), Florida Statutes, within a public
 64 lodging establishment as defined in s. 509.013(4), Florida
 65 Statutes, or within an airport as defined in s. 330.27(2),
 66 Florida Statutes.

67 (4) The tax exemptions provided in this section may apply
 68 at the option of a dealer if less than 5 percent of the dealer's
 69 gross sales of tangible personal property in the prior calendar
 70 year consist of items that would be exempt under this section.
 71 If a qualifying dealer chooses not to participate in the tax
 72 holiday, the dealer must notify the Department of Revenue in
 73 writing by July 30, 2020, of its election to collect sales tax
 74 during the holiday and must post a copy of that notice in a
 75 conspicuous location at its place of business.

76 (5) The Department of Revenue may, and all conditions are
 77 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
 78 Florida Statutes, for the purpose of implementing this section.
 79 Notwithstanding any other law, emergency rules adopted pursuant
 80 to this subsection are effective for 6 months after adoption and
 81 may be renewed during the pendency of procedures to adopt
 82 permanent rules addressing the subject of the emergency rule.

83 Section 2. For the 2019-2020 fiscal year, the sum of
 84 \$237,000 in nonrecurring funds is appropriated from the General
 85 Revenue Fund to the Department of Revenue for the purpose of
 86 implementing this act. Funds remaining unexpended or
 87 unencumbered from this appropriation as of June 30, 2020, shall

Page 3 of 4

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

577-01344-20

2020542c1

88 revert and be reappropriated for the same purpose in the 2020-
 89 2021 fiscal year.

90 Section 3. This act shall take effect upon becoming a law.

Page 4 of 4

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: CS/SB 542
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

Table with columns for FINAL VOTE (Yea, Nay), SENATORS, and two voting sessions (2/13/2020 1 and 2/13/2020 2) with sub-columns for Yea and Nay. Rows list senators like Baxley, Bracy, Bradley, Pizzo, Powell, Stargel, Gruters, and Gainer.

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting



The Florida Senate

Committee Agenda Request

To: Senator George Gainer, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: November 19, 2019

I respectfully request that **Senate Bill #542**, relating to Back-to-school Sales Tax Holiday, be placed on the:

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

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

2-13-20

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

542

Meeting Date

Bill Number (if applicable)

Topic Back to School

Amendment Barcode (if applicable)

Name Jake Farmer

Job Title _____

Address _____

Phone 352 359 6835

Street

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20

Meeting Date

542

Bill Number (if applicable)

Topic Back-to-school Sales Tax Holiday

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE APPEARANCE RECORD

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

2-13-21

542

Meeting Date

Bill Number (if applicable)

Topic Back-to-school Sales Tax Holiday

Amendment Barcode (if applicable)

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Phone 850-222-5052

Street

Tallahassee

FL

32301

Email kwenner@floridataxwatch.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida TaxWatch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1074

INTRODUCER: Military and Veterans Affairs and Space Committee; and Senators Wright and Albritton

SUBJECT: Surviving Spouse Ad Valorem Tax Reduction

DATE: February 12, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Fav/CS
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1074 is the implementing legislation for SJR 1076. The bill allows the homestead property tax discount for disabled veterans to transfer to a veteran's surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for combat-disabled veterans aged 65 or older.

The bill grants the Department of Revenue emergency rulemaking authority.

If the related amendment proposed by SJR 1076 is approved by the electors, the Revenue Estimating Conference has determined that the bill will reduce local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, increasing to \$4 million by Fiscal Year 2025-2026.

The bill takes effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution with substantially the same specific intent and purpose.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

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

The State Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the State Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Homestead Exemption

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.¹²

If a person is entitled to an exemption from taxation, he or she must file an application on or before March 1 requesting the exemption with the appropriate county property appraiser.¹³ The Department of Revenue prescribes the forms upon which the application is made.¹⁴

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4, 9 (Fla. 1973).

³ See s. 192.001(3) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a).

¹² FLA. CONST. art VII, s. 6(a).

¹³ Section 196.011(1)(a), F.S.

¹⁴ *Id.*

Property Tax Exemptions for Veterans and Surviving Spouses

Florida provides several property tax exemptions for disabled veterans and their surviving spouses. These include exemptions for the following persons:

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁵
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁶
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.¹⁷
- The unremarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.¹⁸

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.¹⁹ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁰ The discount is applied as a reduction to the taxable value of the homestead property.²¹

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled with combat-related disabilities; and
- Have received an honorable discharge.²²

In addition to filing an application with the county tax appraiser for the discount, an eligible veteran must also provide to the tax appraiser by March 1:

- An official letter from the United States Department of Veterans Affairs which includes the percentage of the veteran's service-connected disability and evidence that reasonably identifies the disability as combat-related;
- A copy of the veteran's honorable discharge; and
- Proof of age as of January 1 of the year to which the discount will apply.²³

¹⁵ Section 196.081(1)-(3), F.S.

¹⁶ Section 196.091(1) and (3), F.S.

¹⁷ Section 196.24, F.S.

¹⁸ Section 196.081(4), F.S.

¹⁹ Section 196.082, F.S.

²⁰ Section 196.082(2), F.S.

²¹ Section 196.082(5), F.S.

²² Section 196.082(1), F.S.

²³ Section 196.082(3), F.S.

Unlike the exemptions described above, the discount for a combat-related, disabled veteran does not carry over to a surviving spouse.²⁴

III. Effect of Proposed Changes:

CS/SB 1074 allows the homestead property tax discount for disabled veterans to transfer to a veteran's surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for combat-disabled veterans aged 65 or older.

To receive the property tax discount, the surviving spouse must permanently reside at and hold legal or beneficial title to the homestead property. The surviving spouse is eligible for the discount until he or she:

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

However, after selling or otherwise disposing of the property, a surviving spouse may carry over the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount is based on the latest tax roll of the original property.

For surviving spouses that do not apply timely, the bill authorizes the surviving spouse to petition the value adjustment board.

The Department of Revenue is authorized to adopt emergency rules to administer the provisions of this bill.

The bill is linked to SJR 1076, which provides ballot language to amend the constitution to add the benefit for a qualifying surviving spouse.

The bill takes effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution with substantially the same specific intent and purpose if the voters approve the amendment at the general election of November 2020 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, section 18 of the State Constitution, do not apply to bills that implement constitutional amendments.

B. Public Records/Open Meetings Issues:

None.

²⁴ See s. 196.082, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that, if the constitutional amendment proposed by SJR 1076 is approved by the electors, the bill will reduce local property tax receipts by \$1.0 million beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.²⁵

B. Private Sector Impact:

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount, thereby financially benefitting from the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue indicates that if the bill passes, it would need to amend two forms.²⁶

VIII. Statutes Affected:

This bill substantially amends section 196.082 of the Florida Statutes.

²⁵ Office of Economic and Demographic Research, *Revenue Estimating Conference, Impact Conference, 01/10/20 Revenue Impact Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page55-61.pdf (last visited Feb. 06, 2020).

²⁶ Department of Revenue, *2020 Agency Legislative Bill Analysis, SB 1074* (Jan. 6, 2020) (on file with the Senate Committee on Finance and Tax).

IX. Additional Information:

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

CS by Military and Veterans Affairs and Space on January 22, 2020:
The CS refers to the linked joint resolution in the bill as “SJR 1076.”

- B. **Amendments:**

None.

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

By the Committee on Military and Veterans Affairs and Space; and
Senator Wright

583-02453-20

20201074c1

A bill to be entitled

An act relating to a surviving spouse ad valorem tax reduction; amending s. 196.082, F.S.; authorizing the surviving spouses of certain permanently disabled veterans to carry over a certain discount on ad valorem taxes on homestead property under specified conditions; authorizing the discount to be transferred to another permanent residence under specified conditions; providing a procedure by which an applicant may file an application after a specified date and request the discount; authorizing the Department of Revenue to adopt emergency rules; providing a contingent effective date.

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

Section 1. Present subsections (3) through (6) of section 196.082, Florida Statutes, are redesignated as subsections (4) through (7), respectively, and a new subsection (3) is added to that section, to read:

196.082 Discounts for disabled veterans; surviving spouse carryover.-

(3) If the partially or totally and permanently disabled veteran predeceases his or her spouse and if, upon the death of the veteran, the spouse holds the legal or beneficial title to the homestead and permanently resides thereon as specified in s. 196.031, the discount from ad valorem tax that the veteran received carries over to the benefit of the veteran's spouse until such time as he or she remarries or sells or otherwise

Page 1 of 2

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

583-02453-20

20201074c1

disposes of the property. If the spouse sells or otherwise disposes of the property, a discount not to exceed the dollar amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence, as long as it is used as his or her primary residence and he or she does not remarry. An applicant who is qualified to receive a discount under this section and who fails to file an application by March 1 may file an application for the discount and may file a petition pursuant to s. 194.011(3) with the value adjustment board requesting that the discount be granted. Such application and petition shall be subject to the same procedures as for exemptions set forth in s. 196.011(8).

Section 2. The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this act. Notwithstanding any other law, emergency rules adopted pursuant to this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules. This section expires January 1, 2022.

Section 3. This act shall take effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution having substantially the same specific intent and purpose, if such amendment is approved at the next general election or at an earlier special election specifically authorized by law for that purpose.

Page 2 of 2

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: CS/SB 1074
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
7	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT

14th District

January 25, 2020

The Honorable George B. Gainer
302, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1074 – Surviving Spouse Ad Valorem Tax Reduction

Dear Chair Gainer:

Senate Bill 1074, relating to Surviving Spouse Ad Valorem Tax Reduction has been referred to the Committee on Finance and Tax. I am requesting your consideration on placing SB 1074 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Jose Diez-Arguelles, Staff Director of the Committee on Finance and Tax
Lynn Wells, Administrative Assistant of the Committee on Finance and Tax

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore



2020 AGENCY LEGISLATIVE BILL ANALYSIS DEPARTMENT OF REVENUE

BILL INFORMATION

BILL NUMBER:	SB 1074
BILL TITLE:	Surviving Spouse Ad Valorem Tax Reduction
BILL SPONSOR:	Senator Wright
EFFECTIVE DATE:	On the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution having substantially the same specific intent and purpose.

COMMITTEES OF REFERENCE

- 1) Military and Veterans Affairs and Space
- 2) Finance and Tax
- 3) Appropriations
- 4)
- 5)

CURRENT COMMITTEE

Military and Veterans Affairs and Space

SIMILAR BILLS

BILL NUMBER:	SJR 1076
SPONSOR:	Senator Wright

IDENTICAL BILLS

BILL NUMBER:	HB 879
SPONSOR:	Representative Killebrew

PREVIOUS LEGISLATION

YEAR/BILL NUMBER/SPONSOR/LAST ACTION:

2019/HB 719/Representative Killebrew/Died on Calendar
2018/SB 1000/Senator Grimsley/Died in Military and Veterans Affairs, Space, and Domestic Security
2018/HB 527/Representative Magar/Died in Local, Federal and Veterans Affairs Subcommittee
2016/SB 816/Senator Altman/Died in Appropriations
2016/HB 813/Representative Plakon/Died in Finance and Tax Committee

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	January 6, 2020
LEAD AGENCY ANALYST:	Debbie Longman (850) 617-8324

POLICY ANALYSIS

1. ANALYSIS OF EACH SECTION THAT AFFECTS THE DEPARTMENT OF REVENUE.

Section 1. Discounts for Disabled Veterans (pp. 1-2):

PRESENT SITUATION

Section 196.082, F.S., states that a veteran age 65 or older and partially or totally permanently disabled shall receive a discount from the amount of ad valorem tax otherwise owed on homestead property the veteran owns and resides in if:

- The disability is combat-related
- The veteran was honorably discharged from military service

EFFECT OF THE BILL

This bill adds language which allows the discount from ad valorem tax the veteran received to carry over to the veteran's spouse if the spouse holds the legal or beneficial title to the homestead and permanently resides there. The spouse will continue to benefit from the discount until he or she remarries, sells, or otherwise disposes of the property. If the spouse sells or disposes of the property, a discount that isn't more than the amount granted from the latest tax roll may be transferred to the spouse's new home. The discount will continue to be in force as long as the new home is the spouse's primary residence and the spouse does not remarry. Anyone who is qualified to receive the discount under this section and fails to file an application by March 1 may file an application for the discount and may file a petition with the value adjustment board to request that the discount be granted.

Section 2. Emergency rules (p. 2):

Pursuant to section 120.54(4), F.S., the Department may adopt emergency rules to administer this act. The emergency rules are effective for six months after adoption and may be renewed. This section expires January 1, 2022.

Section 3. Effective date (p. 2): This act is effective on the effective date of the amendment to the State Constitution proposed by SJR 1076 or a similar joint resolution, if the amendment to the State Constitution is approved at the next general election or an earlier special election specifically authorized by law for that purpose.

2. DOES THE DEPARTMENT EXPECT TO DEVELOP, ADOPT, MODIFY OR ELIMINATE ANY RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES NO

If yes, explain:	Page 3 of Form DR-501, Original Application for Homestead and Related Tax Exemptions, will need to be amended to include surviving spouse of disabled veteran age 65 in the benefits chart. Page 2 of DR-501DV, Application for Homestead Tax Discount, has copy of s. 196.082, F.S. which would have to be changed to reflect revision of s. 196.082, F.S.
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 12D-16.002, F.A.C.

3. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS? N/A

4. DOES THE BILL REQUIRE THE DEPARTMENT TO SUBMIT, MODIFY OR DELETE ANY REPORTS, STUDIES OR PLANS? YES NO

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

5. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? YES NO

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

6. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to local governments.
7. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact, if any, to state government.
Expenditures: <i>(only expenditure impacts on the Department are identified)</i>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, BUT INSIGNIFICANT <input type="checkbox"/> UNABLE TO DETERMINE See Additional Comments section below if it is determined there is a significant operational impact to the Department.
Does the legislation contain an appropriation to the Department?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

-
8. **DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?** The Department of Revenue does not conduct this analysis.
9. **DOES THE BILL INCREASE OR DECREASE TAXES, FEES OR FINES?** The Department of Revenue does not conduct this analysis. The Revenue Estimating Conference will determine the revenue impact on state and local government, if any.

TECHNOLOGY IMPACT

If any, see attached Fiscal Impact Analysis.

FEDERAL IMPACT

If any, see Additional Comments section below.

ADDITIONAL COMMENTS

10. **STATUTE(S) AFFECTED:** Section 196.082, F.S.

11. **HAS BILL LANGUAGE BEEN ANALYZED EARLIER THIS SESSION?** YES NO
If no, go to #12. If yes:

A. Identify bill number or source.

B. Were issues/problems identified? YES NO

a. If yes, have they been resolved? YES NO If no, briefly explain.

C. Are new issues/problems created? YES NO If yes, briefly identify.

12. **DOES THE BILL PRESENT DIFFICULTY IN IMPLEMENTATION, ADMINISTRATION OR ENFORCEMENT?** YES NO

If yes, describe administrative problems, technical errors, or other difficulties:

13. OTHER:

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-13-20
Meeting Date

1074
Bill Number (if applicable)

Topic SURVIVING SPOUSE TAX REDUCTION Amendment Barcode (if applicable)

Name JOHN HAYNES

Job Title CHAIRMAN EMERITUS

Address 424 HIAWATHA FARMS RD. Phone 850-443-3451
Street

MONTICELLO, FL 32344 Email _____
City State Zip

Speaking: For Against Information

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

Representing FLORIDA VETERANS FOUNDATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

13 FEB 2020
Meeting Date

SB 1074
Bill Number (if applicable)

Topic Surviving Spouse Ad Valorem Tax Reduction

Amendment Barcode (if applicable)

Name Christian Cochran

Job Title Public Information and Research Specialist

Address 400 S. Monroe St. Ste 2105
Street

Phone 850-487-1533

Tallahassee
City

FL
State

32399
Zip

Email Cochran C @ FDVA, State. FL.

Speaking: For Against Information

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

Representing Florida Department of Veterans Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

Reset Form

2-13-2020

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

SB 1074

Meeting Date

Bill Number (if applicable)

Topic SB 1074

Amendment Barcode (if applicable)

Name Sam Wagoner

Job Title Lobbyist

Address 5957 Riviera Ln

Phone 352-584-8647

Street

New Port Richey

FL

34655

Email Wagoner@SCGroup.us

City

State

Zip

Speaking: For Against Information

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

Representing American Legion Auxiliary

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SJR 1076

INTRODUCER: Senators Wright and Albritton

SUBJECT: Surviving Spouse Ad Valorem Tax Reduction

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SJR 1076 proposes an amendment to the Florida Constitution to allow the homestead property tax discount for disabled veterans to transfer to a veteran’s surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for veterans aged 65 or older who have permanent, combat-related disabilities.

The joint resolution requires approval by a three-fifths vote of the membership of each house of the Legislature for passage.

The Department of State estimates the publication costs for advertising the proposed amendment based on a rate of \$92.93 per word to be approximately \$74,251.07.

If the proposed amendment is approved by the electors, the Revenue Estimating Conference has determined that it will reduce local property taxes by \$1.0 million, beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.

If approved by the electors, the amendment takes effect January 1, 2021.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

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

The State Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the State Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Homestead Exemption

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.¹²

Property Tax Exemptions for Veterans and Surviving Spouses

Florida provides several property tax exemptions for disabled veterans and their surviving spouses. These include exemptions for the following persons:

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4, 9 (Fla. 1973).

³ *See* s. 192.001(3) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a).

¹² FLA. CONST. art VII, s. 6(a).

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹³
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁴
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.¹⁵
- The unremarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.¹⁶

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.¹⁷ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.¹⁸ The discount is applied as a reduction to the taxable value of the homestead property.¹⁹

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled with combat-related disabilities; and
- Have received an honorable discharge.²⁰

Unlike the other exemptions described above, the discount for a combat-related disability does not carry over to a surviving spouse.²¹

III. Effect of Proposed Changes:

SJR 1076 proposes an amendment to the Florida Constitution to allow the homestead property tax discount for a veteran aged 65 or older who has a permanent, combat-related disability to carry over to the veteran's surviving spouse upon the veteran's death, provided that the veteran applied for and received the discount.

To receive the property tax discount, the surviving spouse must permanently reside at and hold legal or beneficial title to the homestead property. The surviving spouse is eligible for the discount until he or she:

¹³ Section 196.081(1)-(3), F.S.

¹⁴ Section 196.091(1) and (3), F.S.

¹⁵ Section 196.24, F.S.

¹⁶ Section 196.081(4), F.S.

¹⁷ Section 196.082, F.S.

¹⁸ Section 196.082(2), F.S.

¹⁹ Section 196.082(5), F.S.

²⁰ Section 196.082(1), F.S.

²¹ See s. 196.082, F.S.

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

After selling or otherwise disposing of the property, however, a surviving spouse may transfer the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount transferred may not exceed the dollar amount granted on the most recent ad valorem tax roll of the original property.

The joint resolution provides that the amendment is self-executing and does not require implementing legislation.

If approved by the electors, the amendment takes effect January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, section 1, of the State Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(e), of the State Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date specified in the amendment. The joint resolution specifies that the amendment takes effect January 1, 2021.

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

The Revenue Estimating Conference has determined that, if adopted by the electors, the amendment will reduce local property tax receipts by \$1.0 million beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.²²

B. Private Sector Impact:

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount, thereby financially benefitting from the bill.

C. Government Sector Impact:

Section 5(d), Art. XI, of the State Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county in which a newspaper is published.

The Division of Elections is required to twice advertise the full text of proposed constitutional amendments in English and Spanish in the newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county, and to translate the amendments into Spanish.

The cost to advertise this amendment in newspapers and produce booklets for the 2020 General Election is estimated to be \$74,251.07, at a minimum. More accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.²³ Additionally, whether the estimate changes due to placement on the ballot at the Primary Election, rather than the General Election in 2020 is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²² Office of Economic and Demographic Research, *Revenue Estimating Conference, Impact Conference, 01/10/20 Revenue Impact Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page181-189.pdf (last visited Feb. 09, 2020).

²³ Email correspondence with Maria Matthews, Director of Division of Elections, Department of State (Jan. 8, 2020) (on file with the Senate Committee on Finance and Tax).

VIII. Statutes Affected:

The joint resolution amends Article VII, section 6, and creates a new section in Article XII, of the State Constitution.

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

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

None.

B. Amendments:

None.

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

By Senator Wright

14-01266A-20

20201076__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to provide for the carryover of the homestead property tax discount for certain veterans with permanent combat-related disabilities to a veteran's surviving spouse if certain criteria are met, to authorize the transfer of the discount to a surviving spouse's new homestead property if certain criteria are met, and to provide an effective date.

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

That the following amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district

Page 1 of 6

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

14-01266A-20

20201076__

levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or

Page 2 of 6

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

14-01266A-20

20201076__

59 both of the following additional homestead tax exemptions:

60 (1) An exemption not exceeding fifty thousand dollars to a
61 person who has the legal or equitable title to real estate and
62 maintains thereon the permanent residence of the owner, who has
63 attained age sixty-five, and whose household income, as defined
64 by general law, does not exceed twenty thousand dollars; or

65 (2) An exemption equal to the assessed value of the
66 property to a person who has the legal or equitable title to
67 real estate with a just value less than two hundred and fifty
68 thousand dollars, as determined in the first tax year that the
69 owner applies and is eligible for the exemption, and who has
70 maintained thereon the permanent residence of the owner for not
71 less than twenty-five years, who has attained age sixty-five,
72 and whose household income does not exceed the income limitation
73 prescribed in paragraph (1).

74
75 The general law must allow counties and municipalities to grant
76 these additional exemptions, within the limits prescribed in
77 this subsection, by ordinance adopted in the manner prescribed
78 by general law, and must provide for the periodic adjustment of
79 the income limitation prescribed in this subsection for changes
80 in the cost of living.

81 (e) (1) Each veteran who is age 65 or older who is partially
82 or totally permanently disabled shall receive a discount from
83 the amount of the ad valorem tax otherwise owed on homestead
84 property the veteran owns and resides in if the disability was
85 combat related and the veteran was honorably discharged upon
86 separation from military service. The discount shall be in a
87 percentage equal to the percentage of the veteran's permanent,

Page 3 of 6

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

14-01266A-20

20201076__

88 service-connected disability as determined by the United States
89 Department of Veterans Affairs. To qualify for the discount
90 granted by this paragraph subsection, an applicant must submit
91 to the county property appraiser, by March 1, an official letter
92 from the United States Department of Veterans Affairs stating
93 the percentage of the veteran's service-connected disability and
94 such evidence that reasonably identifies the disability as
95 combat related and a copy of the veteran's honorable discharge.
96 If the property appraiser denies the request for a discount, the
97 appraiser must notify the applicant in writing of the reasons
98 for the denial, and the veteran may reapply. The Legislature
99 may, by general law, waive the annual application requirement in
100 subsequent years.

101 (2) If a veteran who receives the discount described in
102 paragraph (1) predeceases his or her spouse, and if, upon the
103 death of the veteran, the surviving spouse holds the legal or
104 beneficial title to the homestead property and permanently
105 resides thereon, the discount carries over to the surviving
106 spouse until he or she remarries or sells or otherwise disposes
107 of the homestead property. If the surviving spouse sells or
108 otherwise disposes of the property, a discount not to exceed the
109 dollar amount granted from the most recent ad valorem tax roll
110 may be transferred to the surviving spouse's new homestead
111 property, if used as his or her permanent residence and he or
112 she has not remarried.

113 (3) This subsection is self-executing and does not require
114 implementing legislation.

115 (f) By general law and subject to conditions and
116 limitations specified therein, the Legislature may provide ad

Page 4 of 6

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

14-01266A-20

20201076__

117 valorem tax relief equal to the total amount or a portion of the
118 ad valorem tax otherwise owed on homestead property to:

119 (1) The surviving spouse of a veteran who died from
120 service-connected causes while on active duty as a member of the
121 United States Armed Forces.

122 (2) The surviving spouse of a first responder who died in
123 the line of duty.

124 (3) A first responder who is totally and permanently
125 disabled as a result of an injury or injuries sustained in the
126 line of duty. Causal connection between a disability and service
127 in the line of duty shall not be presumed but must be determined
128 as provided by general law. For purposes of this paragraph, the
129 term "disability" does not include a chronic condition or
130 chronic disease, unless the injury sustained in the line of duty
131 was the sole cause of the chronic condition or chronic disease.

132
133 As used in this subsection and as further defined by general
134 law, the term "first responder" means a law enforcement officer,
135 a correctional officer, a firefighter, an emergency medical
136 technician, or a paramedic, and the term "in the line of duty"
137 means arising out of and in the actual performance of duty
138 required by employment as a first responder.

ARTICLE XII

SCHEDULE

141 Ad valorem tax discount for surviving spouses of certain
142 permanently disabled veterans.-The amendment to Section 6 of
143 Article VII, relating to the ad valorem tax discount for spouses
144 of certain deceased veterans who had permanent, combat-related
145 disabilities, and this section shall take effect January 1,

Page 5 of 6

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

14-01266A-20

20201076__

146 2021.

147

148 BE IT FURTHER RESOLVED that the following statement be
149 placed on the ballot:

150 CONSTITUTIONAL AMENDMENT

151 ARTICLE VII, SECTION 6

152 ARTICLE XII

153 AD VALOREM TAX DISCOUNT FOR SPOUSES OF CERTAIN DECEASED
154 VETERANS WHO HAD PERMANENT, COMBAT-RELATED DISABILITIES.-
155 Provides that the homestead property tax discount for certain
156 veterans with permanent combat-related disabilities carries over
157 to such veteran's surviving spouse who holds legal or beneficial
158 title to, and who permanently resides on, the homestead
159 property, until he or she remarries or sells or otherwise
160 disposes of the property. The discount may be transferred to a
161 new homestead property of the surviving spouse under certain
162 conditions. The amendment takes effect January 1, 2021.

Page 6 of 6

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: SJR 1076
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
7	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT

14th District

January 25, 2020

The Honorable George B. Gainer
302, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Joint Resolution 1076 – Surviving Spouse Ad Valorem Tax Reduction

Dear Chair Gainer:

Senate Joint Resolution 1076, relating to Surviving Spouse Ad Valorem Tax Reduction has been referred to the Committee on Finance and Tax. I am requesting your consideration on placing SJR 1076 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Jose Diez-Arguelles, Staff Director of the Committee on Finance and Tax
Lynn Wells, Administrative Assistant of the Committee on Finance and Tax

REPLY TO:

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

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

Brown, Cindy

From: Matthews, Maria I. <Maria.Matthews@DOS.MyFlorida.com>
Sent: Wednesday, January 8, 2020 1:18 PM
To: Brown, Cindy
Subject: Amendments/Publication Costs

Cindy:

Per your request. . .

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish* twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also responsible for translating the amendments into Spanish.

The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county. The statewide average cost to advertise constitutional amendments, in English and Spanish, in newspapers for the 2018 election cycle was \$92.93 per English word of the originating document.

Using 2018 election cycle rates, the cost to advertise this amendment in newspapers and produce booklets for the 2020 general election is estimated to be \$ 74251.07, at a minimum. Accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.

At this time, three amendments have achieved ballot position for the 2020 election by the initiative petition process. More initiatives may make ballot position by February 1, 2020 and the Legislature may also adopt joint resolutions in the upcoming legislative cycle adding to the number of amendments on the ballot.

*The requirement to provide these publications in Spanish stems from several provisions of the federal Voting Rights Act including but not limited to Section 203.

Respectfully,

Maria Matthews, Esq.
Division of Elections, Director
Florida Department of State
500 S. Bronough Street
Tallahassee, Florida 32399
850.245.6520
Maria.matthews@dos.myflorida.com

This response is provided for reference only and does not constitute legal advice or representation. As applied to a particular set of facts or circumstances, interested parties should refer to the Florida Statutes and applicable case law, and/or consult a private attorney before drawing any legal conclusions or relying upon the information provided. Please note: Florida has a broad public records law. Written communications to or from state officials regarding state business constitute public records and are available to the public and media upon request unless the information is subject to a specific statutory exemption. Therefore, your e-mail message may be subject to public disclosure.

THE FLORIDA SENATE
APPEARANCE RECORD

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

13 FEB 2020

Meeting Date

SB 1076

Bill Number (if applicable)

Topic Surviving Spouse Ad Valorem Tax

Amendment Barcode (if applicable)

Name Christian Cochran

Job Title Public Information and Research Specialist

Address 400 S. Monroe St. STE 2105

Phone 850-487-1533

Street

Tallahassee

City

FL

State

32399

Zip

Email CochranC@FDVA.State.FL

Speaking: For Against Information

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

Representing Florida Dept. of Veterans Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-13-2020

Meeting Date

1076

Bill Number (if applicable)

Topic SURVIVING SPOUSE TAX REDUCTION

Amendment Barcode (if applicable)

Name JOHN HAYNES

Job Title CHAIRMAN EMERITUS

Address 424 HIAWATHA FARMS RD
Street

Phone 830-443-3451

MONTICELLO, FL 32344
City State Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA VETERANS FOUNDATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20
Meeting Date

1076
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Bill Helwich

Job Title _____

Address 120 S. Monroe St
Street

Phone 650 251 2126

Palmdale FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing VFW / American Legion

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1394

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Simmons

SUBJECT: Fees/Tobacco Products

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1394 amends the definition of the term “tobacco products” in s. 569.002, F.S., as amended by SB 810 or similar legislation during the 2020 Regular Session. The bill amends the term “tobacco products” to include vapor-generating electronic devices (vaping products) and any substances that may be aerosolized or vaporized by such devices, whether or not any of the substances contain nicotine.

By revising the definition of “tobacco products” to include vapor-generating electronic devices, the bill requires a retail dealer of vapor-generating electronic devices, such as electronic cigarettes, to pay an annual license fee of \$50 for a retail tobacco product dealer permit.

The bill takes effect on the same date that SB 810 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof. CS/CS/SB 810 provides an effective date of October 1, 2020, contingent upon the passage of CS/SB 1394 being adopted in the same legislative session or an extension thereof and becoming law.

Article VII, Section 19 of the Florida Constitution requires that a tax or fee imposed by the Legislature must be contained in a separate bill that contains no other subject and must be approved by two-thirds of the membership of each house of the Legislature.

II. Present Situation:

CS/CS/SB 810

CS/CS/SB 810, relating to tobacco products, amends s. 569.002, F.S., which provides definitions related to the regulation of the retail sale of tobacco products, to redefine the term “tobacco products” to include:

- Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; or
- Any component, part, or accessory of a product described above, whether or not any of these contain tobacco or nicotine, including but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes.

Under the CS/CS/SB 810, the term “tobacco products” does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

CS/CS/SB 810 increases the minimum age to lawfully purchase and possess tobacco products from 18 years of age to 21 years of age.

CS/CS/SB 810 provides an effective date of October 1, 2020, contingent upon the passage of CS/SB 1394 being adopted in the same legislative session or an extension thereof and becoming law.

CS/CS/SB 810 repeals s. 877.112, F.S., to eliminate the prohibition on the sale or delivery of tobacco products, nicotine dispensing devices, and nicotine products to persons under the age of 18. Many of these provisions are incorporated into the provisions of ch. 569, F.S., by CS/CS/SB 810 as amended by CS/SB 1394.

Regulation of Vaping

During the 2019 legislative session, CS/SB 7012¹ was enacted to implement Amendment 9 to the Florida Constitution,² which was approved by the voters of Florida on November 6, 2018, to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces, as part of the Florida Clean Indoor Air Act. The use of e-cigarettes is commonly referred to as vaping.

The use of vapor-generating electronic devices is permitted in the enclosed indoor workplace of a “vapor-generating device retailer” or “retail vape shop,” which is defined as “any enclosed indoor workplace dedicated to or predominantly for the retail sale of vapor-generating electronic devices and components, parts, and accessories for such products, in which the sale of other products or services is merely incidental.” Vaping is permitted at the same locations authorized

¹ See ch. 2019-14, Laws of Fla.

² FLA. CONST. art. X, s. 20.

to permit tobacco smoking, i.e., private residences whenever not being used for certain commercial purposes, stand-alone bars, designated rooms in hotels and other public lodging establishments, retail tobacco shops, facilities owned or leased by a membership association, smoking cessation program locations, medical or scientific research locations, and customs smoking rooms in airport in-transit lounges.

Local governments may adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

The above provisions were approved by the Governor and took effect July 1, 2019.

Unlike the retail sale of tobacco products, which is subject to regulation under ch. 569, F.S., the sale of vape products is only regulated under the provisions of s. 877.112, F.S. While tobacco products in Florida are subject to specific taxation under ch. 210, F.S., vaping products are only subject to sales taxes.

Nicotine Dispensing Devices

Section 877.112, F.S., provides requirements for the sale of nicotine dispensing devices and nicotine products to minors, such as electronic cigarettes (e-cigarettes). This statute extends the current prohibitions related to tobacco products to the sale, gifting, possession, or use of nicotine dispensing devices and nicotine products to and by persons under 18 years of age.

A “nicotine dispensing device” is:

any product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of nicotine in a solution or other form intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.³

A “nicotine product” is:

any product that contains nicotine, including liquid nicotine intended for human consumption, whether inhaled, chewed, absorbed, dissolved or ingested by any means. The definition does not include a tobacco product under Florida law, a drug or device under federal law, or a product that contains incidental nicotine.⁴

The sale or giving of nicotine products or nicotine dispensing devices to any person under 18 years of age is prohibited and punishable as a second degree misdemeanor.⁵ It is a complete defense to a violation if an underage person falsely misrepresented his or her age, the underage

³ Section 877.112(1)(a), F.S.

⁴ Section 877.112(1)(b), F.S.

⁵ Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

person had the appearance to a prudent person to 18 years of age or older, and the person carefully checked, and relied on, the driver license or identification card of the recipient.⁶

Persons under 18 years of age possessing, purchasing, or misrepresenting their age or military service to obtain nicotine products or nicotine dispensing devices commit a noncriminal violation. The penalty is 16 hours of community service or a \$25 fine for a first violation, and attendance at a school-approved anti-tobacco and nicotine program, if available. A second or subsequent violation within 12 weeks of the first violation requires a \$25 fine. Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.⁷

If a person under 18 years of age is found by the court to have committed such a noncriminal violation and that person has failed to complete community service, pay the required fine, or attend a school-approved anti-tobacco and nicotine program, if locally available, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver license or driving privilege of that person for 30 or 45 consecutive days, depending on the infraction.⁸

Eighty percent of civil penalties specific to possession of nicotine products or nicotine dispensing devices by minors and misrepresenting age in making such purchases are remitted to the Department of Revenue for transfer to the Department of Education for teacher training and for research and evaluation to reduce and prevent the use of tobacco products, nicotine products, or nicotine dispensing devices by children. The remaining 20 percent of civil penalties received by a county court are retained by the clerk of the county court to cover administrative costs.⁹

Subsection 877.112(10), F.S., requires a retail dealer of nicotine products and nicotine dispensing devices to post signs that the sale of nicotine products and nicotine dispensing devices to persons under 18 years of age is prohibited.

Nicotine products or nicotine dispensing devices may not be sold or delivered by self-service merchandising, except when such products are under the direct control of, or in the line of sight where effective control may be reasonably maintained by, the retailer or their agent or employee.¹⁰

To prevent persons under 18 years of age from purchasing or receiving nicotine products or nicotine dispensing devices, s. 877.112(12), F.S., requires retailers to comply with restrictions identical to the restrictions on the sale of tobacco products in s. 569.007(1), F.S., such as requiring the products to be sold or delivered only when under the direct control or line of sight of the retailer and requiring a lock-out device if the products are sold or delivered from a vending machine.

⁶ Section 877.112(5), F.S.

⁷ Sections 877.112(6) and (7), F.S.

⁸ Section 877.112(8), F.S.

⁹ Section 877.112(9), F.S.

¹⁰ Section 877.112(11), F.S.

Rates of Youth Vaping

According to recent data from the federal Centers for Disease Control and Prevention (CDC), more than one in four high school students is an e-cigarette user.¹¹ That represents an increase from approximately one in five last year. At the same time, around 10 percent of middle school students reported using e-cigarettes in the month prior to being surveyed, up from around 5 percent last year. Nearly 70 percent of e-cigarette users reported using a flavored product, and the availability of flavors such as mint and chocolate was a reason that many students cited for trying e-cigarettes. The findings come a year after the U.S. Surgeon General declared the surge in youth vaping an epidemic.¹²

Health Issues Relating to Vaping

The findings noted above regarding the increases in youth vaping come at the same time that the CDC is conducting an ongoing national investigation of vaping-related lung injuries. The CDC, the federal Food and Drug Administration (FDA), state and local health departments, and public health and clinical stakeholders have spent the past several months investigating and monitoring the nationwide illness outbreak. The condition has been labelled as E-cigarette, or Vaping, product use-Associated Lung Injury, or EVALI. The latest count from the CDC finds that 2,409 people have been hospitalized and 52 people have died across 25 states and Washington, D.C., as of December 10, 2019.¹³ Two of the deaths have occurred in Florida, and 103 cases of vaping-related illness hospitalizations have been documented in Florida as of December 3, 2019.¹⁴

National Minimum Age of Sale of Tobacco Products

As part of the federal budget revisions adopted in December 2019, and signed into law on December 20, 2019, the minimum age for the sale of tobacco products is now 21 years of age.¹⁵ The specific tobacco provisions in the budget document amended section 906(d) of the Federal Food, Drug, and Cosmetic Act to increase the federal minimum age to purchase tobacco products from 18 to 21, and to add a provision that it is unlawful for any retailer to sell a tobacco product to any person younger than age 21. The provisions also require the FDA to update its applicable tobacco regulations within specified timelines.

¹¹ See “Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019” Centers for Disease Control and Prevention- Morbidity and Mortality Weekly Report (MMWR), (December 6, 2019), available at <https://www.cdc.gov/mmwr/volumes/68/ss/ss6812a1.htm> (last visited Feb. 6, 2020).

¹² See “Surgeon General Warns Youth Vaping Is Now An ‘Epidemic,’” December 18, 2018, available at <https://www.npr.org/sections/health-shots/2018/12/18/677755266/surgeon-general-warns-youth-vaping-is-now-an-epidemic> (last visited Feb. 6, 2020).

¹³ Mikosz CA, Danielson M, Anderson KN, et al. Characteristics of Patients Experiencing Rehospitalization or Death After Hospital Discharge in a Nationwide Outbreak of E-cigarette, or Vaping, Product Use–Associated Lung Injury — United States, 2019. CDC, *Morbidity & Mortality Weekly Report* 2020;68:1183-1188. (December 20, 2019), available at <http://dx.doi.org/10.15585/mmwr.mm685152e1> (last visited Feb. 6, 2020).

¹⁴ See “Florida reports second vaping death” (December 11, 2019), available at <http://www.orlandosentinel.com/news/os-ne-florida-reports-second-vaping-death-20191211-dvz3tehxebvbkavhe2jdiepe-story.html> (last visited Feb. 6, 2020).

¹⁵ See the “Further Consolidated Appropriations Act, 2020,” Rules Committee print 116-44, Text of the House Amendment to the Senate Amendment to H.R. 1865, December 16, 2019, beginning at page 1492 of 1773, available at <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HR1865SA-RCP116-44.PDF> (last visited Feb. 6, 2020).

As part of this rule update process, the FDA is to update the relevant age verification requirements to require age verification for individuals under age 30 (as opposed to the current age verification threshold for individuals under age 27). This topic had been under consideration for some time, and adoption of the changes were the result of the recent increased vaping rates among youth as highlighted above, the recent EVALI cases as highlighted above, and the adoption of age 21 as the minimum age for purchase of tobacco products in multiple states as highlighted in the **Related Issues** portion of this analysis.

FDA Guidance Document

On January 2, 2020, the FDA released “Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market without Premarket Authorization” (FDA Guidance Document) as a Guidance for Industry document.¹⁶ (For all intents and purposes, the reference to ENDS products is a reference to vaping products.) The Guidance Document’s introduction describes how the FDA intends to prioritize its enforcement resources with regard to the marketing of certain deemed tobacco products that do not have premarket authorization.

The introduction further indicates that, as with FDA’s prior compliance policies on deemed new tobacco products that do not have premarket authorization, this guidance document does not apply to any deemed product that was not on the market on August 8, 2016.¹⁷ For ENDS products marketed without the FDA’s authorization, the FDA intends to prioritize enforcement against:

- Any flavored, cartridge-based ENDS product (other than a tobacco- or menthol-flavored ENDS product);
- All other ENDS products for which the manufacturer has failed to take (or is failing to take) adequate measures to prevent minors’ access; and
- Any ENDS product that is targeted to minors or whose marketing is likely to promote use of ENDS by minors.

¹⁶ See “Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market without Premarket Authorization: Guidance for Industry, released by the U.S. Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, (January 2, 2020), available at <https://www.fda.gov/media/133880/download> (last visited Feb. 6, 2020). The document as released is a follow-up to a draft document that was released by the FDA in March 2019. Appendix A of the document, consisting of pages 32-52 of the 52 page document, reflects FDA’s response to comments received on the March 2019 draft document.

¹⁷ A brief explanation of “deeming” is helpful in this context. The Family Smoking Prevention and Tobacco Control Act (2009) (the act) gave the FDA the authority to regulate tobacco products. The act broadly defined “tobacco products” as any product that is “made or derived from tobacco” that is “intended for human consumption.” However, the act, when passed, only immediately applied to a few specific products, namely cigarettes, cigarette tobacco, smokeless tobacco, and roll-your-own tobacco. To regulate any other tobacco products, the act requires the FDA to assert jurisdiction through regulation. In other words, for the FDA to start regulating cigars, e-cigarettes, hookah, and other products currently unregulated by the federal government, the FDA must create a rule through its formal notice-and-comment rulemaking process. A rule, or regulation, that extends the FDA’s jurisdiction to all tobacco products is often referred to as a Deeming Regulation because the language of the Tobacco Control Act states that the FDA can regulate additional tobacco products that it “deems to be subject” to the act. While this process exists and has been used, its use is infrequent. From *A Deeming Regulation: What is Possible Under the Law*, Tobacco Control Legal Consortium, available at <https://www.publichealthlawcenter.org/sites/default/files/resources/tclcf-fs-deeming-reg-what-is-possible-2014.pdf> (last visited Feb. 6, 2020).

The Guidance Document provides background details of the FDA’s statutory and regulatory history of tobacco related products, evidence of increasing youth use of vaping products, applicable definitions, enforcement priorities, strategies for avoiding use of “black market” products, and the FDA’s logic regarding enforcement and pre-market review for other deemed new tobacco products.

III. Effect of Proposed Changes:

The bill amends the definition for the term “tobacco products” in s. 569.002, F.S., as amended by SB 810 or similar legislation during the 2020 Regular Session or an extension thereof. The bill amends the meaning of the term “tobacco products” to include vapor-generating electronic devices (vaping products) and any substances that may be aerosolized or vaporized by such device, whether or not any of the substance contains nicotine.

The bill defines the term “vapor-generating electronic device” to mean:

[A]ny product that employs an electronic, chemical, or mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product; any replacement cartridge for such device; and any other container of nicotine in a solution or other substance form intended to be used with or within an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, a vape pen, an electronic hookah, or other similar device or product. The term includes any component, part, or accessory of the device and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine.

Under the bill, the term “vapor-generating electronic device” does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

By revising the definition of “tobacco products” to include vapor-generating electronic devices, the bill requires a retail dealer of vapor-generating electronic devices, such as electronic cigarettes, to pay an annual license fee of \$50 for a retail tobacco product dealer permit.¹⁸

The bill uses the same term, vapor-generating electronic device, used in the Florida Constitution and the Florida Clean Indoor Air Act (act) in prohibition against indoor vaping.¹⁹ The definition for the term in the bill and in the Florida Constitution and the act are consistent.

The bill takes effect on the same date that SB 810 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof. CS/CS/SB 810

¹⁸ See s. 569.003(1)(c), F.S.

¹⁹ See FLA. CONST. art. X, s. 20.

provides an effective date of October 1, 2020, contingent upon the passage of CS/SB 1394 being adopted in the same legislative session or an extension thereof and becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill amends s. 569.002(7), F.S., to revise the definition of “tobacco products” to include vapor-generating electronic devices. By amending the definition, the bill requires retail dealers of vapor-generating electronic device, such as electronic cigarettes, to pay an annual license fee of \$50 for a retail tobacco product dealer permit.²⁰

Article VII, Section 19 of the Florida Constitution requires a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”²¹

Article VII, Section 19 of the Florida Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²⁰ See s. 569.003(1)(c), F.S.

²¹ FLA. CONST. art. VII, s. 19(d)(1)

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends s. 569.002(6), F.S., to modify the definition of “tobacco products” in the context of the regulation of the retail sale of tobacco products.

Section 210.25(11), F.S., also defines the term “tobacco products” but does so to impose on those tobacco products an excise tax and surcharge and to require recordkeeping, licensure, and reporting by distributors. Because the bill does not revise this definition, the bill will not subject vapor-generating electronic devices, or substances aerosolized by such devices, to the excise tax or surcharge or require recordkeeping, licensure, and reporting by distributors.

Types of Vaping Devices Subject to Federal Enforcement Priorities

It should be noted that the vaping devices that will be subject to enhanced enforcement by the federal FDA under its January 2, 2020, guidance document are those vaping devices that are cartridge-based.²² This means that tank-based vaping devices will not be subject to enhanced federal FDA enforcement.

VIII. Statutes Affected:

This bill substantially amends section 569.002 of the Florida Statutes.

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

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

CS by Innovation, Industry, and Technology on February 3, 2020:

The CS:

- Does not amend s. 210.25, F.S., to revise the definition of the term “tobacco products” to include nicotine dispensing devices and nicotine products as defined in s. 877.112, F.S.
- Does not republish ss. 210.276 and 210.30, F.S, to impose the surcharge tax and excise tax, respectively, on nicotine dispensing devices and nicotine products, and to

²² *Supra* note 16.

subject distributors of nicotine dispensing devices and nicotine products to tax reporting and recordkeeping requirements.

- Changes the title of the bill from an act relating to “taxes and fees” to an act relating to “fees.”
- Amends the term “tobacco products” in s. 569.002, F.S., as amended by SB 810 or similar legislation during the 2020 Regular Session or an extension thereof, to include vapor-generating electronic devices.
- Revises the effective date of the bill to provide that the bill takes effect on the same date that SB 810 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof.

B. Amendments:

None.

By the Committee on Innovation, Industry, and Technology; and
Senator Simmons

580-03012-20

20201394c1

1 A bill to be entitled
2 An act relating to fees; amending s. 569.002, F.S.;
3 expanding the definition of the term "tobacco
4 products" to include vapor-generating electronic
5 devices and components, parts, and accessories of such
6 devices and to include substances that may be
7 aerosolized or vaporized by such devices; defining the
8 term "vapor-generating electronic device"; providing a
9 contingent effective date.

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

11 Section 1. Subsection (6) of section 569.002, Florida
12 Statutes, as amended by SB 810 or similar legislation, 2020
13 Regular Session, is amended, and subsection (7) is added to that
14 section, to read:
15 569.002 Definitions.—As used in this chapter, the term:
16 (6) "Tobacco products" includes:
17 (a) Any product containing, made of, or derived from
18 tobacco or nicotine that is intended for human consumption or is
19 likely to be consumed, whether inhaled, absorbed, or ingested by
20 any other means, including, but not limited to, a cigarette, a
21 cigar, pipe tobacco, chewing tobacco, snuff, or snus;
22 (b) Any vapor-generating electronic device and any
23 substances that may be aerosolized or vaporized by such device,
24 whether or not the substance contains nicotine; or
25 (c) Any component, part, or accessory of a product
26 described in paragraph (a) or paragraph (b), whether or not any
27 of these contain tobacco or nicotine, including, but not limited
28
29

Page 1 of 2

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

580-03012-20

20201394c1

30 to, filters, rolling papers, blunt or hemp wraps, and pipes.
31
32 The term does not include drugs, devices, or combination
33 products authorized for sale by the United States Food and Drug
34 Administration, as those terms are defined in the Federal Food,
35 Drug, and Cosmetic Act.
36 (7) "Vapor-generating electronic device" means any product
37 that employs an electronic, chemical, or mechanical means
38 capable of producing vapor or aerosol from a nicotine product or
39 any other substance, including, but not limited to, an
40 electronic cigarette, electronic cigar, electronic cigarillo,
41 electronic pipe, or other similar device or product; any
42 replacement cartridge for such device; and any other container
43 of nicotine in a solution or other substance form intended to be
44 used with or within an electronic cigarette, an electronic
45 cigar, an electronic cigarillo, an electronic pipe, a vape pen,
46 an electronic hookah, or other similar device or product. The
47 term includes any component, part, or accessory of the device
48 and also includes any substance intended to be aerosolized or
49 vaporized during the use of the device, whether or not the
50 substance contains nicotine. The term does not include drugs,
51 devices, or combination products authorized for sale by the
52 United States Food and Drug Administration, as those terms are
53 defined in the Federal Food, Drug, and Cosmetic Act.
54 Section 2. This act shall take effect on the same date that
55 SB 810 or similar legislation takes effect, if such legislation
56 is adopted in the same legislative session or an extension
57 thereof and becomes a law.

Page 2 of 2

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: CS/SB 1394
FINAL ACTION: Favorable
MEETING DATE: Thursday, February 13, 2020
TIME: 12:30—2:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
6	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



The Florida Senate

Committee Agenda Request

To: Senator George Gainer, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: February 5, 2020

I respectfully request that **Senate Bill 1394**, relating to Taxes and Fees, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons".

Senator David Simmons
Florida Senate, District 9

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13

Meeting Date

HB 1394

Bill Number (if applicable)

Topic Tobacco

Amendment Barcode (if applicable)

Name Storm Goodlin

Job Title FLORIDA Grassroots manager

Address 1718 Tall Pines Drive

Phone 404 855 0588

Largo FL 33771

Email Storm.Goodlin@cancel.org

Speaking: For Against Information

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

Representing American Cancer Society Cancer Action Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/20
Meeting Date

SB 1394
Bill Number (if applicable)

Topic Fees / Tobacco

Amendment Barcode (if applicable)

Name Mark Landreth

Job Title Gov Rel D.V

Address 2851 Remington Green Cir #A
Street
FLA FLA 32308
City State Zip

Phone 850.544.3376

Email mark.landreth@heart.org

Speaking: For Against Information

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

Representing American Heart Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

February 13, 2020

Meeting Date

SB 1394

Bill Number (if applicable)

Topic Fees/Tobacco Products

Amendment Barcode (if applicable)

Name Ashley Lyerly

Job Title Director of Advocacy for Florida

Address 1678 Montgomery Highway, Suite 104-355

Phone (205) 968-2266

Street

Hoover

Alabama

35216

Email Ashley.Lyerly@lung.org

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/13/2020
Meeting Date

SB 1394
Bill Number (if applicable)

Topic fees/ tobacco products

Amendment Barcode (if applicable)

Name Lauren Storch

Job Title Government Relations

Address 601 E. Kennedy Blvd.
Street

Phone _____

Tampa FL 33602
City State Zip

Email storchla@HCFLgov.net

Speaking: For Against Information

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

Representing Hillsborough County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-13-20

Meeting Date

1394

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name J.D. McCormick

Job Title _____

Address 6265 Old Water Oak Rd. #102-B

Phone 407-508-0340

Street

Tallahassee

City

FL

State

32312

Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Finance and Tax Committee Judge:

Started: 2/13/2020 12:31:04 PM

Ends: 2/13/2020 1:36:03 PM Length: 01:05:00

12:31:04 PM Meeting called to order by Chair Gainer
12:31:06 PM Roll call
12:31:12 PM Quorum present
12:31:25 PM Comments from Chair Gainer
12:31:49 PM Temporary Pause
12:32:34 PM Introduction of Tab 7 by Chair Gainer
12:32:42 PM Explanation of CS/SB 542, Back-to-school Sales Tax Holiday by Senator Perry
12:33:32 PM Question from Senator Pizzo
12:33:39 PM Response from Senator Perry
12:34:03 PM Kurt Wenner, Florida TaxWatch waives in support
12:34:15 PM Brewster Bevis, Associated Industries of Florida waives in support
12:34:23 PM Jake Farmer, Florida Retail Federation waives in support
12:34:43 PM Closure waived
12:34:46 PM Roll call
12:34:48 PM CS/SB 546 reported favorably
12:35:11 PM Introduction of Tab 2 by Chair Gainer
12:35:27 PM Explanation of SJR 146, Homestead Property Tax Assessments/Increased Portability Period by Senator Brandes
12:36:22 PM Albert Balido, Florida Association of Property Appraisers waives in support
12:36:37 PM Closure waived
12:36:57 PM Roll call
12:37:01 PM SJR 146 reported favorably
12:37:19 PM Introduction of Tab 3 by Chair Gainer
12:37:27 PM Explanation of CS/SB 148, Limitations on Homestead Assessments by Senator Brandes
12:37:57 PM Albert Balido, Florida Association of Property Appraisers waives in support
12:38:09 PM Closure waived
12:38:12 PM Roll call
12:38:18 PM CS/SB 148 reported favorably
12:38:25 PM Introduction of Tab 1 by Chair Gainer
12:39:00 PM Explanation of SB 126, Sales and Use Tax by Senator Gruters
12:40:32 PM Jennifer Green, Best Buy waives in support
12:40:39 PM Carolyn Johnson, Florida Chamber of Commerce waives in support
12:40:50 PM Brewster Bevis, Associated Industries of Florida waives in support
12:40:55 PM Kurt Wenner, Florida TaxWatch waives in support
12:41:09 PM Speaker Grace Lovett, Florida Retail Federation in support
12:42:02 PM Greg Black, International Council of Shopping Centers waives in support
12:42:13 PM Amber Hughes, Florida League of Cities waives in support
12:42:24 PM Matthew Blair, Walmart waives in support
12:42:54 PM Senator Gruters in closure
12:43:38 PM Kurt Wenner, Florida TaxWatch waives in support
12:43:47 PM Roll call
12:43:56 PM SB 126 reported favorably
12:44:10 PM Senator Bradley would like to be shown voting in the Affirmative on CS/SB 532; No on SJR 146 and CS/SB 148
12:44:51 PM Introduction of Tab 5 by Chair Gainer
12:45:00 PM Explanation of CS/SB 514, Homestead Exemptions by Senator Gruters
12:46:03 PM Question from Senator Powell
12:46:18 PM Response from Senator Gruters
12:46:48 PM Senator Gruters in closure
12:47:48 PM Roll call
12:48:14 PM CS/SB 514 reported favorably
12:48:29 PM Carol Bracy, Amazon, SB 126 waives in support

12:48:54 PM Introduction of Tab 6 by Chair Gainer
12:49:10 PM Explanation of SB 524, Sales Tax Holiday for Disaster Preparedness Supplies by Senator Gruters
12:49:58 PM Question from Senator Powell
12:50:04 PM Response from Senator Gruters
12:50:17 PM Introduction of Amendment Barcode No. 130688 by Chair Gainer
12:50:32 PM Explanation of Amendment by Senator Gruters
12:50:48 PM Question from Senator Bradley
12:50:58 PM Response from Senator Gruters
12:51:18 PM Follow-up question from Senator Bradley
12:51:30 PM Response from Senator Gruters
12:52:03 PM Follow-up question from Senator Bradley
12:52:13 PM Response from Senator Gruters
12:52:35 PM Follow-up question from Senator Bradley
12:52:41 PM Response from Senator Gruters
12:52:57 PM Question from Senator Powell
12:53:07 PM Response from Senator Gruters
12:53:43 PM Follow-up question from Senator Powell
12:53:52 PM Response from Senator Gruters
12:54:35 PM Closure waived
12:54:55 PM Amendment adopted
12:55:15 PM Kurt Wenner, Florida TaxWatch waives in support
12:55:33 PM Jared Rosenstein, Division of Emergency Management waives in support
12:55:49 PM Scott Jenkins, PGT Innovations waives in support
12:55:54 PM Jake Farmer, Florida Retail Federation waives in support
12:56:02 PM Senator Pizzo in debate
12:57:18 PM Brewster Bevis, Associated Industries of Florida waives in support
12:57:40 PM Senator Gruters in closure
12:57:45 PM Roll call
12:58:35 PM CS/SB 524 reported favorably
12:58:56 PM Introduction of Tab 9 by Chair Gainer
12:59:49 PM Explanation of SJR 1076, Surviving Spouse Ad Valorem Tax Reduction by Senator Albritton
1:00:56 PM Christian Cochran, Florida Department of Veterans Affairs waives in support
1:01:03 PM John Haynes, Florida Veterans Foundation waives in support
1:01:11 PM Bill Helmich, VFW/American Legion waives in support
1:01:24 PM Senator Bradley in debate
1:02:07 PM Senator Baxley in debate
1:03:06 PM Senator Albritton in closure
1:03:13 PM Roll call
1:03:54 PM SJR 1076 reported favorably
1:04:08 PM Introduction of Tab 8 by Chair Gainer
1:04:24 PM Explanation of CS/SB 1074, Surviving Spouse Ad Valorem Tax Reduction by Senator Albritton
1:05:16 PM John Hayne, Florida Veterans Foundation waives in support
1:05:24 PM Christian Cochran, Florida Department of Veterans Affairs waives in support
1:05:34 PM Sam Wagoner, American Legion Auxiliary waives in support
1:05:51 PM Closure waived
1:05:56 PM Roll call
1:06:00 PM CS/SB 1074 reported favorably
1:06:14 PM Introduction of Tab 10 by Chair Gainer
1:06:43 PM Explanation of CS/SB 1394, Tobacco Products by Senator Simmons
1:10:21 PM Question from Senator Powell
1:10:37 PM Response from Senator Simmons
1:13:36 PM Follow-up question from Senator Powell
1:13:42 PM Response from Senator Simmons
1:15:03 PM Storm Goodlin, American Cancer Society, Cancer Action Network waives in support
1:15:12 PM Mark Landreth, American Heart Association waives in support
1:15:19 PM Speaker J.D. McCormick, Tallahassee, FL
1:19:36 PM Question from Senator Pizzo
1:19:46 PM Response from Mr. McCormick
1:19:59 PM Follow-up question from Senator Pizzo
1:20:06 PM Response from Mr. McCormick
1:20:13 PM Follow-up question from Senator Pizzo
1:20:20 PM Response from Mr. McCormick

1:20:51 PM Follow-up question from Senator Pizzo
1:20:58 PM Response from Mr. McCormick
1:22:20 PM Follow-up question from Senator Pizzo
1:22:29 PM Response from Mr. McCormick
1:22:44 PM Follow-up question from Senator Pizzo
1:22:51 PM Response from Mr. McCormick
1:23:33 PM Lauren Storch, Hillsborough County waives in support
1:23:44 PM Ashley Lyerly, Director of Advocacy for Florida waives in support
1:24:17 PM Senator Baxley in debate
1:26:45 PM Senator Simmons in closure
1:29:09 PM Roll call
1:30:10 PM CS/SB 1394 reported favorably
1:30:22 PM Introduction of Tab 4 by Chair Gainer
1:30:52 PM Explanation of SB 508, Sales Tax Absorption by Senator Baxley
1:31:42 PM Introduction of Amendment Barcode No. 406954 by Chair Gainer
1:32:08 PM Explanation of Amendment by Senator Baxley
1:33:02 PM Closure waived
1:33:30 PM Amendment adopted
1:33:40 PM Tim Nungesser, National Federation of Independent Business waives in support
1:34:08 PM Christian Camara, B & H Photo waives in support
1:34:43 PM Closure waived
1:34:45 PM Roll call
1:34:48 PM CS/SB 508 reported favorably
1:35:11 PM Senator Stargel shown in the affirmative on SB126; SJR 146; CS/SB 148; CS/SB 514; CS/SB 524;
CS/SB 542
1:35:40 PM Comments from Chair Gainer
1:35:46 PM Senator Pizzo moves to adjourn, meeting adjourned