

Tab 1	SB 50 by Gruters (CO-INTRODUCERS) Perry, Hooper, Torres, Taddeo, Burgess, Ausley, Albritton, Harrell ; (Compare to H 00015) Sales and Use Tax				
418406	D	S	RCS	FT, Gruters	Delete everything after 02/18 11:12 AM
Tab 2	SB 510 by Hooper (CO-INTRODUCERS) Polsky, Torres, Cruz, Stewart, Berman, Harrell ; (Identical to H 00013) State Funds				
Tab 3	SB 58 by Rodriguez ; Hospitals' Community Benefit Reporting				

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Rodriguez, Chair
Senator Cruz, Vice Chair

MEETING DATE: Thursday, February 18, 2021
TIME: 9:00—11:00 a.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Rodriguez, Chair; Senator Cruz, Vice Chair; Senators Berman, Harrell, Hooper, Jones, Rodrigues, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	SB 50 Gruters (Compare H 15)	Sales and Use Tax; Expanding the definition of the term "retail sale" to include sales facilitated through a marketplace; defining the terms "remote sale" and "substantial number of remote sales"; providing that every person making a substantial number of remote sales is a dealer for purposes of the sales and use tax; providing that certain marketplace providers are dealers for purposes of the sales and use tax; providing that a marketplace seller, rather than the marketplace provider, is liable for sales tax collection and remittance under certain circumstances, etc. CM 01/25/2021 Favorable FT 02/18/2021 Fav/CS AP	Fav/CS Yeas 8 Nays 0
2	SB 510 Hooper (Identical H 13)	State Funds; Exempting the State Housing Trust Fund and the Local Government Housing Trust Fund from a provision authorizing the Legislature, in the General Appropriations Act, to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and the General Revenue Fund, etc. CA 02/02/2021 Favorable FT 02/18/2021 Favorable AP	Favorable Yeas 7 Nays 1
3	SB 58 Rodriguez	Hospitals' Community Benefit Reporting; Repealing a provision relating to reporting of community benefit expenses for property tax exemption purposes, etc. CA 01/26/2021 Favorable FT 02/18/2021 Favorable AP	Favorable Yeas 7 Nays 1

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: CS/SB 50

INTRODUCER: Finance and Tax Committee; and Senator Gruters and others

SUBJECT: Sales and Use Tax

DATE: February 22, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillian</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Babin</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 50 requires out-of-state retailers and marketplace providers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if the out-of-state retailer or marketplace provider makes a substantial number of sales into Florida.

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

The Revenue Estimating Conference has not reviewed the fiscal impact of the bill.

Except as otherwise provided in the bill, the bill takes effect July 1, 2021.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax (sales tax) on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² and a limited number of services, and a 5.5 percent sales and use tax on commercial real estate.³ Chapter 212, F.S., authorizes the levy and

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

collection of Florida's sales and use tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances. Florida requires a dealer to add the tax to the sales price of the taxable good or service and collect it from the purchaser at the time of sale.⁴

In addition to the state tax, counties may levy local discretionary surtax. A county's total local discretionary surtax is comprised of separate surtaxes. Each separate surtax identifies the type of counties authorized to levy, the rates which may be imposed, and the purpose for which the proceeds may be expended.⁵ 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."⁶ 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.⁷

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.⁸ A dealer then remits the collected taxes to the Department of Revenue (department).⁹

For items sold by an out-of-state dealer and delivered to the in-state purchaser via mail (mail-order sales), states have relied on their use tax. Florida's use tax requires an in-state purchaser to remit to the department the tax owed on their purchase of an untaxed item.¹⁰ However, use tax compliance is notoriously low. Avalara reports that use tax compliance can be as low as 2 percent and is difficult to enforce.¹¹

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 has 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.¹² For decades, the U.S. Supreme Court has interpreted this substantial nexus requirement to require that the dealer have a physical presence (people or property) within the taxing state.¹³ The Court

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

⁵ Section 212.055, F.S.

⁶ Section 212.054, F.S.

⁷ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 2020 Local Discretionary Sales Surtax Rates in Florida's Counties, 231-232 (2020), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Jan. 22, 2021).

⁸ Florida Dept. of Revenue, *Florida Sales and Use Tax*, available at http://floridarevenue.com/taxes/taxesfees/Pages/sales_tax.aspx (last visited Jan. 22, 2021).

⁹ Section 212.15, F.S.

¹⁰ See s. 212.06, F.S.

¹¹ Gail Cole, *5 questions about use tax reporting requirements for non-collecting businesses*, *avalara.com*, Feb. 16, 2018, available at <https://www.avalara.com/us/en/blog/2018/02/5-use-tax-reporting-requirements-questions-for-non-collecting-businesses.html> (last visited Jan. 22, 2021).

¹² See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977).

¹³ *National Bellas Hess, Inc., v. Illinois*, 386 U.S. 753 (1967); *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992).

reasoned that it was an undue burden on interstate commerce to allow a taxing state to require an out-of-state dealer located outside of the taxing state to collect tax on behalf of the taxing state.¹⁴

Under the “substantial nexus” and “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.¹⁵ 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 standard.¹⁶ In fact, much of the statute is written in terms of being physically present within Florida.¹⁷

Taxation of Mail Order Sales

Section 212.0596, F.S., establishes when a dealer¹⁸ who makes a mail-order sale is subject to 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.¹⁹

Every dealer as defined in s. 212.06(2)(c), F.S., who makes a mail-order sale is subject to the power of Florida 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 Florida or is a person domiciled in, a resident of, or a citizen of, Florida.
- The dealer maintains retail establishments or offices in Florida.
- The dealer has agents in Florida who solicit business or transact business on behalf of the dealer.
- The property was delivered in Florida in fulfillment of a sales contract that was entered into in Florida when a person in Florida accepted an offer by ordering the property.
- The dealer, by purposefully or systematically exploiting the market provided by Florida by any media-assisted, media-facilitated, or media-solicited means, creates nexus with Florida.
- 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 Florida’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.

¹⁴ *Quill Corporation v. North Dakota*, at 314-315.

¹⁵ See s. 212.0596(1), F.S.

¹⁶ See p. 3, *infra*, ‘Taxation of Mail Order Sales’ for further discussion of what activities subject a dealer to the levy and collection of tax pursuant to ch. 212, F.S.

¹⁷ 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...).

¹⁸ 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.

¹⁹ Section 212.0596(1), F.S.

- The dealer's remote sales are subject to the power of Florida 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 Florida.
- 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 Florida.
- The dealer or the dealer's activities have sufficient connection with or relationship to Florida 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.²⁰

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 is 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.²¹ The department may establish rules 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.²²

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.²³

The Wayfair Decision

On June 21, 2018, the U.S. Supreme Court decided *South Dakota v. Wayfair*.²⁴ *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' abilities 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.

²⁰ Section 212.0596(2), F.S.

²¹ Section 212.0596(6), F.S.

²² Section 212.0596(7), F.S.

²³ *Id.*

²⁴ *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

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.

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.²⁵

Fees for Emergency Services

Enhanced 911 Fee

The Emergency Communications Number E911 Act established a comprehensive statewide emergency telecommunications number system to provide users of voice communications services within this state rapid direct access to public safety agencies by accessing the telephone number “911.” To accomplish this purpose, the Legislature authorized the levy of a reasonable fee on users of voice communications services. The fee is bifurcated by non-prepaid wireless service²⁶ and prepaid wireless service.²⁷

The fee imposed on prepaid wireless services is currently 40 cents and is collected by a seller for remittance to the DOR. Revenues derived from the fees levied on prepaid wireless services, less the costs of administration, are deposited by the DOR into the Emergency Communications Number E911 System Fund²⁸ and then distributed to the various counties for specific purposes and costs attributable to providing E911 service.²⁹ In Local Fiscal Year 2019-2020 counties received approximately \$15 million of prepaid wireless services fees.³⁰

Fees for Waste Tires and Lead-acid Batteries

Waste tires and lead-acid batteries are considered “special wastes” that require special handling and management³¹ and must be disposed of accordingly.³² Each new tire sold at retail is subject

²⁵ National Conference of State Legislatures, Remote Sales Tax Collection, (March 13, 2020), available at <https://www.ncsl.org/research/fiscal-policy/e-fairness-legislation-overview.aspx#Marketplace> (last visited Jan. 22, 2021).

²⁶ Section 365.172(8), F.S.

²⁷ Section 365.172(9), F.S.

²⁸ Section 365.173(1)(b), F.S.

²⁹ Section 365.173(2), F.S. and s. 365.172(10), F.S.

³⁰ Office of Economic and Demographic Research, *Enhance 911 Fee (Data Source: DMS), County Distributions: LFY 2014-2020* (Oct. 22, 2020), available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/a-f.cfm> (last visited Feb. 15, 2021).

³¹ Section 403.703(40), F.S.

³² See s. 403.717, F.S., and s. 403.708(12), F.S., encouraging “all persons who sell lead-acid batteries at retail” to “accept used lead-acid batteries as trade-ins for new lead-acid batteries.”

to a \$1 waste tire fee³³ and each new or remanufactured lead-acid battery is subject to a \$1.50 lead-acid battery fee.³⁴

The proceeds from the waste tire fee are deposited into the Solid Waste Management Trust Fund and a portion is used to fund the waste tire abatement program.³⁵ The proceeds from the lead-acid battery fee are deposited into the Water Quality Assurance Trust Fund.

III. Effect of Proposed Changes:

Taxation of Remote Sales and Marketplace Sales

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

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

Section 2 amends s. 212.05, F.S., to apply the sales and use tax to remote sales.

Section 3 substantially amends s. 212.0596, F.S. The bill changes the catch line to refer to the taxation of remote sales, removes references or requirements related to a "mail order sale," and provides that a person who makes a substantial number of remote sales is a dealer for purposes of ch. 212, F.S.

The bill defines "substantial number of remote sales" to mean conducting any number of taxable remote sales in an amount exceeding \$100,000 during the previous calendar year.

Section 4 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 provider" 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 all or a part of the payment to the marketplace seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for its services.

Excluded from the definition of marketplace provider is (1) any person who solely provides travel agency services, (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

³³ Section 403.718, F.S.

³⁴ Section 403.7185, F.S.

³⁵ See s. 403.7095, F.S.

taxes in the same way as a marketplace provider, or (3) a payment processor business whose sole activity with respect to marketplace sales is to handle payment transactions between two parties.

- “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 Florida, 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.

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.

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 5, effective April 1, 2022, amends s. 212.05965, F.S., to allow a marketplace provider and a qualifying marketplace seller to agree contractually to have the marketplace seller collect and remit the taxes for sales on the marketplace. To qualify for this treatment a marketplace seller must have annual U.S. gross sales of more than \$1 billion, including the gross sales of any related entities, and in the case of franchised entities, including the combined sales of all franchisees of a single franchisor.

The bill also requires, effective April 1, 2022, that a marketplace provider, at the time of sale, must collect and remit the prepaid wireless E911 fee,³⁶ the waste tire fee,³⁷ and the lead-acid battery fee, on applicable sales.³⁸

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.

Section 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 amends s. 212.20(4), F.S., to incorporate s. 212.05965, F.S.

Section 10 makes conforming changes to s. 213.27(5), F.S., to clarify that s. 213.27(5), F.S., applies to a person making or facilitating remote sales under s. 212.0596, F.S. or s. 212.05965, F.S.

Section 11 provides that this act first applies to remote sales made or facilitated on or after July 1, 2021, by a person who made or facilitated a substantial number of remote sales in calendar year 2020.

Section 12 grants relief of liability for tax, penalty, and interest to the following persons upon registration with DOR: any person who conducted remote sales prior to the effective date of the bill, regardless of that person being found to have had a physical presence in this state; a marketplace seller for those sales made before the effective date of the bill; and a marketplace provider with a physical presence in this state is relieved of liability on those sales the marketplace provider facilitated on behalf of marketplace sellers.

This relief does not establish a right to a refund of taxes already paid.

³⁶ Section 365.172, F.S.

³⁷ Section 403.718, F.S.

³⁸ Section 403.7185, F.S.

Section 13 authorizes the department to adopt emergency rules to implement the bill. The emergency rulemaking grant is authorized upon the act becoming law, and expires July 1, 2022.

Section 14 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 15 provides that this section take effect upon becoming law, and except as otherwise provided, the bill takes effect July 1, 2021.

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:

Article VII, s. 19 of the Florida Constitution requires new or increased taxes or fees to be passed by a 2/3 vote of the membership of each house of the Legislature in a separate bill that contains no other subject.

Since 1990, Florida has required dealers who transact mail-order sales to collect Florida's tax when the activities of the dealer have sufficient connection with this state to create nexus under the U.S. Commerce Clause.³⁹

The bill neither imposes a tax where none was due before, nor does it increase the amount of a current state tax. Rather, the bill updates Florida's mail-order statute to align with U.S. Commerce Clause limitations, as redefined by the U.S. Supreme Court in *Wayfair*. As such, the bill does not appear to implicate the requirements of Article VII, s. 19 of the Florida Constitution.

³⁹ Section 212.0596(2)(1), F.S.

E. **Other Constitutional Issues:**

The facts involved in *Wayfair* provide the only situation currently known to satisfy all constitutional requirements for an out-of-state retailer 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 has not reviewed the fiscal impact of the bill.

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:**

None.

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, 212.20, and 213.27.

This bill creates section 212.05965 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 Finance and Tax on February 18, 2021:

The CS:

- Grants relief of liability for tax, penalty, and interest to Florida customers, out-of-state dealers, and marketplaces on remote sales that occurred prior to the effective date of this bill.

- Retains a provision of current law allowing the DOR authority to waive the local option surtax on Floridians' purchases of items in another state that they transport into this state.
- Clarifies that marketplace providers must collect tax on sales made on behalf of marketplace sellers regardless of how much of the sale proceeds are transferred back to the marketplace seller.
- Effective April 1, 2022:
 - Requires a marketplace provider to collect and remit the E911 fee, waste tire fee, and lead-acid battery fee.
 - Authorizes a marketplace provider and large retailer to agree to have the large retailer collect and remit the tax on sales made on a marketplace. A large retailer is one that has gross U.S. sales of more than \$1 billion. The retailer must be registered with this state and notify the DOR that the retailer will collect and remit all taxes and fees.

B. Amendments:

None.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations Subcommittee on Education
Banking and Insurance
Commerce and Tourism
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JOE GRUTERS

23rd District

January 29, 2021

The Honorable Ana Maria Rodriguez, Chair
Committee on Finance and Tax
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Rodriguez:

I am writing to request that Senate Bill 50, Sales and Use Tax 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: Robert Babin, Staff Director

REPLY TO:

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

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/18/21

Meeting Date

SB 50

Bill Number (if applicable)

418406

Amendment Barcode (if applicable)

Topic E-fairness

Name Jessica Janasiewicz

Job Title Governmental Consultant

Address 119 South Monroe Street, Suite 202

Phone 850-681-6788

Street

Tallahassee

FL

32301

Email jessica@rutledge-ecenia.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of School Administrators

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)

2/18/21
Meeting Date

50
Bill Number (if applicable)

418406
Amendment Barcode (if applicable)

Topic Market place Facilitation

Name CASEY REED

Job Title VP - Gov. Affairs + Policy

Address 150 S. Monroe St.

Phone (850) 591-6002

Tallahassee FL 32301
City State Zip

Email CR8243@AT.com

Speaking: For Against Information

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

Representing AT & T

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/21

Meeting Date

50

Bill Number (if applicable)

Topic Internet Sales Tax Collection

Amendment Barcode (if applicable)

Name GRACE Lovett

Job Title VP Government Affairs

Address 227 S. Adams St.

Phone 850 222-4082

Street

Tallahassee

FL

32301

Email grace@frf.org

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

2/18/21

Meeting Date

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

50

Bill Number (if applicable)

Topic Online Sales Tax

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address _____

Street

Phone 4073764801

City

State

Zip

Email ida.eskamani@gmail.com

Speaking: For Against Information

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

Representing Florida Rising

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/18/21

Meeting Date

50

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/2021

Meeting Date

SB 50

Bill Number (if applicable)

Topic Sales and Use Tax

Amendment Barcode (if applicable)

Name Dr. Nancy Lawther

Job Title legislation committee member

Address 1747 Orlando Central Pkwy

Phone 407 855-7604

Street

Orlando

City

FL

State

32809

Zip

Email legislation@

floridapta.org

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Florida PTA

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

2/18/2021

Meeting Date

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

SB 50

Bill Number (if applicable)

Topic Sales and Use Tax - E fairness

Amendment Barcode (if applicable)

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Phone 850 922 9755

Street

Tallahassee

FL

32308

Email bmckee@flcounties

City

State

Zip

CDR

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Florida Association of Counties

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)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE
APPEARANCE RECORD

2/18/21

Meeting Date

50

Bill Number (if applicable)

Topic Sales and Use Tax

Amendment Barcode (if applicable)

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 850-509-8022

Street

Tallahassee

FL

32308

Email greg@waypointstrat.com

City

State

Zip

Speaking: For Against Information

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

Representing International Council of Shopping Centers (ICSC)

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 (1/0/14/14...)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/18/2021

Meeting Date

50

Bill Number (if applicable)

Topic Sales and Use Tax

Amendment Barcode (if applicable)

Name French Brown

Job Title Lobbyist

Address 106 East College Avenue, Suite 1200

Phone 850-459-0992

Street

Tallahassee

FL

32301

Email fbrown@deanmead.com

City

State

Zip

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.

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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)

02/18/2021

Meeting Date

SB 50

Bill Number (if applicable)

Topic Sales and Use Tax

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Senior Legislative Advocate

Address 301 South Bronough Street #300

Phone 850-701-3619

Street

Tallahassee

FL

32301

Email ahughes@flcities.com

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] 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.

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THE FLORIDA SENATE APPEARANCE RECORD

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

2/18/2021

50

Meeting Date

Bill Number (if applicable)

Topic SALES AND USE TAX

Amendment Barcode (if applicable)

Name CAROL BRACY

Job Title CONSULTANT

Address 201 E PARK AVE, 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

2-18-21

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

SB50

Meeting Date

Bill Number (if applicable)

Topic Sales and Use Tax

Amendment Barcode (if applicable)

Name Justin Thomas

Job Title Director of Governmental Affairs

Address 119 S. Monroe St.

Phone 850-528-2209

Street Tallahassee, FL

Email justin@fzpa.org

City Tallahassee State FL Zip 32301

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

FEB 18 2021
Meeting Date

SB 50
Bill Number (if applicable)

Topic Sales Tax Expansion

Amendment Barcode (if applicable)

Name DAVID SERDAN

Job Title STATESMAN

Address 66 WINTERGREEN DR

Phone 352 805 6597

Street Fruitland Park FL 34731
City State Zip

Email golferdave1955@SNMFLA

Speaking: For Against Information

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

Representing Self Retired Business Man / Citizen

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.

By Senator Gruters

23-00343A-21

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1 A bill to be entitled
 2 An act relating to the sales and use tax; amending s.
 3 212.02, F.S.; expanding the definition of the term
 4 "retail sale" to include sales facilitated through a
 5 marketplace; conforming a provision to changes made by
 6 the act; amending s. 212.05, F.S.; conforming a
 7 provision to changes made by the act; amending s.
 8 212.0596, F.S.; replacing provisions relating to the
 9 taxation of mail order sales with provisions relating
 10 to the taxation of remote sales; defining the terms
 11 "remote sale" and "substantial number of remote
 12 sales"; providing that every person making a
 13 substantial number of remote sales is a dealer for
 14 purposes of the sales and use tax; creating s.
 15 212.05965, F.S.; defining terms; providing that
 16 certain marketplace providers are dealers for purposes
 17 of the sales and use tax; requiring marketplace
 18 providers to provide a certain certification to their
 19 marketplace sellers; specifying requirements for
 20 marketplace sellers; requiring marketplace providers
 21 to allow the Department of Revenue to examine and
 22 audit their books and records; specifying the
 23 examination and audit authority of the department;
 24 providing that a marketplace seller, rather than the
 25 marketplace provider, is liable for sales tax
 26 collection and remittance under certain circumstances;
 27 authorizing marketplace providers and marketplace
 28 sellers to enter into agreements for the recovery of
 29 certain taxes, interest, and penalties; providing

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

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30 construction and applicability; amending s. 212.06,
 31 F.S.; revising the definition of the term "dealer";
 32 conforming provisions to changes made by the act;
 33 amending s. 212.12, F.S.; deleting the authority of
 34 the department's executive director to negotiate a
 35 collection allowance with certain dealers; conforming
 36 provisions to changes made by the act; amending s.
 37 212.18, F.S.; conforming a provision to changes made
 38 by the act; amending s. 212.20, F.S.; providing
 39 applicability of requirements for refund of taxes
 40 adjudicated unconstitutionally collected to taxes
 41 levied or collected pursuant to marketplace
 42 provisions; amending s. 213.27, F.S.; conforming
 43 provisions to changes made by the act; providing
 44 applicability; authorizing the department to adopt
 45 emergency rules; providing for expiration of that
 46 authority; providing for severability; providing
 47 effective dates.
 48
 49 Be It Enacted by the Legislature of the State of Florida:
 50
 51 Section 1. Paragraph (e) of subsection (14) of section
 52 212.02, Florida Statutes, is amended, and paragraph (f) is added
 53 to that subsection, 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)

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

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

63 Section 2. Section 212.05, Florida Statutes, is amended to
64 read:

65 212.05 Sales, storage, use tax.—It is hereby declared to be
66 the legislative intent that every person is exercising a taxable
67 privilege who engages in the business of selling tangible
68 personal property at retail in this state, including the
69 business of making or facilitating remote ~~mail order~~ sales; ~~or~~
70 who rents or furnishes any of the things or services taxable
71 under this chapter; ~~or~~ who stores for use or consumption in
72 this state any item or article of tangible personal property as
73 defined herein and who leases or rents such property within the
74 state.

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

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

83 b. Each occasional or isolated sale of an aircraft, boat,
84 mobile home, or motor vehicle of a class or type which is
85 required to be registered, licensed, titled, or documented in
86 this state or by the United States Government shall be subject
87 to tax at the rate provided in this paragraph. The department

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

110 2. This paragraph does not apply to the sale of a boat or
111 aircraft by or through a registered dealer under this chapter to
112 a purchaser who, at the time of taking delivery, is a
113 nonresident of this state, does not make his or her permanent
114 place of abode in this state, and is not engaged in carrying on
115 in this state any employment, trade, business, or profession in
116 which the boat or aircraft will be used in this state, or is a

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117 corporation none of the officers or directors of which is a
 118 resident of, or makes his or her permanent place of abode in,
 119 this state, or is a noncorporate entity that has no individual
 120 vested with authority to participate in the management,
 121 direction, or control of the entity's affairs who is a resident
 122 of, or makes his or her permanent abode in, this state. For
 123 purposes of this exemption, either a registered dealer acting on
 124 his or her own behalf as seller, a registered dealer acting as
 125 broker on behalf of a seller, or a registered dealer acting as
 126 broker on behalf of the purchaser may be deemed to be the
 127 selling dealer. This exemption shall not be allowed unless:

128 a. The purchaser removes a qualifying boat, as described in
 129 sub-subparagraph f., from the state within 90 days after the
 130 date of purchase or extension, or the purchaser removes a
 131 nonqualifying boat or an aircraft from this state within 10 days
 132 after the date of purchase or, when the boat or aircraft is
 133 repaired or altered, within 20 days after completion of the
 134 repairs or alterations; or if the aircraft will be registered in
 135 a foreign jurisdiction and:

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

139 (II) The purchaser removes the aircraft from the state to a
 140 foreign jurisdiction within 10 days after the date the aircraft
 141 is registered by the applicable foreign airworthiness authority;
 142 and

143 (III) The aircraft is operated in the state solely to
 144 remove it from the state to a foreign jurisdiction.
 145

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146 For purposes of this sub-subparagraph, the term "foreign
 147 jurisdiction" means any jurisdiction outside of the United
 148 States or any of its territories;

149 b. The purchaser, within 90 days from the date of
 150 departure, provides the department with written proof that the
 151 purchaser licensed, registered, titled, or documented the boat
 152 or aircraft outside the state. If such written proof is
 153 unavailable, within 90 days the purchaser shall provide proof
 154 that the purchaser applied for such license, title,
 155 registration, or documentation. The purchaser shall forward to
 156 the department proof of title, license, registration, or
 157 documentation upon receipt;

158 c. The purchaser, within 30 days after removing the boat or
 159 aircraft from Florida, furnishes the department with proof of
 160 removal in the form of receipts for fuel, dockage, slippage,
 161 tie-down, or hangaring from outside of Florida. The information
 162 so provided must clearly and specifically identify the boat or
 163 aircraft;

164 d. The selling dealer, within 30 days after the date of
 165 sale, provides to the department a copy of the sales invoice,
 166 closing statement, bills of sale, and the original affidavit
 167 signed by the purchaser attesting that he or she has read the
 168 provisions of this section;

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

171 f. Unless the nonresident purchaser of a boat of 5 net tons
 172 of admeasurement or larger intends to remove the boat from this
 173 state within 10 days after the date of purchase or when the boat
 174 is repaired or altered, within 20 days after completion of the

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175 repairs or alterations, the nonresident purchaser applies to the
 176 selling dealer for a decal which authorizes 90 days after the
 177 date of purchase for removal of the boat. The nonresident
 178 purchaser of a qualifying boat may apply to the selling dealer
 179 within 60 days after the date of purchase for an extension decal
 180 that authorizes the boat to remain in this state for an
 181 additional 90 days, but not more than a total of 180 days,
 182 before the nonresident purchaser is required to pay the tax
 183 imposed by this chapter. The department is authorized to issue
 184 decals in advance to dealers. The number of decals issued in
 185 advance to a dealer shall be consistent with the volume of the
 186 dealer's past sales of boats which qualify under this sub-
 187 subparagraph. The selling dealer or his or her agent shall mark
 188 and affix the decals to qualifying boats in the manner
 189 prescribed by the department, before delivery of the boat.

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

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

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

198 (IV) The department is authorized to require dealers who
 199 purchase decals to file reports with the department and may
 200 prescribe all necessary records by rule. All such records are
 201 subject to inspection by the department.

202 (V) Any dealer or his or her agent who issues a decal
 203 falsely, fails to affix a decal, mismarks the expiration date of

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204 a decal, or fails to properly account for decals will be
 205 considered prima facie to have committed a fraudulent act to
 206 evade the tax and will be liable for payment of the tax plus a
 207 mandatory penalty of 200 percent of the tax, and shall be liable
 208 for fine and punishment as provided by law for a conviction of a
 209 misdemeanor of the first degree, as provided in s. 775.082 or s.
 210 775.083.

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

222 (VII) The department is authorized to adopt rules necessary
 223 to administer and enforce this subparagraph and to publish the
 224 necessary forms and instructions.

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

228
 229 If the purchaser fails to remove the qualifying boat from this
 230 state within the maximum 180 days after purchase or a
 231 nonqualifying boat or an aircraft from this state within 10 days
 232 after purchase or, when the boat or aircraft is repaired or

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

246 (b) At the rate of 6 percent of the cost price of each item
 247 or article of tangible personal property when the same is not
 248 sold but is used, consumed, distributed, or stored for use or
 249 consumption in this state; however, for tangible property
 250 originally purchased exempt from tax for use exclusively for
 251 lease and which is converted to the owner's own use, tax may be
 252 paid on the fair market value of the property at the time of
 253 conversion. If the fair market value of the property cannot be
 254 determined, use tax at the time of conversion shall be based on
 255 the owner's acquisition cost. Under no circumstances may the
 256 aggregate amount of sales tax from leasing the property and use
 257 tax due at the time of conversion be less than the total sales
 258 tax that would have been due on the original acquisition cost
 259 paid by the owner.

260 (c) At the rate of 6 percent of the gross proceeds derived
 261 from the lease or rental of tangible personal property, as

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262 defined herein; however, the following special provisions apply
 263 to the lease or rental of motor vehicles:

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

266 a. If the motor vehicle is rented in Florida, the entire
 267 amount of such rental is taxable, even if the vehicle is dropped
 268 off in another state.

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

271 2. Except as provided in subparagraph 3., for the lease or
 272 rental of a motor vehicle for a period of not less than 12
 273 months, sales tax is due on the lease or rental payments if the
 274 vehicle is registered in this state; provided, however, that no
 275 tax shall be due if the taxpayer documents use of the motor
 276 vehicle outside this state and tax is being paid on the lease or
 277 rental payments in another state.

278 3. The tax imposed by this chapter does not apply to the
 279 lease or rental of a commercial motor vehicle as defined in s.
 280 316.003(13) (a) to one lessee or rentee for a period of not less
 281 than 12 months when tax was paid on the purchase price of such
 282 vehicle by the lessor. To the extent tax was paid with respect
 283 to the purchase of such vehicle in another state, territory of
 284 the United States, or the District of Columbia, the Florida tax
 285 payable shall be reduced in accordance with the provisions of s.
 286 212.06(7). This subparagraph shall only be available when the
 287 lease or rental of such property is an established business or
 288 part of an established business or the same is incidental or
 289 germane to such business.

290 (d) At the rate of 6 percent of the lease or rental price

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291 paid by a lessee or rentee, or contracted or agreed to be paid
 292 by a lessee or rentee, to the owner of the tangible personal
 293 property.

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

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

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

300 (II) If the sale or recharge of the prepaid calling
 301 arrangement does not take place at the dealer's place of
 302 business, it shall be deemed to have taken place at the
 303 customer's shipping address or, if no item is shipped, at the
 304 customer's address or the location associated with the
 305 customer's mobile telephone number.

306 (III) The sale or recharge of a prepaid calling arrangement
 307 shall be treated as a sale of tangible personal property for
 308 purposes of this chapter, regardless of whether a tangible item
 309 evidencing such arrangement is furnished to the purchaser, and
 310 such sale within this state subjects the selling dealer to the
 311 jurisdiction of this state for purposes of this subsection.

312 (IV) No additional tax under this chapter or chapter 202 is
 313 due or payable if a purchaser of a prepaid calling arrangement
 314 who has paid tax under this chapter on the sale or recharge of
 315 such arrangement applies one or more units of the prepaid
 316 calling arrangement to obtain communications services as
 317 described in s. 202.11(9)(b)3., other services that are not
 318 communications services, or products.

319 b. The installation of telecommunication and telegraphic

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320 equipment.

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

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

338 (f) At the rate of 6 percent on the sale, rental, use,
 339 consumption, or storage for use in this state of machines and
 340 equipment, and parts and accessories therefor, used in
 341 manufacturing, processing, compounding, producing, mining, or
 342 quarrying personal property for sale or to be used in furnishing
 343 communications, transportation, or public utility services.

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

346 2. Notwithstanding other provisions of this chapter,
 347 inserts of printed materials which are distributed with a
 348 newspaper or magazine are a component part of the newspaper or

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349 magazine, and neither the sale nor use of such inserts is
350 subject to tax when:

351 a. Printed by a newspaper or magazine publisher or
352 commercial printer and distributed as a component part of a
353 newspaper or magazine, which means that the items after being
354 printed are delivered directly to a newspaper or magazine
355 publisher by the printer for inclusion in editions of the
356 distributed newspaper or magazine;

357 b. Such publications are labeled as part of the designated
358 newspaper or magazine publication into which they are to be
359 inserted; and

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

363 (h)1. A tax is imposed at the rate of 4 percent on the
364 charges for the use of coin-operated amusement machines. The tax
365 shall be calculated by dividing the gross receipts from such
366 charges for the applicable reporting period by a divisor,
367 determined as provided in this subparagraph, to compute gross
368 taxable sales, and then subtracting gross taxable sales from
369 gross receipts to arrive at the amount of tax due. For counties
370 that do not impose a discretionary sales surtax, the divisor is
371 equal to 1.04; for counties that impose a 0.5 percent
372 discretionary sales surtax, the divisor is equal to 1.045; for
373 counties that impose a 1 percent discretionary sales surtax, the
374 divisor is equal to 1.050; and for counties that impose a 2
375 percent sales surtax, the divisor is equal to 1.060. If a county
376 imposes a discretionary sales surtax that is not listed in this
377 subparagraph, the department shall make the applicable divisor

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378 available in an electronic format or otherwise. Additional
379 divisors shall bear the same mathematical relationship to the
380 next higher and next lower divisors as the new surtax rate bears
381 to the next higher and next lower surtax rates for which
382 divisors have been established. When a machine is activated by a
383 slug, token, coupon, or any similar device which has been
384 purchased, the tax is on the price paid by the user of the
385 device for such device.

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

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

394 b. If the owner or lessee of the machine is also its
395 operator, he or she shall be liable for payment of the tax on
396 the purchase or lease of the machine, as well as the tax on
397 sales generated through the machine.

398 c. If the proprietor of the business where the machine is
399 located does not own the machine, he or she shall be deemed to
400 be the lessee and operator of the machine and is responsible for
401 the payment of the tax on sales, unless such responsibility is
402 otherwise provided for in a written agreement between him or her
403 and the machine owner.

404 3.a. An operator of a coin-operated amusement machine may
405 not operate or cause to be operated in this state any such
406 machine until the operator has registered with the department

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407 and has conspicuously displayed an identifying certificate
 408 issued by the department. The identifying certificate shall be
 409 issued by the department upon application from the operator. The
 410 identifying certificate shall include a unique number, and the
 411 certificate shall be permanently marked with the operator's
 412 name, the operator's sales tax number, and the maximum number of
 413 machines to be operated under the certificate. An identifying
 414 certificate shall not be transferred from one operator to
 415 another. The identifying certificate must be conspicuously
 416 displayed on the premises where the coin-operated amusement
 417 machines are being operated.

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

433 c. A penalty of \$250 per machine is imposed on the operator
 434 for failing to properly obtain and display the required
 435 identifying certificate. A penalty of \$250 is imposed on the

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436 lessee of any machine placed in a place of business without a
 437 proper current identifying certificate. Such penalties shall
 438 apply in addition to all other applicable taxes, interest, and
 439 penalties.

440 d. Operators of coin-operated amusement machines must
 441 obtain a separate sales and use tax certificate of registration
 442 for each county in which such machines are located. One sales
 443 and use tax certificate of registration is sufficient for all of
 444 the operator's machines within a single county.

445 4. The provisions of this paragraph do not apply to coin-
 446 operated amusement machines owned and operated by churches or
 447 synagogues.

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

452 6. The department may adopt rules necessary to administer
 453 the provisions of this paragraph.

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

455 a. Detective, burglar protection, and other protection
 456 services (NAICS National Numbers 561611, 561612, 561613, and
 457 561621). Fingerprint services required under s. 790.06 or s.
 458 790.062 are not subject to the tax. Any law enforcement officer,
 459 as defined in s. 943.10, who is performing approved duties as
 460 determined by his or her local law enforcement agency in his or
 461 her capacity as a law enforcement officer, and who is subject to
 462 the direct and immediate command of his or her law enforcement
 463 agency, and in the law enforcement officer's uniform as
 464 authorized by his or her law enforcement agency, is performing

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

479 b. Nonresidential cleaning, excluding cleaning of the
 480 interiors of transportation equipment, and nonresidential
 481 building pest control services (NAICS National Numbers 561710
 482 and 561720).

483 2. As used in this paragraph, "NAICS" means those
 484 classifications contained in the North American Industry
 485 Classification System, as published in 2007 by the Office of
 486 Management and Budget, Executive Office of the President.

487 3. Charges for detective, burglar protection, and other
 488 protection security services performed in this state but used
 489 outside this state are exempt from taxation. Charges for
 490 detective, burglar protection, and other protection security
 491 services performed outside this state and used in this state are
 492 subject to tax.

493 4. If a transaction involves both the sale or use of a

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

508 5. Each seller of services subject to sales tax pursuant to
 509 this paragraph shall maintain a monthly log showing each
 510 transaction for which sales tax was not collected because the
 511 services meet the requirements of subparagraph 3. for out-of-
 512 state use. The log must identify the purchaser's name, location
 513 and mailing address, and federal employer identification number,
 514 if a business, or the social security number, if an individual,
 515 the service sold, the price of the service, the date of sale,
 516 the reason for the exemption, and the sales invoice number. The
 517 monthly log shall be maintained pursuant to the same
 518 requirements and subject to the same penalties imposed for the
 519 keeping of similar records pursuant to this chapter.

520 (j)1. Notwithstanding any other provision of this chapter,
 521 there is hereby levied a tax on the sale, use, consumption, or
 522 storage for use in this state of any coin or currency, whether

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523 in circulation or not, when such coin or currency:

524 a. Is not legal tender;

525 b. If legal tender, is sold, exchanged, or traded at a rate
526 in excess of its face value; or

527 c. Is sold, exchanged, or traded at a rate based on its
528 precious metal content.

529 2. Such tax shall be at a rate of 6 percent of the price at
530 which the coin or currency is sold, exchanged, or traded, except
531 that, with respect to a coin or currency which is legal tender
532 of the United States and which is sold, exchanged, or traded,
533 such tax shall not be levied.

534 3. There are exempt from this tax exchanges of coins or
535 currency which are in general circulation in, and legal tender
536 of, one nation for coins or currency which are in general
537 circulation in, and legal tender of, another nation when
538 exchanged solely for use as legal tender and at an exchange rate
539 based on the relative value of each as a medium of exchange.

540 4. With respect to any transaction that involves the sale
541 of coins or currency taxable under this paragraph in which the
542 taxable amount represented by the sale of such coins or currency
543 exceeds \$500, the entire amount represented by the sale of such
544 coins or currency is exempt from the tax imposed under this
545 paragraph. The dealer must maintain proper documentation, as
546 prescribed by rule of the department, to identify that portion
547 of a transaction which involves the sale of coins or currency
548 and is exempt under this subparagraph.

549 (k) At the rate of 6 percent of the sales price of each
550 gallon of diesel fuel not taxed under chapter 206 purchased for
551 use in a vessel, except dyed diesel fuel that is exempt pursuant

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552 to s. 212.08(4)(a)4.

553 (1) Florists located in this state are liable for sales tax
554 on sales to retail customers regardless of where or by whom the
555 items sold are to be delivered. Florists located in this state
556 are not liable for sales tax on payments received from other
557 florists for items delivered to customers in this state.

558 (m) Operators of game concessions or other concessionaires
559 who customarily award tangible personal property as prizes may,
560 in lieu of paying tax on the cost price of such property, pay
561 tax on 25 percent of the gross receipts from such concession
562 activity.

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

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

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

571 (5) Notwithstanding any other provision of this chapter,
572 the maximum amount of tax imposed under this chapter and
573 collected on each sale or use of a boat in this state may not
574 exceed \$18,000 and on each repair of a boat in this state may
575 not exceed \$60,000.

576 Section 3. Section 212.0596, Florida Statutes, is amended
577 to read:

578 (Substantial rewording of section. See
579 s. 212.0596, F.S., for present text.)
580 212.0596 Taxation of remote sales.-

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581 (1) As used in this chapter, the term:

582 (a) "Remote sale" means a retail sale of tangible personal
 583 property ordered by mail, telephone, the Internet, or other
 584 means of communication from a person who receives the order
 585 outside of this state and transports the property or causes the
 586 property to be transported from any jurisdiction, including this
 587 state, to a location in this state. For purposes of this
 588 paragraph, tangible personal property delivered to a location
 589 within this state is presumed to be used, consumed, distributed,
 590 or stored to be used or consumed in this state.

591 (b) "Substantial number of remote sales" means any number
 592 of taxable remote sales in the previous calendar year in which
 593 the sum of the sales prices, as defined in s. 212.02(16),
 594 exceeded \$100,000.

595 (2) Every person making a substantial number of remote
 596 sales is a dealer for purposes of this chapter.

597 Section 4. Section 212.05965, Florida Statutes, is created
 598 to read:

599 212.05965 Taxation of marketplace sales.-

600 (1) As used in this chapter, the term:

601 (a) "Marketplace" means any physical place or electronic
 602 medium through which tangible personal property is offered for
 603 sale.

604 (b) "Marketplace provider" means a person who facilitates a
 605 retail sale by a marketplace seller by listing or advertising
 606 for sale by the marketplace seller tangible personal property in
 607 a marketplace, and who directly, or indirectly through
 608 agreements or arrangements with third parties, collects payment
 609 from the customer and transmits the payment to the marketplace

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610 seller, regardless of whether the marketplace provider receives
 611 compensation or other consideration in exchange for its
 612 services.

613 1. The term does not include a person who solely provides
 614 travel agency services. As used in this subparagraph, the term
 615 "travel agency services" means arranging, booking, or otherwise
 616 facilitating for a commission, fee, or other consideration
 617 vacation or travel packages, rental cars, or other travel
 618 reservations; tickets for domestic or foreign travel by air,
 619 rail, ship, bus, or other mode of transportation; or hotel or
 620 other lodging accommodations.

621 2. The term does not include a person who is a delivery
 622 network company unless the delivery network company is a
 623 registered dealer for purposes of this chapter and the delivery
 624 network company notifies all local merchants that sell through
 625 the delivery network company's website or mobile application
 626 that the delivery network company is subject to the requirements
 627 of a marketplace provider under this section. As used in this
 628 subparagraph, the term:

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

632 b. "Delivery network courier" means a person who provides
 633 delivery services through a delivery network company website or
 634 mobile application using a personal means of transportation,
 635 such as a motor vehicle as defined in s. 320.01(1), bicycle,
 636 scooter, or other similar means of transportation; using public
 637 transportation; or by walking.

638 c. "Delivery services" means the pickup and delivery by a

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639 delivery network courier of one or more local products from a
 640 local merchant to a customer, which may include the selection,
 641 collection, and purchase of the local product in connection with
 642 the delivery. The term does not include any delivery requiring
 643 more than 75 miles of travel from the local merchant to the
 644 customer.

645 d. "Local merchant" means a kitchen, restaurant, or a
 646 third-party merchant, including a grocery store, retail store,
 647 convenience store, or business of another type, which is not
 648 under common ownership or control of the delivery network
 649 company.

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

653 3. The term does not include a payment processor business
 654 that is appointed to handle payment transactions from various
 655 channels, such as charge cards, credit cards, or debit cards,
 656 and whose sole activity with respect to marketplace sales is to
 657 handle payment transactions between two parties.

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

662 (2) A marketplace provider who has a physical presence in
 663 this state or who is making or facilitating through a
 664 marketplace a substantial number of remote sales as defined in
 665 s. 212.0596(1) is a dealer for purposes of this chapter.

666 (3) A marketplace provider shall certify to its marketplace
 667 sellers that it will collect and remit the tax imposed under

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668 this chapter on taxable retail sales made through the
 669 marketplace. Such certification may be included in the agreement
 670 between the marketplace provider and marketplace seller.

671 (4) (a) A marketplace seller may not collect and remit the
 672 tax under this chapter on a taxable retail sale when the sale is
 673 made through the marketplace and the marketplace provider
 674 certifies, as required under subsection (3), that it will
 675 collect and remit such tax. A marketplace seller shall exclude
 676 such sales made through the marketplace from the marketplace
 677 seller's tax return under s. 212.11.

678 (b)1. A marketplace seller who has a physical presence in
 679 this state shall register and shall collect and remit the tax
 680 imposed under this chapter on all taxable retail sales made
 681 outside of the marketplace.

682 2. A marketplace seller making a substantial number of
 683 remote sales as defined in s. 212.0596(1) shall register and
 684 shall collect and remit the tax imposed under this chapter on
 685 all taxable retail sales made outside of the marketplace. For
 686 the purposes of determining whether a marketplace seller made a
 687 substantial number of remote sales, the marketplace seller shall
 688 consider only those sales made outside of the marketplace.

689 (5) (a) A marketplace provider shall allow the department to
 690 examine and audit its books and records pursuant to s. 212.13.
 691 For retail sales facilitated through a marketplace, the
 692 department may not examine or audit the books and records of
 693 marketplace sellers, nor may the department assess marketplace
 694 sellers except to the extent that the marketplace provider seeks
 695 relief under paragraph (b). The department may examine, audit,
 696 and assess a marketplace seller for retail sales made outside of

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697 the marketplace under paragraph (4)(b).

698 (b) The marketplace provider is relieved of liability for
 699 the tax on the retail sale and the marketplace seller or
 700 customer is liable for the tax imposed under this chapter if the
 701 marketplace provider demonstrates to the department's
 702 satisfaction that the marketplace provider made a reasonable
 703 effort to obtain accurate information related to the retail
 704 sales facilitated through the marketplace from the marketplace
 705 seller, but that the failure to collect and pay the correct
 706 amount of tax imposed under this chapter was due to the
 707 provision of incorrect or incomplete information to the
 708 marketplace provider by the marketplace seller. This paragraph
 709 does not apply to a retail sale for which the marketplace
 710 provider is the seller if the marketplace provider and
 711 marketplace seller are related parties or if transactions
 712 between a marketplace seller and marketplace buyer are not
 713 conducted at arm's length.

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

716 (7) A marketplace provider and marketplace seller may agree
 717 by contract or otherwise that if a marketplace provider pays the
 718 tax imposed under this chapter on a retail sale facilitated
 719 through a marketplace for a marketplace seller as a result of an
 720 audit or otherwise, the marketplace provider has the right to
 721 recover such tax and any associated interest and penalties from
 722 the marketplace seller.

723 (8) This section may not be construed to authorize the
 724 state to collect sales tax from both the marketplace provider
 725 and the marketplace seller on the same retail sale.

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726 (9) Chapter 213 applies to the administration of this
 727 section to the extent that chapter does not conflict with this
 728 section.

729 Section 5. Paragraph (c) of subsection (2) and paragraph
 730 (a) of subsection (5) of section 212.06, Florida Statutes, are
 731 amended to read:

732 212.06 Sales, storage, use tax; collectible from dealers;
 733 "dealer" defined; dealers to collect from purchasers;
 734 legislative intent as to scope of tax.—

735 (2)

736 (c) The term "dealer" is further defined to mean every
 737 person, as used in this chapter, who sells at retail or who
 738 offers for sale at retail, or who has in his or her possession
 739 for sale at retail; or for use, consumption, or distribution; or
 740 for storage to be used or consumed in this state, tangible
 741 personal property as defined herein, including a retailer who
 742 transacts a remote mail order sale or a person who is a
 743 marketplace provider as defined in s. 212.05965.

744 (5)(a)1. Except as provided in subparagraph 2., it is not
 745 the intention of this chapter to levy a tax upon tangible
 746 personal property imported, produced, or manufactured in this
 747 state for export, provided that tangible personal property may
 748 not be considered as being imported, produced, or manufactured
 749 for export unless the importer, producer, or manufacturer
 750 delivers the same to a licensed exporter for exporting or to a
 751 common carrier for shipment outside the state or mails the same
 752 by United States mail to a destination outside the state; or, in
 753 the case of aircraft being exported under their own power to a
 754 destination outside the continental limits of the United States,

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755 by submission to the department of a duly signed and validated
 756 United States customs declaration, showing the departure of the
 757 aircraft from the continental United States; and further with
 758 respect to aircraft, the canceled United States registry of said
 759 aircraft; or in the case of parts and equipment installed on
 760 aircraft of foreign registry, by submission to the department of
 761 documentation, the extent of which shall be provided by rule,
 762 showing the departure of the aircraft from the continental
 763 United States; nor is it the intention of this chapter to levy a
 764 tax on any sale which the state is prohibited from taxing under
 765 the Constitution or laws of the United States. Every retail sale
 766 made to a person physically present at the time of sale shall be
 767 presumed to have been delivered in this state.

768 2.a. Notwithstanding subparagraph 1., a tax is levied on
 769 each sale of tangible personal property to be transported to a
 770 cooperating state as defined in sub-subparagraph c., at the rate
 771 specified in sub-subparagraph d. However, a Florida dealer will
 772 be relieved from the requirements of collecting taxes pursuant
 773 to this subparagraph if the Florida dealer obtains from the
 774 purchaser an affidavit setting forth the purchaser's name,
 775 address, state taxpayer identification number, and a statement
 776 that the purchaser is aware of his or her state's use tax laws,
 777 is a registered dealer in Florida or another state, or is
 778 purchasing the tangible personal property for resale or is
 779 otherwise not required to pay the tax on the transaction. The
 780 department may, by rule, provide a form to be used for the
 781 purposes set forth herein.

782 b. For purposes of this subparagraph, "a cooperating state"
 783 is one determined by the executive director of the department to

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784 cooperate satisfactorily with this state in collecting taxes on
 785 ~~remote mail order~~ sales. No state shall be so determined unless
 786 it meets all the following minimum requirements:

787 (I) It levies and collects taxes on ~~remote mail order~~ sales
 788 of property transported from that state to persons in this
 789 state, as described in s. 212.0596, upon request of the
 790 department.

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

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

798 (IV) Such state authorizes the department to audit dealers
 799 within its jurisdiction who make ~~remote mail order~~ sales that
 800 are the subject of s. 212.0596, or makes arrangements deemed
 801 adequate by the department for auditing them with its own
 802 personnel.

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

808 c. For purposes of this subparagraph, "sales of tangible
 809 personal property to be transported to a cooperating state"
 810 means ~~remote mail order~~ sales to a person who is in the
 811 cooperating state at the time the order is executed, from a
 812 dealer who receives that order in this state.

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813 d. The tax levied by sub-subparagraph a. shall be at the
814 rate at which such a sale would have been taxed pursuant to the
815 cooperating state's tax laws if consummated in the cooperating
816 state by a dealer and a purchaser, both of whom were physically
817 present in that state at the time of the sale.

818 e. The tax levied by sub-subparagraph a., when collected,
819 shall be held in the State Treasury in trust for the benefit of
820 the cooperating state and shall be paid to it at a time agreed
821 upon between the department, acting for this state, and the
822 cooperating state or the department or agency designated by it
823 to act for it; however, such payment shall in no event be made
824 later than 30 days from the last day of the calendar quarter
825 after the tax was collected. Funds held in trust for the benefit
826 of a cooperating state shall not be subject to the service
827 charges imposed by s. 215.20.

828 f. The department is authorized to perform such acts and to
829 provide such cooperation to a cooperating state with reference
830 to the tax levied by sub-subparagraph a. as is required of the
831 cooperating state by sub-subparagraph b.

832 g. In furtherance of this act, dealers selling tangible
833 personal property for delivery in another state shall make
834 available to the department, upon request of the department,
835 records of all tangible personal property so sold. Such records
836 shall include a description of the property, the name and
837 address of the purchaser, the name and address of the person to
838 whom the property was sent, the purchase price of the property,
839 information regarding whether sales tax was paid in this state
840 on the purchase price, and such other information as the
841 department may by rule prescribe.

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842 Section 6. Paragraph (a) of subsection (1) and paragraph
843 (a) of subsection (5) of section 212.12, Florida Statutes, are
844 amended to read:

845 212.12 Dealer's credit for collecting tax; penalties for
846 noncompliance; powers of Department of Revenue in dealing with
847 delinquents; brackets applicable to taxable transactions;
848 records required.—

849 (1) (a) ~~1-~~ Notwithstanding any other law and for the purpose
850 of compensating persons granting licenses for and the lessors of
851 real and personal property taxed hereunder, for the purpose of
852 compensating dealers in tangible personal property, for the
853 purpose of compensating dealers providing communication services
854 and taxable services, for the purpose of compensating owners of
855 places where admissions are collected, and for the purpose of
856 compensating remitters of any taxes or fees reported on the same
857 documents utilized for the sales and use tax, as compensation
858 for the keeping of prescribed records, filing timely tax
859 returns, and the proper accounting and remitting of taxes by
860 them, such seller, person, lessor, dealer, owner, and remitter
861 ~~(except dealers who make mail order sales)~~ who files the return
862 required pursuant to s. 212.11 only by electronic means and who
863 pays the amount due on such return only by electronic means
864 shall be allowed 2.5 percent of the amount of the tax due,
865 accounted for, and remitted to the department in the form of a
866 deduction. However, if the amount of the tax due and remitted to
867 the department by electronic means for the reporting period
868 exceeds \$1,200, an allowance is not allowed for all amounts in
869 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
870 the term "electronic means" has the same meaning as provided in

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871 s. 213.755(2)(c).

872 ~~2. The executive director of the department is authorized~~
 873 ~~to negotiate a collection allowance, pursuant to rules~~
 874 ~~promulgated by the department, with a dealer who makes mail~~
 875 ~~order sales. The rules of the department shall provide~~
 876 ~~guidelines for establishing the collection allowance based upon~~
 877 ~~the dealer's estimated costs of collecting the tax, the volume~~
 878 ~~and value of the dealer's mail order sales to purchasers in this~~
 879 ~~state, and the administrative and legal costs and likelihood of~~
 880 ~~achieving collection of the tax absent the cooperation of the~~
 881 ~~dealer. However, in no event shall the collection allowance~~
 882 ~~negotiated by the executive director exceed 10 percent of the~~
 883 ~~tax remitted for a reporting period.~~

884 (5)(a) The department is authorized to audit or inspect the
 885 records and accounts of dealers defined herein, including audits
 886 or inspections of dealers who make remote mail order sales ~~to~~
 887 ~~the extent permitted by another state~~, and to correct by credit
 888 any overpayment of tax, and, in the event of a deficiency, an
 889 assessment shall be made and collected. No administrative
 890 finding of fact is necessary prior to the assessment of any tax
 891 deficiency.

892 Section 7. Paragraph (f) of subsection (3) of section
 893 212.18, Florida Statutes, is amended to read:

894 212.18 Administration of law; registration of dealers;
 895 rules.—

896 (3)

897 (f) As used in this paragraph, the term "exhibitor" means a
 898 person who enters into an agreement authorizing the display of
 899 tangible personal property or services at a convention or a

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900 trade show. The following provisions apply to the registration
 901 of exhibitors as dealers under this chapter:

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

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

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

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

916
 917 A person who conducts a convention or a trade show must make his
 918 or her exhibitor's agreements available to the department for
 919 inspection and copying.

920 Section 8. Subsection (4) of section 212.20, Florida
 921 Statutes, is amended to read:

922 212.20 Funds collected, disposition; additional powers of
 923 department; operational expense; refund of taxes adjudicated
 924 unconstitutionally collected.—

925 (4) When there has been a final adjudication that any tax
 926 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,
 927 or both, contrary to the Constitution of the United States or
 928 the State Constitution, the department shall, in accordance with

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929 rules, determine, based upon claims for refund and other
 930 evidence and information, who paid such tax or taxes, and refund
 931 to each such person the amount of tax paid. For purposes of this
 932 subsection, a "final adjudication" is a decision of a court of
 933 competent jurisdiction from which no appeal can be taken or from
 934 which the official or officials of this state with authority to
 935 make such decisions has or have decided not to appeal.

936 Section 9. Subsection (5) of section 213.27, Florida
 937 Statutes, is amended to read:

938 213.27 Contracts with debt collection agencies and certain
 939 vendors.-

940 (5) The department may, for the purpose of ascertaining the
 941 amount of or collecting any taxes due from a person making or
 942 facilitating remote sales under s. 212.0596 or s. 212.05965
 943 doing mail order business in this state, contract with any
 944 auditing agency doing business within or without this state for
 945 the purpose of conducting an audit of such person mail order
 946 business; however, such audit agency may not conduct an audit on
 947 behalf of the department of any person domiciled in this state,
 948 person registered for sales and use tax purposes in this state,
 949 or corporation filing a Florida corporate tax return, if any
 950 such person or corporation objects to such audit in writing to
 951 the department and the auditing agency. The department shall
 952 notify the taxpayer by mail at least 30 days before the
 953 department assigns the collection of such taxes.

954 Section 10. This act first applies to remote sales made or
 955 facilitated on or after July 1, 2021, by a person who made or
 956 facilitated a substantial number of remote sales in calendar
 957 year 2020.

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958 Section 11. (1) The Department of Revenue is authorized,
 959 and all conditions are deemed met, to adopt emergency rules
 960 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
 961 administering this act.

962 (2) Notwithstanding any other law, emergency rules adopted
 963 pursuant to subsection (1) are effective for 6 months after
 964 adoption and may be renewed during the pendency of procedures to
 965 adopt permanent rules addressing the subject of the emergency
 966 rules.

967 (3) This section shall take effect upon this act becoming a
 968 law and expires July 1, 2022.

969 Section 12. If any provision of this act or its application
 970 to any person or circumstance is held invalid, the invalidity
 971 does not affect other provisions or applications of the act
 972 which can be given effect without the invalid provision or
 973 application, and to this end the provisions of this act are
 974 severable.

975 Section 13. Except as otherwise expressly provided in this
 976 act and except for this section, which shall take effect upon
 977 this act becoming a law, this act shall take effect July 1,
 978 2021.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (e) of subsection (14) of section
212.02, Florida Statutes, is amended, and paragraph (f) is added
to that subsection, to read:

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



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11 meaning:

12 (14)

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

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

17 Section 2. Section 212.05, Florida Statutes, is amended to
18 read:

19 212.05 Sales, storage, use tax.—It is hereby declared to be
20 the legislative intent that every person is exercising a taxable
21 privilege who engages in the business of selling tangible
22 personal property at retail in this state, including the
23 business of making or facilitating remote ~~mail order~~ sales; ~~or~~
24 who rents or furnishes any of the things or services taxable
25 under this chapter; ~~or~~ or who stores for use or consumption in
26 this state any item or article of tangible personal property as
27 defined herein and who leases or rents such property within the
28 state.

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

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

37 b. Each occasional or isolated sale of an aircraft, boat,
38 mobile home, or motor vehicle of a class or type which is
39 required to be registered, licensed, titled, or documented in



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40 this state or by the United States Government shall be subject
41 to tax at the rate provided in this paragraph. The department
42 shall by rule adopt any nationally recognized publication for
43 valuation of used motor vehicles as the reference price list for
44 any used motor vehicle which is required to be licensed pursuant
45 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
46 party to an occasional or isolated sale of such a vehicle
47 reports to the tax collector a sales price which is less than 80
48 percent of the average loan price for the specified model and
49 year of such vehicle as listed in the most recent reference
50 price list, the tax levied under this paragraph shall be
51 computed by the department on such average loan price unless the
52 parties to the sale have provided to the tax collector an
53 affidavit signed by each party, or other substantial proof,
54 stating the actual sales price. Any party to such sale who
55 reports a sales price less than the actual sales price is guilty
56 of a misdemeanor of the first degree, punishable as provided in
57 s. 775.082 or s. 775.083. The department shall collect or
58 attempt to collect from such party any delinquent sales taxes.
59 In addition, such party shall pay any tax due and any penalty
60 and interest assessed plus a penalty equal to twice the amount
61 of the additional tax owed. Notwithstanding any other provision
62 of law, the Department of Revenue may waive or compromise any
63 penalty imposed pursuant to this subparagraph.

64 2. This paragraph does not apply to the sale of a boat or
65 aircraft by or through a registered dealer under this chapter to
66 a purchaser who, at the time of taking delivery, is a
67 nonresident of this state, does not make his or her permanent
68 place of abode in this state, and is not engaged in carrying on



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69 in this state any employment, trade, business, or profession in
70 which the boat or aircraft will be used in this state, or is a
71 corporation none of the officers or directors of which is a
72 resident of, or makes his or her permanent place of abode in,
73 this state, or is a noncorporate entity that has no individual
74 vested with authority to participate in the management,
75 direction, or control of the entity's affairs who is a resident
76 of, or makes his or her permanent abode in, this state. For
77 purposes of this exemption, either a registered dealer acting on
78 his or her own behalf as seller, a registered dealer acting as
79 broker on behalf of a seller, or a registered dealer acting as
80 broker on behalf of the purchaser may be deemed to be the
81 selling dealer. This exemption shall not be allowed unless:

82 a. The purchaser removes a qualifying boat, as described in
83 sub-subparagraph f., from the state within 90 days after the
84 date of purchase or extension, or the purchaser removes a
85 nonqualifying boat or an aircraft from this state within 10 days
86 after the date of purchase or, when the boat or aircraft is
87 repaired or altered, within 20 days after completion of the
88 repairs or alterations; or if the aircraft will be registered in
89 a foreign jurisdiction and:

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

93 (II) The purchaser removes the aircraft from the state to a
94 foreign jurisdiction within 10 days after the date the aircraft
95 is registered by the applicable foreign airworthiness authority;
96 and

97 (III) The aircraft is operated in the state solely to



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98 remove it from the state to a foreign jurisdiction.

99

100 For purposes of this sub-subparagraph, the term "foreign
101 jurisdiction" means any jurisdiction outside of the United
102 States or any of its territories;

103 b. The purchaser, within 90 days from the date of
104 departure, provides the department with written proof that the
105 purchaser licensed, registered, titled, or documented the boat
106 or aircraft outside the state. If such written proof is
107 unavailable, within 90 days the purchaser shall provide proof
108 that the purchaser applied for such license, title,
109 registration, or documentation. The purchaser shall forward to
110 the department proof of title, license, registration, or
111 documentation upon receipt;

112 c. The purchaser, within 30 days after removing the boat or
113 aircraft from Florida, furnishes the department with proof of
114 removal in the form of receipts for fuel, dockage, slippage,
115 tie-down, or hangaring from outside of Florida. The information
116 so provided must clearly and specifically identify the boat or
117 aircraft;

118 d. The selling dealer, within 30 days after the date of
119 sale, provides to the department a copy of the sales invoice,
120 closing statement, bills of sale, and the original affidavit
121 signed by the purchaser attesting that he or she has read the
122 provisions of this section;

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

125 f. Unless the nonresident purchaser of a boat of 5 net tons
126 of admeasurement or larger intends to remove the boat from this



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127 state within 10 days after the date of purchase or when the boat
128 is repaired or altered, within 20 days after completion of the
129 repairs or alterations, the nonresident purchaser applies to the
130 selling dealer for a decal which authorizes 90 days after the
131 date of purchase for removal of the boat. The nonresident
132 purchaser of a qualifying boat may apply to the selling dealer
133 within 60 days after the date of purchase for an extension decal
134 that authorizes the boat to remain in this state for an
135 additional 90 days, but not more than a total of 180 days,
136 before the nonresident purchaser is required to pay the tax
137 imposed by this chapter. The department is authorized to issue
138 decals in advance to dealers. The number of decals issued in
139 advance to a dealer shall be consistent with the volume of the
140 dealer's past sales of boats which qualify under this sub-
141 subparagraph. The selling dealer or his or her agent shall mark
142 and affix the decals to qualifying boats in the manner
143 prescribed by the department, before delivery of the boat.

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

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

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

152 (IV) The department is authorized to require dealers who
153 purchase decals to file reports with the department and may
154 prescribe all necessary records by rule. All such records are
155 subject to inspection by the department.



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156 (V) Any dealer or his or her agent who issues a decal
157 falsely, fails to affix a decal, mismarks the expiration date of
158 a decal, or fails to properly account for decals will be
159 considered prima facie to have committed a fraudulent act to
160 evade the tax and will be liable for payment of the tax plus a
161 mandatory penalty of 200 percent of the tax, and shall be liable
162 for fine and punishment as provided by law for a conviction of a
163 misdemeanor of the first degree, as provided in s. 775.082 or s.
164 775.083.

165 (VI) Any nonresident purchaser of a boat who removes a
166 decal before permanently removing the boat from the state, or
167 defaces, changes, modifies, or alters a decal in a manner
168 affecting its expiration date before its expiration, or who
169 causes or allows the same to be done by another, will be
170 considered prima facie to have committed a fraudulent act to
171 evade the tax and will be liable for payment of the tax plus a
172 mandatory penalty of 200 percent of the tax, and shall be liable
173 for fine and punishment as provided by law for a conviction of a
174 misdemeanor of the first degree, as provided in s. 775.082 or s.
175 775.083.

176 (VII) The department is authorized to adopt rules necessary
177 to administer and enforce this subparagraph and to publish the
178 necessary forms and instructions.

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

182
183 If the purchaser fails to remove the qualifying boat from this
184 state within the maximum 180 days after purchase or a



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185 nonqualifying boat or an aircraft from this state within 10 days
186 after purchase or, when the boat or aircraft is repaired or
187 altered, within 20 days after completion of such repairs or
188 alterations, or permits the boat or aircraft to return to this
189 state within 6 months from the date of departure, except as
190 provided in s. 212.08(7)(fff), or if the purchaser fails to
191 furnish the department with any of the documentation required by
192 this subparagraph within the prescribed time period, the
193 purchaser shall be liable for use tax on the cost price of the
194 boat or aircraft and, in addition thereto, payment of a penalty
195 to the Department of Revenue equal to the tax payable. This
196 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
197 The maximum 180-day period following the sale of a qualifying
198 boat tax-exempt to a nonresident may not be tolled for any
199 reason.

200 (b) At the rate of 6 percent of the cost price of each item
201 or article of tangible personal property when the same is not
202 sold but is used, consumed, distributed, or stored for use or
203 consumption in this state; however, for tangible property
204 originally purchased exempt from tax for use exclusively for
205 lease and which is converted to the owner's own use, tax may be
206 paid on the fair market value of the property at the time of
207 conversion. If the fair market value of the property cannot be
208 determined, use tax at the time of conversion shall be based on
209 the owner's acquisition cost. Under no circumstances may the
210 aggregate amount of sales tax from leasing the property and use
211 tax due at the time of conversion be less than the total sales
212 tax that would have been due on the original acquisition cost
213 paid by the owner.



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

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

220 a. If the motor vehicle is rented in Florida, the entire
221 amount of such rental is taxable, even if the vehicle is dropped
222 off in another state.

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

225 2. Except as provided in subparagraph 3., for the lease or
226 rental of a motor vehicle for a period of not less than 12
227 months, sales tax is due on the lease or rental payments if the
228 vehicle is registered in this state; provided, however, that no
229 tax shall be due if the taxpayer documents use of the motor
230 vehicle outside this state and tax is being paid on the lease or
231 rental payments in another state.

232 3. The tax imposed by this chapter does not apply to the
233 lease or rental of a commercial motor vehicle as defined in s.
234 316.003(13)(a) to one lessee or rentee for a period of not less
235 than 12 months when tax was paid on the purchase price of such
236 vehicle by the lessor. To the extent tax was paid with respect
237 to the purchase of such vehicle in another state, territory of
238 the United States, or the District of Columbia, the Florida tax
239 payable shall be reduced in accordance with the provisions of s.
240 212.06(7). This subparagraph shall only be available when the
241 lease or rental of such property is an established business or
242 part of an established business or the same is incidental or



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243 germane to such business.

244 (d) At the rate of 6 percent of the lease or rental price
245 paid by a lessee or rentee, or contracted or agreed to be paid
246 by a lessee or rentee, to the owner of the tangible personal
247 property.

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

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

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

254 (II) If the sale or recharge of the prepaid calling
255 arrangement does not take place at the dealer's place of
256 business, it shall be deemed to have taken place at the
257 customer's shipping address or, if no item is shipped, at the
258 customer's address or the location associated with the
259 customer's mobile telephone number.

260 (III) The sale or recharge of a prepaid calling arrangement
261 shall be treated as a sale of tangible personal property for
262 purposes of this chapter, regardless of whether a tangible item
263 evidencing such arrangement is furnished to the purchaser, and
264 such sale within this state subjects the selling dealer to the
265 jurisdiction of this state for purposes of this subsection.

266 (IV) No additional tax under this chapter or chapter 202 is
267 due or payable if a purchaser of a prepaid calling arrangement
268 who has paid tax under this chapter on the sale or recharge of
269 such arrangement applies one or more units of the prepaid
270 calling arrangement to obtain communications services as
271 described in s. 202.11(9)(b)3., other services that are not



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272 communications services, or products.

273 b. The installation of telecommunication and telegraphic
274 equipment.

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

279 2. Section 212.17(3), regarding credit for tax paid on
280 charges subsequently found to be worthless, is equally
281 applicable to any tax paid under this section on charges for
282 prepaid calling arrangements, telecommunication or telegraph
283 services, or electric power subsequently found to be
284 uncollectible. As used in this paragraph, the term "charges"
285 does not include any excise or similar tax levied by the Federal
286 Government, a political subdivision of this state, or a
287 municipality upon the purchase, sale, or recharge of prepaid
288 calling arrangements or upon the purchase or sale of
289 telecommunication, television system program, or telegraph
290 service or electric power, which tax is collected by the seller
291 from the purchaser.

292 (f) At the rate of 6 percent on the sale, rental, use,
293 consumption, or storage for use in this state of machines and
294 equipment, and parts and accessories therefor, used in
295 manufacturing, processing, compounding, producing, mining, or
296 quarrying personal property for sale or to be used in furnishing
297 communications, transportation, or public utility services.

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

300 2. Notwithstanding other provisions of this chapter,



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301 inserts of printed materials which are distributed with a
302 newspaper or magazine are a component part of the newspaper or
303 magazine, and neither the sale nor use of such inserts is
304 subject to tax when:

305 a. Printed by a newspaper or magazine publisher or
306 commercial printer and distributed as a component part of a
307 newspaper or magazine, which means that the items after being
308 printed are delivered directly to a newspaper or magazine
309 publisher by the printer for inclusion in editions of the
310 distributed newspaper or magazine;

311 b. Such publications are labeled as part of the designated
312 newspaper or magazine publication into which they are to be
313 inserted; and

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

317 (h)1. A tax is imposed at the rate of 4 percent on the
318 charges for the use of coin-operated amusement machines. The tax
319 shall be calculated by dividing the gross receipts from such
320 charges for the applicable reporting period by a divisor,
321 determined as provided in this subparagraph, to compute gross
322 taxable sales, and then subtracting gross taxable sales from
323 gross receipts to arrive at the amount of tax due. For counties
324 that do not impose a discretionary sales surtax, the divisor is
325 equal to 1.04; for counties that impose a 0.5 percent
326 discretionary sales surtax, the divisor is equal to 1.045; for
327 counties that impose a 1 percent discretionary sales surtax, the
328 divisor is equal to 1.050; and for counties that impose a 2
329 percent sales surtax, the divisor is equal to 1.060. If a county



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330 imposes a discretionary sales surtax that is not listed in this
331 subparagraph, the department shall make the applicable divisor
332 available in an electronic format or otherwise. Additional
333 divisors shall bear the same mathematical relationship to the
334 next higher and next lower divisors as the new surtax rate bears
335 to the next higher and next lower surtax rates for which
336 divisors have been established. When a machine is activated by a
337 slug, token, coupon, or any similar device which has been
338 purchased, the tax is on the price paid by the user of the
339 device for such device.

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

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

348 b. If the owner or lessee of the machine is also its
349 operator, he or she shall be liable for payment of the tax on
350 the purchase or lease of the machine, as well as the tax on
351 sales generated through the machine.

352 c. If the proprietor of the business where the machine is
353 located does not own the machine, he or she shall be deemed to
354 be the lessee and operator of the machine and is responsible for
355 the payment of the tax on sales, unless such responsibility is
356 otherwise provided for in a written agreement between him or her
357 and the machine owner.

358 3.a. An operator of a coin-operated amusement machine may



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359 not operate or cause to be operated in this state any such
360 machine until the operator has registered with the department
361 and has conspicuously displayed an identifying certificate
362 issued by the department. The identifying certificate shall be
363 issued by the department upon application from the operator. The
364 identifying certificate shall include a unique number, and the
365 certificate shall be permanently marked with the operator's
366 name, the operator's sales tax number, and the maximum number of
367 machines to be operated under the certificate. An identifying
368 certificate shall not be transferred from one operator to
369 another. The identifying certificate must be conspicuously
370 displayed on the premises where the coin-operated amusement
371 machines are being operated.

372 b. The operator of the machine must obtain an identifying
373 certificate before the machine is first operated in the state
374 and by July 1 of each year thereafter. The annual fee for each
375 certificate shall be based on the number of machines identified
376 on the application times \$30 and is due and payable upon
377 application for the identifying device. The application shall
378 contain the operator's name, sales tax number, business address
379 where the machines are being operated, and the number of
380 machines in operation at that place of business by the operator.
381 No operator may operate more machines than are listed on the
382 certificate. A new certificate is required if more machines are
383 being operated at that location than are listed on the
384 certificate. The fee for the new certificate shall be based on
385 the number of additional machines identified on the application
386 form times \$30.

387 c. A penalty of \$250 per machine is imposed on the operator



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388 for failing to properly obtain and display the required
389 identifying certificate. A penalty of \$250 is imposed on the
390 lessee of any machine placed in a place of business without a
391 proper current identifying certificate. Such penalties shall
392 apply in addition to all other applicable taxes, interest, and
393 penalties.

394 d. Operators of coin-operated amusement machines must
395 obtain a separate sales and use tax certificate of registration
396 for each county in which such machines are located. One sales
397 and use tax certificate of registration is sufficient for all of
398 the operator's machines within a single county.

399 4. The provisions of this paragraph do not apply to coin-
400 operated amusement machines owned and operated by churches or
401 synagogues.

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

406 6. The department may adopt rules necessary to administer
407 the provisions of this paragraph.

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

409 a. Detective, burglar protection, and other protection
410 services (NAICS National Numbers 561611, 561612, 561613, and
411 561621). Fingerprint services required under s. 790.06 or s.
412 790.062 are not subject to the tax. Any law enforcement officer,
413 as defined in s. 943.10, who is performing approved duties as
414 determined by his or her local law enforcement agency in his or
415 her capacity as a law enforcement officer, and who is subject to
416 the direct and immediate command of his or her law enforcement



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417 agency, and in the law enforcement officer's uniform as
418 authorized by his or her law enforcement agency, is performing
419 law enforcement and public safety services and is not performing
420 detective, burglar protection, or other protective services, if
421 the law enforcement officer is performing his or her approved
422 duties in a geographical area in which the law enforcement
423 officer has arrest jurisdiction. Such law enforcement and public
424 safety services are not subject to tax irrespective of whether
425 the duty is characterized as "extra duty," "off-duty," or
426 "secondary employment," and irrespective of whether the officer
427 is paid directly or through the officer's agency by an outside
428 source. The term "law enforcement officer" includes full-time or
429 part-time law enforcement officers, and any auxiliary law
430 enforcement officer, when such auxiliary law enforcement officer
431 is working under the direct supervision of a full-time or part-
432 time law enforcement officer.

433 b. Nonresidential cleaning, excluding cleaning of the
434 interiors of transportation equipment, and nonresidential
435 building pest control services (NAICS National Numbers 561710
436 and 561720).

437 2. As used in this paragraph, "NAICS" means those
438 classifications contained in the North American Industry
439 Classification System, as published in 2007 by the Office of
440 Management and Budget, Executive Office of the President.

441 3. Charges for detective, burglar protection, and other
442 protection security services performed in this state but used
443 outside this state are exempt from taxation. Charges for
444 detective, burglar protection, and other protection security
445 services performed outside this state and used in this state are



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446 subject to tax.

447 4. If a transaction involves both the sale or use of a
448 service taxable under this paragraph and the sale or use of a
449 service or any other item not taxable under this chapter, the
450 consideration paid must be separately identified and stated with
451 respect to the taxable and exempt portions of the transaction or
452 the entire transaction shall be presumed taxable. The burden
453 shall be on the seller of the service or the purchaser of the
454 service, whichever applicable, to overcome this presumption by
455 providing documentary evidence as to which portion of the
456 transaction is exempt from tax. The department is authorized to
457 adjust the amount of consideration identified as the taxable and
458 exempt portions of the transaction; however, a determination
459 that the taxable and exempt portions are inaccurately stated and
460 that the adjustment is applicable must be supported by
461 substantial competent evidence.

462 5. Each seller of services subject to sales tax pursuant to
463 this paragraph shall maintain a monthly log showing each
464 transaction for which sales tax was not collected because the
465 services meet the requirements of subparagraph 3. for out-of-
466 state use. The log must identify the purchaser's name, location
467 and mailing address, and federal employer identification number,
468 if a business, or the social security number, if an individual,
469 the service sold, the price of the service, the date of sale,
470 the reason for the exemption, and the sales invoice number. The
471 monthly log shall be maintained pursuant to the same
472 requirements and subject to the same penalties imposed for the
473 keeping of similar records pursuant to this chapter.

474 (j)1. Notwithstanding any other provision of this chapter,



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475 there is hereby levied a tax on the sale, use, consumption, or
476 storage for use in this state of any coin or currency, whether
477 in circulation or not, when such coin or currency:

478 a. Is not legal tender;

479 b. If legal tender, is sold, exchanged, or traded at a rate
480 in excess of its face value; or

481 c. Is sold, exchanged, or traded at a rate based on its
482 precious metal content.

483 2. Such tax shall be at a rate of 6 percent of the price at
484 which the coin or currency is sold, exchanged, or traded, except
485 that, with respect to a coin or currency which is legal tender
486 of the United States and which is sold, exchanged, or traded,
487 such tax shall not be levied.

488 3. There are exempt from this tax exchanges of coins or
489 currency which are in general circulation in, and legal tender
490 of, one nation for coins or currency which are in general
491 circulation in, and legal tender of, another nation when
492 exchanged solely for use as legal tender and at an exchange rate
493 based on the relative value of each as a medium of exchange.

494 4. With respect to any transaction that involves the sale
495 of coins or currency taxable under this paragraph in which the
496 taxable amount represented by the sale of such coins or currency
497 exceeds \$500, the entire amount represented by the sale of such
498 coins or currency is exempt from the tax imposed under this
499 paragraph. The dealer must maintain proper documentation, as
500 prescribed by rule of the department, to identify that portion
501 of a transaction which involves the sale of coins or currency
502 and is exempt under this subparagraph.

503 (k) At the rate of 6 percent of the sales price of each



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504 gallon of diesel fuel not taxed under chapter 206 purchased for
505 use in a vessel, except dyed diesel fuel that is exempt pursuant
506 to s. 212.08(4)(a)4.

507 (1) Florists located in this state are liable for sales tax
508 on sales to retail customers regardless of where or by whom the
509 items sold are to be delivered. Florists located in this state
510 are not liable for sales tax on payments received from other
511 florists for items delivered to customers in this state.

512 (m) Operators of game concessions or other concessionaires
513 who customarily award tangible personal property as prizes may,
514 in lieu of paying tax on the cost price of such property, pay
515 tax on 25 percent of the gross receipts from such concession
516 activity.

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

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

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

525 (5) Notwithstanding any other provision of this chapter,
526 the maximum amount of tax imposed under this chapter and
527 collected on each sale or use of a boat in this state may not
528 exceed \$18,000 and on each repair of a boat in this state may
529 not exceed \$60,000.

530 Section 3. Section 212.0596, Florida Statutes, is amended
531 to read:

532 (Substantial rewording of section. See



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533 s. 212.0596, F.S., for present text.)
534 212.0596 Taxation of remote sales.—
535 (1) As used in this chapter, the term:
536 (a) "Remote sale" means a retail sale of tangible personal
537 property ordered by mail, telephone, the Internet, or other
538 means of communication from a person who receives the order
539 outside of this state and transports the property or causes the
540 property to be transported from any jurisdiction, including this
541 state, to a location in this state. For purposes of this
542 paragraph, tangible personal property delivered to a location
543 within this state is presumed to be used, consumed, distributed,
544 or stored to be used or consumed in this state.
545 (b) "Substantial number of remote sales" means any number
546 of taxable remote sales in the previous calendar year in which
547 the sum of the sales prices, as defined in s. 212.02(16),
548 exceeded \$100,000.
549 (2) Every person making a substantial number of remote
550 sales is a dealer for purposes of this chapter.
551 (3) The department may establish by rule procedures for
552 collecting the use tax from unregistered persons who but for
553 their remote purchases would not be required to remit sales or
554 use tax directly to the department. The procedures may provide
555 for waiver of registration, provisions for irregular remittance
556 of tax, elimination of the collection allowance, and
557 nonapplication of local option surtaxes.
558 Section 4. Section 212.05965, Florida Statutes, is created
559 to read:
560 212.05965 Taxation of marketplace sales.—
561 (1) As used in this chapter, the term:



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562 (a) "Marketplace" means any physical place or electronic
563 medium through which tangible personal property is offered for
564 sale.

565 (b) "Marketplace provider" means a person who facilitates a
566 retail sale by a marketplace seller by listing or advertising
567 for sale by the marketplace seller tangible personal property in
568 a marketplace and who directly, or indirectly through agreements
569 or arrangements with third parties, collects payment from the
570 customer and transmits all or part of the payment to the
571 marketplace seller, regardless of whether the marketplace
572 provider receives compensation or other consideration in
573 exchange for its services.

574 1. The term does not include a person who solely provides
575 travel agency services. As used in this subparagraph, the term
576 "travel agency services" means arranging, booking, or otherwise
577 facilitating for a commission, fee, or other consideration
578 vacation or travel packages, rental cars, or other travel
579 reservations; tickets for domestic or foreign travel by air,
580 rail, ship, bus, or other mode of transportation; or hotel or
581 other lodging accommodations.

582 2. The term does not include a person who is a delivery
583 network company unless the delivery network company is a
584 registered dealer for purposes of this chapter and the delivery
585 network company notifies all local merchants that sell through
586 the delivery network company's website or mobile application
587 that the delivery network company is subject to the requirements
588 of a marketplace provider under this section. As used in this
589 subparagraph, the term:

590 a. "Delivery network company" means a person who maintains



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591 a website or mobile application used to facilitate delivery
592 services, the sale of local products, or both.

593 b. "Delivery network courier" means a person who provides
594 delivery services through a delivery network company website or
595 mobile application using a personal means of transportation,
596 such as a motor vehicle as defined in s. 320.01(1), bicycle,
597 scooter, or other similar means of transportation; using public
598 transportation; or by walking.

599 c. "Delivery services" means the pickup and delivery by a
600 delivery network courier of one or more local products from a
601 local merchant to a customer, which may include the selection,
602 collection, and purchase of the local product in connection with
603 the delivery. The term does not include any delivery requiring
604 more than 75 miles of travel from the local merchant to the
605 customer.

606 d. "Local merchant" means a kitchen, a restaurant, or a
607 third-party merchant, including a grocery store, retail store,
608 convenience store, or business of another type, which is not
609 under common ownership or control of the delivery network
610 company.

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

614 3. The term does not include a payment processor business
615 that is appointed to handle payment transactions from various
616 channels, such as charge cards, credit cards, or debit cards,
617 and whose sole activity with respect to marketplace sales is to
618 handle payment transactions between two parties.

619 (c) "Marketplace seller" means a person who has an



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620 agreement with a marketplace provider and who makes retail sales
621 of tangible personal property through a marketplace owned,
622 operated, or controlled by the marketplace provider.

623 (2) A marketplace provider who has a physical presence in
624 this state or who is making or facilitating through a
625 marketplace a substantial number of remote sales as defined in
626 s. 212.0596(1) is a dealer for purposes of this chapter.

627 (3) A marketplace provider shall certify to its marketplace
628 sellers that it will collect and remit the tax imposed under
629 this chapter on taxable retail sales made through the
630 marketplace. Such certification may be included in the agreement
631 between the marketplace provider and the marketplace seller.

632 (4) (a) A marketplace seller may not collect and remit the
633 tax under this chapter on a taxable retail sale when the sale is
634 made through the marketplace and the marketplace provider
635 certifies, as required under subsection (3), that it will
636 collect and remit such tax. A marketplace seller shall exclude
637 such sales made through the marketplace from the marketplace
638 seller's tax return under s. 212.11.

639 (b)1. A marketplace seller who has a physical presence in
640 this state shall register and shall collect and remit the tax
641 imposed under this chapter on all taxable retail sales made
642 outside of the marketplace.

643 2. A marketplace seller making a substantial number of
644 remote sales as defined in s. 212.0596(1) shall register and
645 shall collect and remit the tax imposed under this chapter on
646 all taxable retail sales made outside of the marketplace. For
647 the purposes of determining whether a marketplace seller made a
648 substantial number of remote sales, the marketplace seller shall



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649 consider only those sales made outside of the marketplace.

650 (5) (a) A marketplace provider shall allow the department to
651 examine and audit its books and records pursuant to s. 212.13.
652 For retail sales facilitated through a marketplace, the
653 department may not examine or audit the books and records of
654 marketplace sellers, nor may the department assess marketplace
655 sellers except to the extent that the marketplace provider seeks
656 relief under paragraph (b). The department may examine, audit,
657 and assess a marketplace seller for retail sales made outside of
658 the marketplace under paragraph (4) (b).

659 (b) The marketplace provider is relieved of liability for
660 the tax on the retail sale and the marketplace seller or
661 customer is liable for the tax imposed under this chapter if the
662 marketplace provider demonstrates to the department's
663 satisfaction that the marketplace provider made a reasonable
664 effort to obtain accurate information related to the retail
665 sales facilitated through the marketplace from the marketplace
666 seller, but that the failure to collect and pay the correct
667 amount of tax imposed under this chapter was due to the
668 provision of incorrect or incomplete information to the
669 marketplace provider by the marketplace seller. This paragraph
670 does not apply to a retail sale for which the marketplace
671 provider is the seller if the marketplace provider and the
672 marketplace seller are related parties or if transactions
673 between a marketplace seller and marketplace buyer are not
674 conducted at arm's length.

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

677 (7) A marketplace provider and a marketplace seller may



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678 agree by contract or otherwise that if a marketplace provider
679 pays the tax imposed under this chapter on a retail sale
680 facilitated through a marketplace for a marketplace seller as a
681 result of an audit or otherwise, the marketplace provider has
682 the right to recover such tax and any associated interest and
683 penalties from the marketplace seller.

684 (8) This section may not be construed to authorize the
685 state to collect sales tax from both the marketplace provider
686 and the marketplace seller on the same retail sale.

687 (9) Chapter 213 applies to the administration of this
688 section to the extent that chapter does not conflict with this
689 section.

690 Section 5. Effective April 1, 2022, subsections (10) and
691 (11) are added to section 212.05965, Florida Statutes, as
692 created by this act, to read:

693 212.05965 Taxation of marketplace sales.—

694 (10) Notwithstanding any other law, the marketplace
695 provider is also responsible for collecting and remitting any
696 prepaid wireless E911 fee under s. 365.172, waste tire fee under
697 s. 403.718, and lead-acid battery fee under s. 403.7185 at the
698 time of sale for taxable retail sales made through its
699 marketplace.

700 (11) The marketplace provider and the marketplace seller
701 may contractually agree to have the marketplace seller collect
702 and remit all applicable taxes and fees if the marketplace
703 seller:

704 (a) Has annual U.S. gross sales of more than \$1 billion,
705 including the gross sales of any related entities, and in the
706 case of franchised entities, including the combined sales of all



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707 franchisees of a single franchisor;

708 (b) Provides evidence to the marketplace provider that it
709 is registered under s. 212.18; and

710 (c) Notifies the department in a manner prescribed by the
711 department that the marketplace seller will collect and remit
712 all applicable taxes and fees on its sales through the
713 marketplace and is liable for failure to collect or remit
714 applicable taxes and fees on its sales.

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

718 212.06 Sales, storage, use tax; collectible from dealers;
719 "dealer" defined; dealers to collect from purchasers;
720 legislative intent as to scope of tax.-

721 (2)

722 (c) The term "dealer" is further defined to mean every
723 person, as used in this chapter, who sells at retail or who
724 offers for sale at retail, or who has in his or her possession
725 for sale at retail; or for use, consumption, or distribution; or
726 for storage to be used or consumed in this state, tangible
727 personal property as defined herein, including a retailer who
728 transacts a substantial number of remote sales or a person who
729 is a marketplace provider making or facilitating a substantial
730 number of remote sales ~~mail-order sale.~~

731 (5) (a) 1. Except as provided in subparagraph 2., it is not
732 the intention of this chapter to levy a tax upon tangible
733 personal property imported, produced, or manufactured in this
734 state for export, provided that tangible personal property may
735 not be considered as being imported, produced, or manufactured



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736 for export unless the importer, producer, or manufacturer
737 delivers the same to a licensed exporter for exporting or to a
738 common carrier for shipment outside the state or mails the same
739 by United States mail to a destination outside the state; or, in
740 the case of aircraft being exported under their own power to a
741 destination outside the continental limits of the United States,
742 by submission to the department of a duly signed and validated
743 United States customs declaration, showing the departure of the
744 aircraft from the continental United States; and further with
745 respect to aircraft, the canceled United States registry of said
746 aircraft; or in the case of parts and equipment installed on
747 aircraft of foreign registry, by submission to the department of
748 documentation, the extent of which shall be provided by rule,
749 showing the departure of the aircraft from the continental
750 United States; nor is it the intention of this chapter to levy a
751 tax on any sale which the state is prohibited from taxing under
752 the Constitution or laws of the United States. Every retail sale
753 made to a person physically present at the time of sale shall be
754 presumed to have been delivered in this state.

755 2.a. Notwithstanding subparagraph 1., a tax is levied on
756 each sale of tangible personal property to be transported to a
757 cooperating state as defined in sub-subparagraph c., at the rate
758 specified in sub-subparagraph d. However, a Florida dealer will
759 be relieved from the requirements of collecting taxes pursuant
760 to this subparagraph if the Florida dealer obtains from the
761 purchaser an affidavit setting forth the purchaser's name,
762 address, state taxpayer identification number, and a statement
763 that the purchaser is aware of his or her state's use tax laws,
764 is a registered dealer in Florida or another state, or is



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765 purchasing the tangible personal property for resale or is
766 otherwise not required to pay the tax on the transaction. The
767 department may, by rule, provide a form to be used for the
768 purposes set forth herein.

769 b. For purposes of this subparagraph, "a cooperating state"
770 is one determined by the executive director of the department to
771 cooperate satisfactorily with this state in collecting taxes on
772 remote ~~mail-order~~ sales. No state shall be so determined unless
773 it meets all the following minimum requirements:

774 (I) It levies and collects taxes on remote ~~mail-order~~ sales
775 of property transported from that state to persons in this
776 state, as described in s. 212.0596, upon request of the
777 department.

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

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

785 (IV) Such state authorizes the department to audit dealers
786 within its jurisdiction who make remote ~~mail-order~~ sales that
787 are the subject of s. 212.0596, or makes arrangements deemed
788 adequate by the department for auditing them with its own
789 personnel.

790 (V) Such state agrees to provide to the department records
791 obtained by it from retailers or dealers in such state showing
792 delivery of tangible personal property into this state upon
793 which no sales or use tax has been paid in a manner similar to



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794 that provided in sub-subparagraph g.

795 c. For purposes of this subparagraph, "sales of tangible
796 personal property to be transported to a cooperating state"
797 means remote ~~mail-order~~ sales to a person who is in the
798 cooperating state at the time the order is executed, from a
799 dealer who receives that order in this state.

800 d. The tax levied by sub-subparagraph a. shall be at the
801 rate at which such a sale would have been taxed pursuant to the
802 cooperating state's tax laws if consummated in the cooperating
803 state by a dealer and a purchaser, both of whom were physically
804 present in that state at the time of the sale.

805 e. The tax levied by sub-subparagraph a., when collected,
806 shall be held in the State Treasury in trust for the benefit of
807 the cooperating state and shall be paid to it at a time agreed
808 upon between the department, acting for this state, and the
809 cooperating state or the department or agency designated by it
810 to act for it; however, such payment shall in no event be made
811 later than 30 days from the last day of the calendar quarter
812 after the tax was collected. Funds held in trust for the benefit
813 of a cooperating state shall not be subject to the service
814 charges imposed by s. 215.20.

815 f. The department is authorized to perform such acts and to
816 provide such cooperation to a cooperating state with reference
817 to the tax levied by sub-subparagraph a. as is required of the
818 cooperating state by sub-subparagraph b.

819 g. In furtherance of this act, dealers selling tangible
820 personal property for delivery in another state shall make
821 available to the department, upon request of the department,
822 records of all tangible personal property so sold. Such records



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823 shall include a description of the property, the name and
824 address of the purchaser, the name and address of the person to
825 whom the property was sent, the purchase price of the property,
826 information regarding whether sales tax was paid in this state
827 on the purchase price, and such other information as the
828 department may by rule prescribe.

829 Section 7. Paragraph (a) of subsection (1) and paragraph
830 (a) of subsection (5) of section 212.12, Florida Statutes, are
831 amended to read:

832 212.12 Dealer's credit for collecting tax; penalties for
833 noncompliance; powers of Department of Revenue in dealing with
834 delinquents; brackets applicable to taxable transactions;
835 records required.—

836 (1) (a) ~~1.~~ Notwithstanding any other law and for the purpose
837 of compensating persons granting licenses for and the lessors of
838 real and personal property taxed hereunder, for the purpose of
839 compensating dealers in tangible personal property, for the
840 purpose of compensating dealers providing communication services
841 and taxable services, for the purpose of compensating owners of
842 places where admissions are collected, and for the purpose of
843 compensating remitters of any taxes or fees reported on the same
844 documents utilized for the sales and use tax, as compensation
845 for the keeping of prescribed records, filing timely tax
846 returns, and the proper accounting and remitting of taxes by
847 them, such seller, person, lessor, dealer, owner, and remitter
848 ~~(except dealers who make mail order sales)~~ who files the return
849 required pursuant to s. 212.11 only by electronic means and who
850 pays the amount due on such return only by electronic means
851 shall be allowed 2.5 percent of the amount of the tax due,



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852 accounted for, and remitted to the department in the form of a
853 deduction. However, if the amount of the tax due and remitted to
854 the department by electronic means for the reporting period
855 exceeds \$1,200, an allowance is not allowed for all amounts in
856 excess of \$1,200. For purposes of this paragraph ~~subparagraph~~,
857 the term "electronic means" has the same meaning as provided in
858 s. 213.755(2)(c).

859 ~~2. The executive director of the department is authorized~~
860 ~~to negotiate a collection allowance, pursuant to rules~~
861 ~~promulgated by the department, with a dealer who makes mail~~
862 ~~order sales. The rules of the department shall provide~~
863 ~~guidelines for establishing the collection allowance based upon~~
864 ~~the dealer's estimated costs of collecting the tax, the volume~~
865 ~~and value of the dealer's mail order sales to purchasers in this~~
866 ~~state, and the administrative and legal costs and likelihood of~~
867 ~~achieving collection of the tax absent the cooperation of the~~
868 ~~dealer. However, in no event shall the collection allowance~~
869 ~~negotiated by the executive director exceed 10 percent of the~~
870 ~~tax remitted for a reporting period.~~

871 (5)(a) The department is authorized to audit or inspect the
872 records and accounts of dealers defined herein, including audits
873 or inspections of dealers who make remote ~~mail order~~ sales ~~to~~
874 ~~the extent permitted by another state~~, and to correct by credit
875 any overpayment of tax, and, in the event of a deficiency, an
876 assessment shall be made and collected. No administrative
877 finding of fact is necessary prior to the assessment of any tax
878 deficiency.

879 Section 8. Paragraph (f) of subsection (3) of section
880 212.18, Florida Statutes, is amended to read:



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881 212.18 Administration of law; registration of dealers;
882 rules.—

883 (3)

884 (f) As used in this paragraph, the term "exhibitor" means a
885 person who enters into an agreement authorizing the display of
886 tangible personal property or services at a convention or a
887 trade show. The following provisions apply to the registration
888 of exhibitors as dealers under this chapter:

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

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

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

901 4. An exhibitor who makes a remote ~~mail order~~ sale pursuant
902 to s. 212.0596 must register as a dealer.

903

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

907 Section 9. Subsection (4) of section 212.20, Florida
908 Statutes, is amended to read:

909 212.20 Funds collected, disposition; additional powers of



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910 department; operational expense; refund of taxes adjudicated
911 unconstitutionally collected.—

912 (4) When there has been a final adjudication that any tax
913 pursuant to s. 212.0596 or s. 212.05965 was levied, collected,
914 or both, contrary to the Constitution of the United States or
915 the State Constitution, the department shall, in accordance with
916 rules, determine, based upon claims for refund and other
917 evidence and information, who paid such tax or taxes, and refund
918 to each such person the amount of tax paid. For purposes of this
919 subsection, a "final adjudication" is a decision of a court of
920 competent jurisdiction from which no appeal can be taken or from
921 which the official or officials of this state with authority to
922 make such decisions has or have decided not to appeal.

923 Section 10. Subsection (5) of section 213.27, Florida
924 Statutes, is amended to read:

925 213.27 Contracts with debt collection agencies and certain
926 vendors.—

927 (5) The department may, for the purpose of ascertaining the
928 amount of or collecting any taxes due from a person making or
929 facilitating remote sales under s. 212.0596 or s. 212.05965
930 ~~doing mail order business~~ in this state, contract with any
931 auditing agency doing business within or without this state for
932 the purpose of conducting an audit of such person ~~mail order~~
933 ~~business~~; however, such audit agency may not conduct an audit on
934 behalf of the department of any person domiciled in this state,
935 person registered for sales and use tax purposes in this state,
936 or corporation filing a Florida corporate tax return, if any
937 such person or corporation objects to such audit in writing to
938 the department and the auditing agency. The department shall



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939 notify the taxpayer by mail at least 30 days before the
940 department assigns the collection of such taxes.

941 Section 11. This act first applies to remote sales made or
942 facilitated on or after July 1, 2021, by a person who made or
943 facilitated a substantial number of remote sales in calendar
944 year 2020.

945 Section 12. (1) Upon registration with the Department of
946 Revenue, a person subject to the requirements of this act to
947 collect and remit the tax under chapter 212, Florida Statutes,
948 on remote sales is relieved of liability for tax, penalty, and
949 interest due on remote sales that occurred before the effective
950 date of this act, including a person who is found by the
951 Department of Revenue to have had a physical presence in this
952 state before the effective date of this act. This subsection is
953 also intended to provide relief to a marketplace seller for
954 sales made before the effective date of this act which were
955 facilitated by a marketplace provider. For a marketplace
956 provider with a physical presence in this state, this subsection
957 is intended to provide relief only for sales facilitated by the
958 marketplace provider on behalf of a marketplace seller.

959 (2) A person who owes use tax under chapter 212, Florida
960 Statutes, on the purchase of tangible personal property ordered
961 by remote sale that was conducted before the effective date of
962 this act is relieved of liability for tax, penalty, and interest
963 due. This subsection does not apply to the use tax liability of
964 a registered dealer.

965 (3) This section does not establish a right to a refund of
966 taxes already paid.

967 Section 13. (1) The Department of Revenue is authorized,



968 and all conditions are deemed met, to adopt emergency rules
969 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
970 administering this act.

971 (2) Notwithstanding any other law, emergency rules adopted
972 pursuant to subsection (1) are effective for 6 months after
973 adoption and may be renewed during the pendency of procedures to
974 adopt permanent rules addressing the subject of the emergency
975 rules.

976 (3) This section shall take effect upon this act becoming a
977 law and expires July 1, 2022.

978 Section 14. If any provision of this act or its application
979 to any person or circumstance is held invalid, the invalidity
980 does not affect other provisions or applications of the act
981 which can be given effect without the invalid provision or
982 application, and to this end the provisions of this act are
983 severable.

984 Section 15. Except as otherwise expressly provided in this
985 act and except for this section, which shall take effect upon
986 this act becoming a law, this act shall take effect July 1,
987 2021.

988
989 ===== T I T L E A M E N D M E N T =====

990 And the title is amended as follows:

991 Delete everything before the enacting clause
992 and insert:

993 A bill to be entitled

994 An act relating to the sales and use tax; amending s.
995 212.02, F.S.; expanding the definition of the term
996 "retail sale" to include sales facilitated through a



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997 marketplace; conforming a provision to changes made by
998 the act; amending s. 212.05, F.S.; conforming a
999 provision to changes made by the act; amending s.
1000 212.0596, F.S.; replacing provisions relating to the
1001 taxation of mail order sales with provisions relating
1002 to the taxation of remote sales; defining the terms
1003 "remote sale" and "substantial number of remote
1004 sales"; providing that every person making a
1005 substantial number of remote sales is a dealer for
1006 purposes of the sales and use tax; authorizing the
1007 Department of Revenue to adopt rules for collecting
1008 use taxes from unregistered persons; creating s.
1009 212.05965, F.S.; defining terms; providing that
1010 certain marketplace providers are dealers for purposes
1011 of the sales and use tax; requiring marketplace
1012 providers to provide a certain certification to their
1013 marketplace sellers; specifying requirements for
1014 marketplace sellers; requiring marketplace providers
1015 to allow the Department of Revenue to examine and
1016 audit their books and records; specifying the
1017 examination and audit authority of the department;
1018 providing that a marketplace seller, rather than the
1019 marketplace provider, is liable for sales tax
1020 collection and remittance under certain circumstances;
1021 authorizing marketplace providers and marketplace
1022 sellers to enter into agreements for the recovery of
1023 certain taxes, interest, and penalties; providing
1024 construction and applicability; amending s. 212.05965,
1025 F.S.; requiring marketplace providers to collect and



418406

1026 remit certain additional fees at the time of sale;
1027 authorizing marketplace providers and marketplace
1028 sellers to contractually agree for marketplace sellers
1029 to collect applicable taxes and fees; specifying
1030 requirements for marketplace sellers who collect such
1031 taxes and fees; providing for liability of sellers who
1032 fail to collect or remit such taxes and fees; amending
1033 s. 212.06, F.S.; revising the definition of the term
1034 "dealer"; conforming provisions to changes made by the
1035 act; amending s. 212.12, F.S.; deleting the authority
1036 of the department's executive director to negotiate a
1037 collection allowance with certain dealers; conforming
1038 provisions to changes made by the act; amending s.
1039 212.18, F.S.; conforming a provision to changes made
1040 by the act; amending s. 212.20, F.S.; providing
1041 applicability of requirements for refund of taxes
1042 adjudicated unconstitutionally collected to taxes
1043 levied or collected pursuant to marketplace
1044 provisions; amending s. 213.27, F.S.; conforming
1045 provisions to changes made by the act; providing
1046 applicability; providing relief to certain persons for
1047 liability for tax, penalty, and interest due on
1048 certain remote sales and owed on certain purchases
1049 that occurred before the effective date of the act;
1050 providing construction; authorizing the department to
1051 adopt emergency rules; providing for expiration of
1052 that authority; providing for severability; providing
1053 effective dates.

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 510

INTRODUCER: Senators Hooper and Polsky

SUBJECT: State Funds

DATE: February 17, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 510 exempts the State Housing Trust Fund and the Local Government Housing Trust Fund from a provision authorizing the Legislature, in the General Appropriations Act, to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and General Revenue Fund.

The Revenue Estimating Conference estimates that the bill has no fiscal impact.

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

II. Present Situation:

Florida Housing Finance Corporation

The 1997 Legislature created the Florida Housing Finance Corporation (FHFC) as a public-private entity to replace the Florida Housing Finance Agency, with the purpose of reducing bureaucracy and streamlining administrative processes.¹ The FHFC is now a public corporation that is housed within the Department of Economic Opportunity.² The goal of the FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes. To do this, the FHFC uses federal and state resources to finance the development of affordable homes and rental housing and assist first-time homebuyers through various programs.³

¹ Chapter 97-167, Laws of Fla.

² Section 420.504(1), F.S.

³ Further information on the FHFC's Multifamily Development, Special Programs, and Homeownership programs is available at <https://www.floridahousing.org/about-florida-housing> (last visited February 08, 2021).

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues that are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.⁴ The FHFC is also authorized to receive federal funding in connection with the corporation's programs directly from the federal government.⁵

State Housing Trust Fund

The 1988 Legislature created the State Housing Trust Fund “to be used for new construction and substantial rehabilitation of housing, to improve the state’s ability to serve first-time homebuyers, and to increase the affordability and availability of the housing stock in the State of Florida.”⁶ In 1992, the Legislature passed the William E. Sadowski Affordable Housing Act (Sadowski Act), which created a dedicated source of revenue from documentary stamp tax revenues for affordable housing.⁷ The Sadowski Act increased documentary stamp tax rates and provided for a certain proportion of documentary stamp tax revenues to be distributed to the State Housing Trust Fund. The trust fund is now administered by the FHFC.⁸

Local Government Housing Trust Fund

The Local Government Housing Trust Fund was created in 1992 by the Sadowski Act to be used to fund the State Housing Initiatives Partnership Program, which was created “for the purpose of providing funds to local governments as an incentive for the creation of partnerships to produce and preserve affordable housing.”⁹ The Sadowski Act provided for a certain proportion of documentary stamp tax revenues to be distributed to the Local Government Housing Trust Fund. The trust fund is now administered by the FHFC.¹⁰

Documentary Stamp Tax

The documentary stamp tax imposes an excise tax on deeds or other documents that convey an interest in Florida real property. The tax comprises two taxes imposed on different bases at different tax rates. The first tax rate is 70 cents on each \$100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interests that are granted, assigned, transferred, conveyed or vested in a purchaser.¹¹ The second tax rate is 35 cents per each \$100 of consideration for certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements.¹²

⁴ Section 201.15, F.S.

⁵ See ss. 420.507(33) and 159.608, F.S.

⁶ Chapter 88-376, s. 2, Laws of Fla.; s. 420.003(5), F.S. (1988).

⁷ Chapter 92-317, ss. 1-35, Laws of Fla.

⁸ Section 420.0005, F.S.

⁹ Chapter 92-317, s. 32, Laws of Fla.; s. 420.9072, F.S. (1992).

¹⁰ Section 420.9079, F.S.

¹¹ Section 201.02(1), F.S.

¹² Sections 201.07 and 201.08, F.S.

Documentary stamp tax revenues are divided among the General Revenue Fund and various trust funds according to a statutory formula.¹³ The following table summarizes the distribution of documentary stamp tax collections in the past three fiscal years:¹⁴

	FY 2017-2018	FY 2018-2019	FY 2019-2020
Collections (\$ millions)	2,510.0	2,651.1	2,874.9
Distributions (\$ millions)			
General Revenue Fund	867.2	912.1	983.1
Land Acquisition Trust Fund	824.2	703.1	944.7
State Transportation Trust Fund	297.1	318.2	351.6
Local Government Housing Trust Fund	208.1	222.8	246.2
General Revenue Service Charge	134.7	142.2	154.2
State Housing Trust Fund	88.8	95.1	105.1
State Economic Enhancement and Development Trust Fund (DEO)	75.0	75.0	75.0
Grants and Donations Trust Fund (DEO)	2.2	2.4	2.6
DACS General Inspection Trust Fund, Oyster Management and Restoration	0.3	0.3	0.3

The Legislature's Authority to Transfer Unappropriated Trust Fund Balances

Section 215.32(2)(b)4.a., F.S., authorizes the Legislature to transfer unappropriated cash balances of state trust funds to either the General Revenue Fund or the Budget Stabilization Fund in the General Appropriations Act. The Budget Stabilization Fund is required by the State Constitution and must be maintained at not less than 5 percent of the previous year's General Revenue collections.¹⁵ Moneys in the fund may be used only to cover revenue shortfalls in the General Revenue Fund and for emergencies as defined in s. 252.34, F.S.¹⁶

Currently, the funds listed below are exempt from the trust fund transfer provision in s. 215.32, F.S.:

- Trust funds required by federal programs or mandates;
- Trust funds established for bond covenants, indentures, or resolutions whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body;
- The Division of Licensing Trust Fund in the Department of Agriculture and Consumer Services;
- The State Transportation Trust Fund;
- The trust fund containing the net annual proceeds from the Florida Education Lotteries;
- The Florida Retirement System Trust Fund;

¹³ See Section 201.15, F.S.

¹⁴ Compiled from Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 77 (2020), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Feb. 4, 2021), and Office of Economic and Demographic Research, *Documentary Stamp Tax Collections and Distributions (Millions)*, General Revenue Conference, December 2020, available at <http://www.edr.state.fl.us/Content/conferences/docstamp/docstampresults.pdf> (last visited Feb. 4, 2021).

¹⁵ FLA. CONST. art. III, s. 19(g) and s. 215.32(2)(c)1., F.S.

¹⁶ FLA. CONST. art. III, s. 19(g) and s. 216.222, F.S.

- Trust funds under the management of the State Board of Education or the Board of Governors of the State University System, where such trust funds are for auxiliary enterprises, self-insurance, contracts, grants, and donations, as those terms are defined by general law;
- Trust funds that serve as clearing funds or accounts for the Chief Financial Officer or state agencies;
- Trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and
- Other trust funds authorized by the State Constitution.¹⁷

It should be noted that the Legislature itself cannot, by law, bind a future Legislature.¹⁸ In the past, the Legislature has passed legislation that transferred funds from trust funds listed in s. 215.32, F.S., to the General Revenue Fund or the Budget Stabilization Fund as part of the state budget process.

In Fiscal Year 2020-2021, the Legislature appropriated \$370.25 million (\$225 million of which was vetoed by the Governor) to the FHFC.¹⁹

The following table describes the annual funds collected and funds appropriated, as well as amounts “swept” or transferred from the housing trust funds:²⁰

Year	Notes	Total Housing Trust Funds			
		Collections	Appropriations	Legislative Sweep	Cap Sweep / SEED
1992 / 1993		41,006,550	36,200,000	-	-
1993 / 1994		51,033,448	47,000,000	-	-
1994 / 1995		45,536,407	50,666,438	-	-
1995 / 1996		108,049,916	112,916,468	-	-
1996 / 1997		121,471,040	127,369,767	-	-
1997 / 1998		145,209,025	121,033,630	-	-
1998 / 1999		169,882,688	169,389,410	-	-
1999 / 2000		176,464,510	186,576,276	-	-
2000 / 2001		191,415,135	186,671,276	-	-
2001 / 2002		228,117,990	195,521,212	12,000,000	-
2002 / 2003		294,552,125	246,600,168	-	-
2003 / 2004		390,167,300	192,171,717	120,896,937	-
2004 / 2005		502,045,358	192,892,623	220,800,000	-
2005 / 2006		606,244,598	442,892,623	-	-
2006 / 2007		452,308,119	433,000,000	-	-
2007 / 2008	A	243,000,000	390,400,000	-	46,506,007
2008 / 2009	B	167,581,340	69,304,577	440,000,000	-

¹⁷ Section 215.32(2)(b)4.b., F.S.

¹⁸ *Neu v. Miami Herald Pub. Co.*, 462 So.2d 821 (Fla. 1985).

¹⁹ Chapter 2020-111, s. 6, Laws of Fla.

²⁰ Email from the Florida Housing and Finance Corporation, *Collections Appropriations & Sweeps Summary*, (February 9, 2021). On file with the Senate Committee on Finance and Tax.

Year	Notes	Total Housing Trust Funds			
		Collections	Appropriations	Legislative Sweep	Cap Sweep / SEED
2009 / 2010		159,088,774	31,279,989	91,900,000	-
2010 / 2011		170,713,220	37,500,000	174,310,000	-
2011 / 2012		186,756,959	-	189,531,109	-
2012 / 2013	C	168,122,265	10,000,000	96,660,000	75,000,000
2013 / 2014	C	193,073,850	-	204,130,000	75,000,000
2014 / 2015	C	238,951,609	167,660,000	106,151,367	75,000,000
2015 / 2016	C	262,033,614	175,000,000	81,000,000	75,000,000
2016 / 2017	C, D	282,850,943	184,330,428	116,914,438	75,000,000
2017 / 2018	C	296,912,132	137,000,000	154,400,000	75,000,000
2018 / 2019	C	318,003,831	123,605,000	182,000,000	75,000,000
2019 / 2020	C	351,308,269	192,600,000	125,000,000	75,000,000
2020 / 2021	C, E, F	406,300,000	145,000,000	-	75,000,000
Totals		6,968,201,016	4,404,581,602	2,315,693,851	721,506,007

Notes:

- A The 2005 Legislature adopted a cap restricting the amount of revenue that could flow into the trust funds to \$243 million/year, with a mechanism for a small increase over time. Collections in excess of the cap amount were swept to general revenue. The cap went into effect in 2007 and was repealed in 2011. Collections shown are funds deposited into the trust funds; they do not include the amounts swept to General Revenue.
- B As a result of the economic recession, the Legislature held a special session in early 2009, adopting SB 2A to address the state budget shortfall. Appropriations are net of SB 2A reductions & collections a shortfall in collections. The \$190 million payback of prior appropriations required by SB 2A is included as a reduction of Appropriations and as an increase in Leg. Sweep.
- C The State Economic Enhancement and Development (SEED) Trust Fund was created in 2011, with funds transferred to it beginning with FY 12/13. SEED funding may be used for infrastructure, job creation, affordable housing in accordance with chapter 420, economic development incentives for job creation and capital investment; and other purposes. The amounts in the Cap Sweep / SEED column represent doc stamp amounts deposited to SEED which would have otherwise been deposited to the housing trust funds.
- D Deposits to the trust funds were less than the full appropriation amount. The appropriation amount on this chart has been reduced to reflect this shortfall in available funds.
- E Collections amount is the December 2020 Revenue Estimating Conference estimate.
- F SHIP appropriation of \$225 million was vetoed by the Governor. These funds remain in the Local Government Housing Trust Fund and were not swept.

III. Effect of Proposed Changes:

The bill amends s. 215.32, F.S., to exempt the State Housing Trust Fund and the Local Government Housing Trust Fund from a provision authorizing the Legislature, in the General Appropriations Act, to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and General Revenue Fund.

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

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 provisions of Article VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The bill does not create or re-create a trust fund. Therefore, the requirements of Article III, s. 19(f) of the State Constitution do not apply.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Article VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the bill has no fiscal impact.

B. Private Sector Impact:

Entities that build, construct or finance affordable housing in the state may have more available funding since the State Housing Trust Fund and the Local Government Housing Trust Fund could no longer have funds transferred to the Budget Stabilization Fund and the General Revenue Fund.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends s. 215.32, F.S.

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.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: February 2, 2021

I respectfully request that **Senate Bill # 510**, relating to State Funds, be placed on the:

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

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

Senator Ed Hooper
Florida Senate, District 16

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/18/2021

Meeting Date

SB 510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Rick Owen

Job Title President & CEO

Address 307 E. 7th Ave

Phone 850-488-8276

Street

Tallahassee

Florida

32303

Email rick@uwof.org

City

State

Zip

Speaking: For Against Information

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

Representing United Way 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/18/21

Meeting Date

SB510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Natalie King

Job Title Vice President & COO

Address 235 W Brandon Blvd. #640

Phone 8139248218

Street

Brandon

FL

33511

Email natalie@rsaconsultingllc.com

City

State

Zip

Speaking: For Against Information

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

Representing United Way Suncoast

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.

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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)

02/18/21
Meeting Date

510
Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Tonnette Graham

Job Title Associate Director of Public Policy

Address 100 S. Monroe Street

Phone 850.509.5333

Tallahassee FL 32301
City State Zip

Email tgraham@flcounties.com

Speaking: For Against Information

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

Representing FL Association of Counties

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

2/18/2021

Meeting Date

SB 510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Alejandro Gonzalez

Job Title Director of Public Policy

Address 1300 S Andrews Ave

Phone 850-488-8276

H Lauderdale Florida 33316
City State Zip

Email agonzalez@unitedwaybroward.com

Speaking: For Against Information

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

Representing United Way of Broward 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

02/18/21

Meeting Date

510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate Director for Social Concerns & Respect Life

Address 201 W Park Ave

Phone 850-339-0075

Street

Tallahassee

FL

32301

Email idelgado@flaccb.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Conference of Catholic Bishops

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/18/21

Meeting Date

510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address _____

Street

Phone 4073764801

City

State

Zip

Email ida.eskamani@gmail.com

Speaking: For Against Information

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

Representing Florida Rising & Florida Housing Justice Alliance

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.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/18/21

Meeting Date

510

Bill Number (if applicable)

Topic State Funds

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.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/18/21

Meeting Date

510

Bill Number (if applicable)

Topic Finance & Tax: SB 510 - State Funds

Amendment Barcode (if applicable)

Name Bryan Cherry

Job Title VP

Address 150 S. Monroe Street, STE, 303

Phone (850) 544-5673

Street

Tallahassee

FL

32309

Email bryan@pinpointresults.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Coalition to End Homelessness

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.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/18/2021

Meeting Date

510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name French Brown

Job Title Lobbyist

Address 106 East College Avenue, Suite 1200

Phone 850-459-0992

Street

Tallahassee

FL

32301

Email fbrown@deanmead.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Realtors

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.

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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)

2/18/21
Meeting Date

SB 510
Bill Number (if applicable)

Topic Affordable Housing

Amendment Barcode (if applicable)

Name Jaimie ROSS

Job Title CEO

Address 1311 N. Paul Ruskell Rd

Phone 850-212-0587

Tall 32301
City State Zip

Email ross@flhousing.org

Speaking: For Against Information

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

Representing Florida Housing Coalition

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.

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Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

2/18/21

Meeting Date

510

Bill Number (if applicable)

Topic Finance & Tax: SB 510 - State Funds

Amendment Barcode (if applicable)

Name Bryan Cherry

Job Title VP

Address 150 S. Monroe Street, STE, 303

Phone (850) 544-5673

Street

Tallahassee

FL

32309

Email bryan@pinpointresults.com

City

State

Zip

Speaking: For Against Information

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

Representing Broward 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.

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

2/18/21

Meeting Date

510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough Street

Phone 850-521-1200

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

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.

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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)

02/18/2021

Meeting Date

SB 510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Jeff Branch

Job Title Senior Legislative Advocate

Address 301 S. Bronough St. #300

Phone 850-701-3655

Street

Tallahassee

City

FL

State

32302

Zip

Email jbranch@flcities.com

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.

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

2/18/2021

Meeting Date

SB 510

Bill Number (if applicable)

Topic State Funds

Amendment Barcode (if applicable)

Name Elizabeth Berglin, United Way of Miami-Dade

Job Title Director, Public Policy

Address 3250 Southwest Third Avenue

Phone 305-646-7093

Street

Miami

City

Florida

State

33129

Zip

Email bergline@unitedwaymiami.org

Speaking: For Against Information

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

Representing United Way of Miami-Dade

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)

By Senator Hooper

16-00425-21

2021510__

1 A bill to be entitled
 2 An act relating to state funds; amending s. 215.32,
 3 F.S.; exempting the State Housing Trust Fund and the
 4 Local Government Housing Trust Fund from a provision
 5 authorizing the Legislature, in the General
 6 Appropriations Act, to transfer unappropriated cash
 7 balances from specified trust funds to the Budget
 8 Stabilization Fund and the General Revenue Fund;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Upon the expiration and reversion of the
 14 amendments made to section 215.32, Florida Statutes, pursuant to
 15 section 102 of chapter 2020-114, Laws of Florida, paragraph (b)
 16 of subsection (2) of section 215.32, Florida Statutes, is
 17 amended to read:
 18 215.32 State funds; segregation.-
 19 (2) The source and use of each of these funds shall be as
 20 follows:
 21 (b)1. The trust funds shall consist of moneys received by
 22 the state which, under law or under trust agreement, are
 23 segregated for a purpose authorized by law. The state agency or
 24 branch of state government receiving or collecting such moneys
 25 ~~is shall be~~ responsible for their proper expenditure as provided
 26 by law. Upon the request of the state agency or branch of state
 27 government responsible for the administration of the trust fund,
 28 the Chief Financial Officer may establish accounts within the
 29 trust fund at a level considered necessary for proper

Page 1 of 4

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

16-00425-21

2021510__

30 accountability. Once an account is established ~~within a trust~~
 31 ~~fund~~, the Chief Financial Officer may authorize payment from
 32 that account only upon determining that there is sufficient cash
 33 and releases at the level of the account.

34 2. In addition to other trust funds created by law, each
 35 agency, to the extent possible, ~~each agency~~ shall use the
 36 following trust funds as described in this subparagraph for day-
 37 to-day operations:

38 a. An operations or operating trust fund, for use as a
 39 depository for funds to be used for program operations funded by
 40 program revenues, with the exception of administrative
 41 activities when the operations or operating trust fund is a
 42 proprietary fund; ~~-~~

43 b. An operations and maintenance trust fund, for use as a
 44 depository for client services funded by third-party payors; ~~-~~

45 c. An administrative trust fund, for use as a depository
 46 for funds to be used for management activities that are
 47 departmental in nature and funded by indirect cost earnings and
 48 assessments against trust funds; ~~however, -~~ proprietary funds are
 49 not required to use ~~excluded from the requirement of using~~ an
 50 administrative trust fund; ~~-~~

51 d. A grants and donations trust fund, for use as a
 52 depository for funds to be used for allowable grant or donor
 53 agreement activities funded by restricted contractual revenue
 54 from private and public nonfederal sources; ~~-~~

55 e. An agency working capital trust fund, for use as a
 56 depository for funds to be used pursuant to s. 216.272; ~~-~~

57 f. A clearing funds trust fund, for use as a depository for
 58 funds to account for collections pending distribution to lawful

Page 2 of 4

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

16-00425-21 2021510__

59 recipients; ~~and~~.

60 g. A federal grant trust fund, for use as a depository for
61 funds to be used for allowable grant activities funded by
62 restricted program revenues from federal sources.

63
64 To the extent possible, each agency must adjust its internal
65 accounting to use existing trust funds consistent with the
66 requirements of this subparagraph. If an agency does not have a
67 trust fund specified ~~trust funds listed~~ in this subparagraph and
68 cannot make such adjustment, the agency must recommend the
69 creation of the necessary trust fund funds to the Legislature no
70 later than the next scheduled review of the agency's trust funds
71 pursuant to s. 215.3206.

72 3. All such moneys are hereby appropriated to be expended
73 in accordance with the law or trust agreement under which they
74 were received, subject ~~always~~ to the provisions of chapter 216
75 relating to the appropriation of funds and to the applicable
76 laws relating to the deposit or expenditure of moneys in the
77 State Treasury.

78 4.a. Notwithstanding any provision of law restricting the
79 use of trust funds to specific purposes, unappropriated cash
80 balances from selected trust funds may be authorized by the
81 Legislature for transfer to the Budget Stabilization Fund and
82 the General Revenue Fund in the General Appropriations Act.

83 b. This subparagraph does not apply to trust funds required
84 by federal programs or mandates; trust funds established for
85 bond covenants, indentures, or resolutions whose revenues are
86 legally pledged by the state or public body to meet debt service
87 or other financial requirements of any debt obligations of the

16-00425-21 2021510__

88 state or any public body; the Division of Licensing Trust Fund
89 in the Department of Agriculture and Consumer Services; the
90 State Transportation Trust Fund; the trust fund containing the
91 net annual proceeds from the Florida Education Lotteries; the
92 Florida Retirement System Trust Fund; trust funds under the
93 management of the State Board of Education or the Board of
94 Governors of the State University System, ~~when where~~ such trust
95 funds are for auxiliary enterprises, self-insurance, and
96 contracts, grants, and donations, as those terms are defined by
97 general law; trust funds that serve as clearing funds or
98 accounts for the Chief Financial Officer or state agencies;
99 trust funds that account for assets held by the state in a
100 trustee capacity as an agent or fiduciary for individuals,
101 private organizations, or other governmental units; the State
102 Housing Trust Fund; the Local Government Housing Trust Fund; and
103 other trust funds authorized by the State Constitution.

104 Section 2. This act shall take effect July 1, 2021.

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 58

INTRODUCER: Senator Rodriguez

SUBJECT: Hospitals' Community Benefit Reporting

DATE: February 17, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 58 repeals s. 193.019, F.S., which requires a charitable hospital to submit to the Department of Revenue the amount of net community benefit expense the hospital reported to the Internal Revenue Service. Effective January 1, 2022, if the hospital's net community benefit expense does not equal or exceed the value of its tax exemption for two consecutive years, the Department of Revenue will notify the property appraiser to limit the hospital's property tax exemption to the value of the hospital's community benefit expense.

The Revenue Estimating Conference determined that the bill will reduce local government revenue by an indeterminate amount beginning in Fiscal Year 2022-2023.

The bill takes effect upon becoming a law.

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 taxes on real estate or tangible personal property,⁴ and 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

Ad Valorem Exemption for Educational, Literary, Scientific, Religious, or Charitable Organizations

Florida's constitution grants a number exemptions that exempt all or part of a property's assessed value from taxation, including exemptions for educational, literary, scientific, religious, or charitable purposes.¹¹ The Legislature implements these constitutional exemptions and sets forth the criteria to determine whether property is entitled to an exemption.¹²

To determine whether a property's use qualifies for an educational, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity and how it compares to the organization's other activities or other uses of the property.¹³ The portions of the property used predominantly for qualified purposes are exempt from ad valorem taxation.¹⁴

Hospitals seeking an ad valorem exemption for charitable use must be qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code.¹⁵ To become a 501(c)(3) organization, none of the organization's earnings may benefit any private shareholder

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. 3(a); s. 196.196, F.S.

¹² Section 196.196, F.S.

¹³ Section 196.196(1), F.S.

¹⁴ Section 196.196(2), F.S.

¹⁵ Section 196.197, F.S.

or individual, and the organization may not attempt to influence legislation as a substantial part of its activities.¹⁶

Federal Requirement to Report Community Benefit

In order to achieve and maintain 501(c)(3) nonprofit status, hospitals report their community benefit to the IRS. “Community benefit” includes reduced cost and free health care services given to those unable to pay for it, as well as a hospital’s spending on programs that promote community health. Hospitals file Form 990 and supplemental Schedule H with the IRS annually, which includes:

- The net, unreimbursed costs of charity care;
- Participation in means-tested government programs such as Medicaid;
- Health professions education;
- Health services research;
- Subsidized health services;
- Community health improvement activities; and
- Cash or in-kind contributions to other community groups, such as donating to a health screening event, or hosting a blood drive.¹⁷

Additionally, 501(c)(3) hospitals must conduct a community health needs assessment every three years, maintain a financial assistance policy, and abide by certain limitations on charges and billing and collection requirements.¹⁸

The Florida Hospital Association states that Florida’s 154 501(c)(3) hospitals generate more than four billion dollars of community benefit, which represents more than 12 percent of their entire hospital operating expenses.¹⁹

Florida’s Reporting Requirement

During the 2020 Regular Session, the Legislature enacted s. 193.019, F.S., to require hospitals and property appraisers to submit certain information to the Department of Revenue (DOR) by January 15, 2022, and each year thereafter.

The property appraiser of each county must submit to the DOR the value of a hospital’s tax exemption that was granted for the prior year.²⁰

A hospital seeking a charitable use property tax exemption must submit the following:

- A copy of its most recent IRS Form 990, Schedule H;
- A schedule that reports the net community benefit attributable to each county where services were provided, the net community benefit attributed to a county from another county, and the

¹⁶ 26 U.S.C. 501(c)(3).

¹⁷ See IRS Form 990 Schedule H.

¹⁸ 26 U.S.C. 501(r).

¹⁹ Florida Hospital Association, *FHA Takeaways: Hospital Community Benefit Standards and Financial Reporting*, FHA.org, available at <http://fha.org/advocacy/state-advocacy/legislative-issues/taxexempt-hospitals-and-community-benefit.aspx> (last visited Feb. 2, 2021).

²⁰ Section 193.019(2), F.S.

net community benefit attributable to services and activities provided outside of this state;
and

- A document signed by the hospital CEO and an independent accountant stating that the community benefit calculations are true and correct.²¹

The DOR will determine if the county net community benefit attributed to a hospital's property located in the county equals or exceeds the value of the tax exemption. In any second consecutive year the value of the tax exemption is greater than the net community benefit provided, the DOR will notify the property appraiser to reduce the current year's tax exemption by the ratio of the hospital's net community benefit expense to the prior year's value of the exemption. In effect, limiting the value of the exemption to the amount of net community benefit provided.²² This data will be published by the DOR.

III. Effect of Proposed Changes:

The bill repeals s. 193.019, F.S.

The bill takes effect upon becoming a law.

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, 1989. However, the mandate requirements do not apply to laws having an insignificant fiscal impact,^{23, 24} which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.²⁵

The Revenue Estimating Conference determined that the bill will reduce local revenues by an indeterminate amount. If the actual reductions exceed \$2.2 million, the mandates provisions may apply.

²¹ Section 193.019(3), F.S.

²² Section 193.019(4) and (5), F.S.

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. 03, 2021).

²⁵ Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

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 determined that the bill will reduce local government revenue by an indeterminate amount beginning in Fiscal Year 2022-2023.²⁶

B. Private Sector Impact:

Hospitals will avoid the cost of complying with s. 193.019, F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 193.019, Florida Statutes.

²⁶ Revenue Estimating Impact Conference, *Hospital Community Benefit Repeal, SB 58*, (Jan. 29, 2021), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/page1-2.pdf> (last visited Feb. 2, 2021).

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.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

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THE FLORIDA SENATE
APPEARANCE RECORD

SB 58

Bill Number (if applicable)

Meeting Date

Topic Community Budget Reporting

Amendment Barcode (if applicable)

Name DAVID MICA, JR

Job Title Exec Vice President

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Hospital 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.

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/18/21

Meeting Date

58

Bill Number (if applicable)

Topic Hospitals' Community Benefit Reporting

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough Street

Phone 850-521-1200

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

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

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

F&T
9:00

2/18/21

Meeting Date

THE FLORIDA SENATE

APPEARANCE RECORD

58

Bill Number (if applicable)

Topic Hospitals ' Community Benefit Reporting

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.

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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)

2-18-21

Meeting Date

SB 058

Bill Number (if applicable)

Topic Property Tax Repeal

Amendment Barcode (if applicable)

Name Ken Knieppmann (Ka-neepp-man)

Job Title Associate for Health

Address 201 W Park

Phone 850-510-0552

Street

Tallahassee

Email

City

State

Zip

Speaking: For Against Information

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

Representing Florida Conference of Catholic Bishops

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)

3B58

Meeting Date

Bill Number (if applicable)

Topic

Hospitals Community Benefit

Amendment Barcode (if applicable)

Name

DAVID SORDAN

Republican

Job Title

STATESMAN SENIOR

Knowledgeable Health Care

Address

66 Wintergreen DR

Phone

Street

City

State

Zip

Fruitland PARK FL 34731

Email

352 805 6597
golferdave@gmail.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record)

Representing

Self & My also Senator's Refereed wife
Citizen of FL wife

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.

By Senator Rodriguez

39-00522-21

202158__

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10

A bill to be entitled

An act relating to hospitals' community benefit reporting; repealing s. 193.019, F.S., relating to reporting of community benefit expenses for property tax exemption purposes; providing an effective date.

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

Section 1. Section 193.019, Florida Statutes, is repealed.

Section 2. This act shall take effect upon becoming a law.

CourtSmart Tag Report

Room: EL 110
Caption: Senate Finance and Tax Committee

Case No.:

Type:
Judge:

Started: 2/18/2021 9:01:29 AM
Ends: 2/18/2021 9:46:53 AM Length: 00:45:25

9:01:28 AM Meeting called to order by Chair Rodriguez
9:01:32 AM Roll call by CAA Robin Jackson
9:01:41 AM Quorum present
9:01:53 AM Comments from Chair Rodriguez
9:02:38 AM Senator Hooper offers moment of silence for Deputy Michael Madgly
9:04:01 AM Introduction of Tab 1, SB 50 by Chair Rodriguez
9:04:15 AM Explanation of Amendment Barcode 418406 by Senator Gruters
9:05:31 AM Comments from Chair Rodriguez
9:06:18 AM Closure waived on Amendment
9:06:22 AM Amendment adopted
9:06:27 AM Comments from Chair Rodriguez
9:06:37 AM Question from Senator R. Rodrigues
9:06:59 AM Response from Senator Gruters
9:08:47 AM Question from Senator Harrell
9:08:52 AM Response from Senator Gruters
9:11:03 AM Question from Senator Berman
9:11:06 AM Response from Senator Gruters
9:12:18 AM Follow-up question from Senator Berman
9:12:32 AM Response from Senator Gruters
9:13:31 AM Question from Senator Hooper
9:14:10 AM Casey Reed, AT&T waives in support
9:15:10 AM Jessica Janasiewicz, Florida Association of School Administrators waives in support
9:15:28 AM Speaker Grace Lovett, Florida Retail Federation
9:16:54 AM Speaker Ida Eskamani, Florida Rising
9:18:05 AM Brewster Bevis, Associated Industries of Florida waives in support
9:18:14 AM Dr. Nancy Lawther, Florida PTA waives in support
9:18:15 AM Bob McKee, Florida Association of Counties waives in support
9:18:17 AM Greg Black, International Council of Shopping Centers (ICSC) waives in support
9:18:23 AM French Brown, Florida Chamber of Commerce waives in support
9:18:28 AM Amber Hughes, Senior Legislative Advocate waives in support
9:18:37 AM Carol Bracy, Amazon waives in support
9:18:46 AM Justin Thames, Director of Governmental Affairs waives in support
9:19:02 AM Speaker French Brown, Florida Chamber of Commerce
9:20:04 AM Senator Jones in debate
9:21:03 AM Senator Harrell in debate
9:22:29 AM Senator Berman in debate
9:23:27 AM Senator Cruz in debate
9:26:00 AM Senator R. Rodrigues in debate
9:26:23 AM Comments from Chair Rodriguez
9:26:30 AM Closure by Senator Gruters
9:26:47 AM Roll call by CAA
9:27:47 AM CS/SB 50 reported favorably

9:28:00 AM Introduction of Tab 2, SB 510 by Chair Rodriguez
9:28:14 AM Explanation of SB 510, State Funds by Senator Hooper
9:29:49 AM Comments from Chair Rodriguez
9:29:56 AM Question from Senator Berman
9:30:01 AM Response from Senator Hooper
9:30:28 AM Comments from Chair Rodriguez
9:30:38 AM Bryan Cherry, Broward County waives in support
9:30:44 AM Bryan Cherry, Florida Coalition to End Homelessness waives in support
9:30:50 AM Alejandro Gonzalez, United Way of Broward County waives in support
9:30:54 AM Elizabeth Berglin, United Way of Miami-Dade waives in support
9:31:00 AM Rick Owen, United Way of Florida waives in support
9:31:06 AM Natalie King, United Way Suncoast waives in support
9:31:10 AM Tonnette Graham, Florida Association of Counties waives in support
9:31:16 AM Ingrid Delgado, Florida Conference of Catholic Bishops waives in support
9:31:23 AM Ida Eskamani, Florida Rising and Florida Housing Justice Alliance waives in support
9:31:29 AM Brewster Bevis, Associated Industries of Florida waives in support
9:31:36 AM French Brown, Florida Realtors waives in support
9:31:41 AM Speaker Jamie Ross, Florida Housing Coalition in support
9:35:25 AM Carolyn Johnson, Florida Chamber of Commerce waives in support
9:35:35 AM Jeff Branch, Florida League of Cities waives in support
9:35:44 AM Speaker David Serdar
9:37:16 AM Comments from Chair Rodriguez
9:37:22 AM Senator Hooper in closure
9:37:52 AM Roll call by CAA
9:38:02 AM SB 510 reported favorably
9:38:16 AM Chair passed to Vice Chair Cruz
9:38:27 AM Introduction of Tab 3, SB 58 by Chair Cruz
9:38:40 AM Explanation of SB 58, Hospitals' Community Benefit Reporting by Senator A. Rodriguez
9:39:59 AM Comments from Chair Cruz
9:40:06 AM Question from Senator R. Rodrigues
9:40:14 AM Response from Senator A. Rodriguez
9:40:23 AM Question from Senator Harrell
9:40:33 AM Response from Senator A. Rodriguez
9:40:50 AM Comments from Chair Cruz
9:41:00 AM Speaker David Mica, Florida Hospital Association
9:41:50 AM Carolyn Johnson, Florida Chamber of Commerce waives in support
9:42:04 AM Brewster Bevis, Associated Industries of Florida waives in support
9:42:13 AM Ken Kniepmann, Florida Conference of Catholic Bishops waives in support
9:42:31 AM Speaker David Serdar
9:43:53 AM Comments from Chair Cruz
9:43:58 AM Senator Harrell in debate
9:45:12 AM Senator Wright in debate
9:45:39 AM Closure waived
9:45:45 AM Roll call by CAA
9:45:50 AM SB 58 reported favorably
9:46:08 AM Chair returned to Senator Rodriguez
9:46:19 AM Comments from Chair Rodriguez
9:46:28 AM Senator Harrell moves to adjourn
9:46:42 AM Meeting adjourned