

Tab 1 **CS/SB 302** by **CM, Taddeo**; (Identical to H 00637) Small Business Saturday Sales Tax Holiday

Tab 2 **SB 806** by **Book (CO-INTRODUCERS) Stewart, Berman**; Tax Exemption for Diapers and Incontinence Products

Tab 3 **CS/SB 1214** by **CA, Gruters**; (Similar to CS/H 00889) Nonprofit Taxation

593148	A	S	RCS	FT, Gruters	Delete L.20 - 21:	03/25 10:40 AM
365910	AA	S	RCS	FT, Gruters	Delete L.5:	03/25 10:40 AM

Tab 4 **CS/SB 1256** by **CA, Polsky**; (Similar to CS/H 00597) Homestead Exemption for Seniors 65 and Older

Tab 5 **SPB 7068** by **FT**; Tax Administration

Tab 6 **SB 224** by **Berman**; (Identical to H 00081) Sales Tax Exemption

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Thursday, March 25, 2021
TIME: 9:00 a.m.—12:00 noon
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	CS/SB 302 Commerce and Tourism / Taddeo (Identical H 637)	Small Business Saturday Sales Tax Holiday; Defining the term "small business"; providing that small businesses are not required to collect the sales and use tax on the retail sale of certain items of tangible personal property during a specified timeframe; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements; authorizing the Department of Revenue to adopt emergency rules, etc. CM 03/15/2021 Fav/CS FT 03/25/2021 Favorable AP	Favorable Yeas 7 Nays 0
2	SB 806 Book	Tax Exemption for Diapers and Incontinence Products; Exempting the sale for human use of diapers, incontinence undergarments, incontinence pads, or incontinence liners from the sales and use tax, etc. CM 03/09/2021 Favorable FT 03/25/2021 Favorable AP	Favorable Yeas 7 Nays 0
3	CS/SB 1214 Community Affairs / Gruters (Similar CS/H 889)	Nonprofit Taxation; Specifying that portions of property not used for certain purposes are not exempt from ad valorem taxation; specifying that exemptions from ad valorem taxation are not affected so long as portions of property are used for certain purposes, etc. CA 03/10/2021 Fav/CS FT 03/25/2021 Fav/CS AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Thursday, March 25, 2021, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1256 Community Affairs / Polsky (Similar CS/H 597)	Homestead Exemption for Seniors 65 and Older; Revising provisions to require certain taxpayers to submit a claim for homestead exemption only one time if certain conditions are met; requiring the property appraiser to provide specified information related to income limitations on an annual basis, etc. CA 03/16/2021 Fav/CS FT 03/25/2021 Favorable AP	Favorable Yeas 7 Nays 0
Consideration of proposed bill:			
5	SPB 7068	Tax Administration; Requiring, rather than authorizing, tax collectors to accept late payments of prepaid property taxes within a certain timeframe; revising a condition for a sales tax exception for tangible personal property imported, produced, or manufactured in this state for export; providing that stolen sales tax revenue may be aggregated for the purposes of determining the grade of certain criminal offenses, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
6	SB 224 Berman (Identical H 81)	Sales Tax Exemption; Exempting from the sales and use tax specified items that assist in independent living; providing applicability, etc. CF 03/16/2021 Favorable FT 03/25/2021 Favorable AP	Favorable Yeas 7 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 302

INTRODUCER: Commerce and Tourism Committee and Senator Taddeo

SUBJECT: Small Business Saturday Sales Tax Holiday

DATE: March 25, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	Fav/CS
2.	Bruno	Babin	FT	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 302 establishes a one-day sales tax holiday on Saturday, November 27, 2021, which coincides with Small Business Saturday. During the holiday, state sales tax and local discretionary sales surtaxes do not apply to the sale of items of tangible personal property having a sales price of \$1,000 or less per item when sold by a small business.

A small business may choose not to participate in the sales tax holiday. These small businesses must notify the Department of Revenue of its decision to not participate in the sales tax holiday by November 16, 2021, and post a copy of that notice at its place of business.

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$32.8 million and will reduce local revenues by \$9.9 million in Fiscal Year 2021-2022.

The bill takes effect July 1, 2021.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴ Sales tax receipts accounted for approximately 79 percent of the state's General Revenue in Fiscal Year 2019-2020.⁵

Section 212.055, F.S., authorizes counties to impose local discretionary sales surtaxes in addition to the state sales tax. 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 delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁷

Small Business Saturday

Small Business Saturday was created in 2010 by American Express as a rewards program that encouraged their cardholders to shop at small businesses on the Saturday after Black Friday.⁸ The U.S. Senate passed a resolution recognizing Small Business Saturday in 2011,⁹ and the U.S. Small Business Administration began co-sponsoring the shopping event in 2015.¹⁰ Although American Express has ended its cardholder rewards program, sales on Small Business Saturday have increased. According to the Small Business Administration, 110 million consumers spent almost \$20 billion at small businesses on Small Business Saturday in 2019, compared to the almost \$18 billion spent by 104 million consumers in 2018.¹¹

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ *See s. 212.07(2)*, F.S.

⁵ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 18, 2021).

⁶ Section 212.054(2)(a), F.S.

⁷ *Supra* note 5, at 231-232.

⁸ U.S. Chamber of Commerce, *Support Your Local Community by Shopping Small* (November 20, 2018), available at <https://www.uschamber.com/series/above-the-fold/support-your-local-community-shopping-small> (last visited Mar. 18, 2021).

⁹ A resolution designating November 26, 2011, as "Small Business Saturday" and supporting efforts to increase awareness of the value of locally owned small businesses, S. Res. 320, 112th Cong. (2011).

¹⁰ U.S. Small Business Administration, *Nearly \$20 billion spent by Americans this Small Business Saturday* (December 3, 2019), available at <https://www.sba.gov/about-sba/sba-newsroom/press-releases-media-advisories/nearly-20-billion-spent-americans-small-business-saturday> (last visited Mar. 18, 2021).

¹¹ *Id.*

III. Effect of Proposed Changes:

CS/SB 302 establishes a one-day sales tax holiday on Saturday, November 27, 2021, which coincides with Small Business Saturday. During the holiday, sales tax and local discretionary sales surtaxes do not apply to the sale of items of tangible personal property having a sales prices of \$1,000 or less per item when sold by a small business.

The bill defines a “small business” as one that:

- Has registered with the Department of Revenue (DOR);
- Began operating no later than January 8, 2021; and
- Has owed and remitted less than \$200,000 in total sales and use tax to the DOR during either the one-year period ending on September 30, 2021, or the period beginning on the date the business began operating and ending on September 30, 2021, if the business has not been in operation for a full year as of September 30, 2021.

A small business eligible to file a consolidated tax return may only qualify for the sales tax holiday if the total sales and use tax owed and remitted from all of the business’s locations is less than \$200,000.

If a business chooses not to participate in the sales tax holiday, the business must notify the DOR of its decision by November 16, 2021. The business must post a copy of the notice in a conspicuous place.

The DOR may adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., for the purpose of implementing the bill.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

Subsection (b) of Art. VII, s. 18 of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the

mandates requirements do not apply to laws having an insignificant impact,^{12, 13} which is \$2.2 million or less for Fiscal Year 2021-2022.¹⁴

The Revenue Estimating Conference estimates that the bill will reduce local revenues by \$11 million. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable. The bill does not create or increase state taxes or fees. Thus, Art. VII, s. 19 of the Florida Constitution does not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$32.8 million and will reduce local revenues by \$9.9 million in Fiscal Year 2021-2022.

B. Private Sector Impact:

Persons purchasing items from stores participating in the sales tax holiday will realize savings.

C. Government Sector Impact:

None.

¹² FLA. CONST. art. VII, s. 18(d).

¹³ 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 Mar. 18, 2021).

¹⁴ Based on the Demographic Estimating Conference's population adopted on November 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 18, 2021).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill defines “small business” as a dealer who owed and remitted to the DOR less than \$200,000 in total sales and use tax during a specified period. Information contained in reports received by the DOR, such as taxes remitted, is considered confidential and exempt from public records under s. 213.053, F.S. Thus, the DOR has indicated it will not be able to publish a Tax Information Publication (TIP) identifying businesses participating in the sales tax holiday.

VIII. Statutes Affected:

The bill creates an undesignated section of chapter law.

IX. Additional Information:

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

CS by Commerce and Tourism on March 15, 2021:

The committee substitute:

- Provides that a business that chooses not to participate in the sales tax holiday must notify the DOR of its decision by November 16, 2021, and post a copy of that notice at its place of business; and
- Removes the appropriation in the bill.

- B. **Amendments:**

None.

By the Committee on Commerce and Tourism; and Senator Taddeo

577-02874-21

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A bill to be entitled

An act relating to a Small Business Saturday sales tax holiday; defining the term "small business"; providing that small businesses are not required to collect the sales and use tax on the retail sale of certain items of tangible personal property during a specified timeframe; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements; authorizing the Department of Revenue to adopt emergency rules; providing an effective date.

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

Section 1. Small Business Saturday sales tax holiday.-

(1) As used in this section, the term "small business" means a dealer, as defined in s. 212.06, Florida Statutes, who registered with the Department of Revenue and began operation no later than January 8, 2021, and who owed and remitted to the Department of Revenue less than \$200,000 in total tax under chapter 212, Florida Statutes, for the 1-year period ending September 30, 2021. If the dealer has not been in operation for a 1-year period as of September 30, 2021, the dealer must have owed and remitted less than \$200,000 in total tax under chapter 212, Florida Statutes, for the period beginning on the day the dealer began operation and ending September 30, 2021, in order to qualify as a small business under this section. If the dealer is eligible to file a consolidated return pursuant to s. 212.11(1)(e), Florida Statutes, the total tax under chapter 212, Florida Statutes, owed and remitted from all of the dealer's

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places of business must be less than \$200,000 for the applicable period ending September 30, 2021.

(2) Subject to subsection (3), the tax levied under chapter 212, Florida Statutes, may not be collected by a small business during the period from 12:01 a.m. on November 27, 2021, through 11:59 p.m. on November 27, 2021, on the retail sale, as defined in s. 212.02(14), Florida Statutes, of any item of tangible personal property, as defined in s. 212.02(19), Florida Statutes, having a sales price of \$1,000 or less per item.

(3) At its option, a small business may choose not to participate in the sales and use tax exemption provided in subsection (2) and may collect tax on all sales made on November 27, 2021. If a qualifying dealer chooses not to participate in the tax holiday, the dealer must notify the Department of Revenue in writing by November 16, 2021, of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(4) The Department of Revenue may, and all conditions are deemed to be met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to implement this section. Notwithstanding any other law, emergency rules adopted pursuant to this subsection are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rule.

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, Vice Chair
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Criminal Justice

SENATOR ANNETTE TADDEO
40th District

MEMORANDUM

To: Senator Rodriguez Chair of the Finance and Tax Committee
From: Senator Annette Taddeo
Subject: Committee Agenda Request
Date: March 16, 2021

Senate Bill 302, entitled Small Business Saturday Sales Tax Holiday, would exempt small businesses from collecting sales tax on November 27th, 2021 - this year's Small Business Saturday. Small Business Saturday is a nation-wide shopping holiday on the Saturday after Thanksgiving. The goal of the Small Business Saturday Holiday is to encourage consumers to shop local to support small businesses. This bill previously passed unanimously in the Commerce and Tourism committee. I respectfully request that **Senate Bill 302** be placed on the next committee agenda.



Senator Annette Taddeo
Florida Senate, District 40

REPLY TO:

- 9100 South Dadeland Boulevard, Suite 1500, Miami, Florida 33156 (305) 596-3003
- 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

WILTON SIMPSON **AARON BEAN**
President of the Senate President Pro Tempore

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THE FLORIDA SENATE

APPEARANCE RECORD

3/25/21

Meeting Date

SB 302

Bill Number (if applicable)

Topic Small Business Saturday Sales Tax Holiday

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Senior 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.

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/25/2021

Meeting Date

302

Bill Number (if applicable)

Topic Small Business Saturday Sales Tax Holiday

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title _____

Address 104 South Monroe Street

Phone 850-425-1344

Street

Tallahassee

FL

32301

Email TcgLobby@aol.com

City

State

Zip

Speaking: For Against Information

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

Representing NAACP Florida State Conference

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.

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 806

INTRODUCER: Senators Book and Stewart

SUBJECT: Tax Exemption for Diapers and Incontinence Products

DATE: March 24, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Bruno</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 806 exempts the sale of diapers, incontinence undergarments, incontinence pads, and incontinence liners from state sales and use tax.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$20.9 million beginning in Fiscal Year 2021-2022, and by at least \$51.3 million each year thereafter. The bill will reduce local government receipts by \$6.3 million in Fiscal Year 2021-2022, and by at least \$15.4 million each year thereafter.

The bill takes effect January 1, 2022.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. In addition to the 6 percent sales tax, Florida law authorizes counties to levy discretionary sales surtaxes.⁴ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale. Sales tax receipts accounted for approximately 79 percent of the state's General Revenue in Fiscal Year 2019-2020.⁵

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.055, F.S.

⁵ Office of Economic and Demographic Research, *Florida Tax Handbook*, 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 18, 2021).

Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 270 exemptions, exclusions, deduction, and credits from sales and use tax.⁶

Some medical products are among the items exempt from sales and use tax.⁷ Such products include ostomy pouches, catheters, and mastectomy pads.⁸ Common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease, such as alcohol wipes, bandages, and gauze, are also exempt from sales and use tax.⁹ Certain products relating to infants are also exempt, including baby food, formulas, and teething lotion.¹⁰

Diapers are not currently exempt from sales and use tax in Florida. However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during sales tax holidays, most recently in 2020.¹¹

Other States

Of the 45 states that impose a sales tax,¹² California, Connecticut, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia do not subject the sale of diapers to state sales tax.¹³ Maryland and North Dakota exempt diapers used for incontinence, but not baby diapers.¹⁴

III. Effect of Proposed Changes:

The bill creates s. 212.08(7)(ppp), F.S., to exempt diapers, incontinence undergarments, incontinence pads, and incontinence liners from state sales and use tax.

The bill takes effect January 1, 2022.

⁶ *Id.* at 166-171.

⁷ Section 212.08(2)(a), F.S.

⁸ The Department of Business and Professional Regulation is responsible for prescribing and approving a list of common household remedies, which is then certified by the Department of Revenue. *See* Department of Revenue, *Nontaxable Medical Items and Grocery List*, 2, available at https://floridarevenue.com/Forms_library/current/dr46nt.pdf (last visited Mar. 19, 2021).

⁹ *Id.* at 1.

¹⁰ *Id.* at 3.

¹¹ Department of Revenue, *2020 Back-to-School Sales Tax Holiday Tax Information Publication*, 3, available at https://revenue.law.floridarevenue.com/LawLibraryDocuments/2020/06/TIP-123084_TIP_20A01-04_FINAL_RLL.pdf (last visited Mar. 19, 2021).

¹² Alaska, Delaware, Montana, New Hampshire, and Oregon do not levy a state sales tax. *See* Tax Foundation, *State and Local Sales Tax Rates* (2020), available at <https://files.taxfoundation.org/20200115132659/State-and-Local-Sales-Tax-Rates-2020.pdf> (last visited Mar. 19, 2021).

¹³ National Diaper Bank Network, *Sales Tax on Diaper Purchases by State*, available at <https://nationaldiaperbanknetwork.org/state-issues/> (last visited Mar. 19, 2021).

¹⁴ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

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

Subsection (b) of Art. VII, s. 18 of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,^{15, 16} which is \$2.2 million or less for Fiscal Year 2021-2022.¹⁷

The Revenue Estimating Conference has determined that the bill will reduce local option surtax revenue by \$6.3 million in Fiscal Year 2021-2022, and by \$15.4 million each year thereafter.¹⁸ Therefore, the bill may have a significant impact on local governments and the mandate provisions may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable. The bill does not create or increase state taxes or fees. Thus, Art. VII, s. 19 of the Florida Constitution does not apply.

E. Other Constitutional Issues:

None identified.

¹⁵ FLA. CONST. art. VII, s. 18(d).

¹⁶ 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 Mar. 19, 2021).

¹⁷ Based on the Demographic Estimating Conference's population adopted on November 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 19, 2021).

¹⁸ Office of Economic and Demographic Research, *Revenue Estimating Conference Report: Sales Tax Exemption for Diapers and Incontinence Products* (2021), 155-157, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/Impact0312.pdf> (last visited Mar. 19, 2021).

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

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$20.9 million beginning in Fiscal Year 2021-2022, and by at least \$51.3 million each year thereafter. The bill will reduce local government receipts by \$6.3 million in Fiscal Year 2021-2022, and by at least \$15.4 million each year thereafter.¹⁹

B. Private Sector Impact:

Individuals will see a reduction in the cost of purchasing diapers and incontinence products. Daycare providers, diaper service providers, hospitals, and other businesses will also see a reduction in the cost of diapers and incontinence products.

C. Government Sector Impact:

The Department of Revenue estimates that they will incur a cost associated with printing and mailing a Tax Information Publication (TIP) to businesses advising of the new sales tax exemption. The estimated cost to print and mail the TIP is \$54,000.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

¹⁹ *Id.*

²⁰ Department of Revenue, *SB 806, 2021 Agency Legislative Bill Analysis* (on file with the Committee on Finance and Tax).

By Senator Book

32-00537-21

2021806__

1 A bill to be entitled
2 An act relating to a tax exemption for diapers and
3 incontinence products; amending s. 212.08, F.S.;
4 exempting the sale for human use of diapers,
5 incontinence undergarments, incontinence pads, or
6 incontinence liners from the sales and use tax;
7 providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10 Section 1. Paragraph (ppp) is added to subsection (7) of
11 section 212.08, Florida Statutes, to read:

12 212.08 Sales, rental, use, consumption, distribution, and
13 storage tax; specified exemptions.—The sale at retail, the
14 rental, the use, the consumption, the distribution, and the
15 storage to be used or consumed in this state of the following
16 are hereby specifically exempt from the tax imposed by this
17 chapter.
18

19 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
20 entity by this chapter do not inure to any transaction that is
21 otherwise taxable under this chapter when payment is made by a
22 representative or employee of the entity by any means,
23 including, but not limited to, cash, check, or credit card, even
24 when that representative or employee is subsequently reimbursed
25 by the entity. In addition, exemptions provided to any entity by
26 this subsection do not inure to any transaction that is
27 otherwise taxable under this chapter unless the entity has
28 obtained a sales tax exemption certificate from the department
29 or the entity obtains or provides other documentation as

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30 required by the department. Eligible purchases or leases made
31 with such a certificate must be in strict compliance with this
32 subsection and departmental rules, and any person who makes an
33 exempt purchase with a certificate that is not in strict
34 compliance with this subsection and the rules is liable for and
35 shall pay the tax. The department may adopt rules to administer
36 this subsection.

37 (ppp) Diapers and incontinence products.—The sale for human
38 use of diapers, incontinence undergarments, incontinence pads,
39 or incontinence liners is exempt from the tax imposed by this
40 chapter.

41 Section 2. This act shall take effect January 1, 2022.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 9, 2021

I respectfully request that **Senate Bill 806**, relating to Tax Exemption for Diapers and Incontinence Products, be placed on the:

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

Thank you for your consideration.

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Florida Senate, District 32

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/CS/SB 1214

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Gruters

SUBJECT: Nonprofit Taxation

DATE: March 25, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
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/CS/SB 1214 provides that a property's ad valorem tax exemption granted to those portions of property predominantly used for charitable, religious, scientific, or literary purposes is not affected so long as the predominant use of such property is for such charitable, religious, scientific, or literary purposes.

The provisions of the bill first apply beginning on or after January 1, 2022.

The Revenue Estimating Conference determined that the bill may increase or decrease local government property tax revenue in any given year by an insignificant amount beginning in Fiscal Year 2022-2023.

The bill takes effect July 1, 2021.

II. Present Situation:

General Overview of Property Taxation

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

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

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ 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 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 Literary, Scientific, Religious, or Charitable Organizations

The State Constitution allows the Legislature to exempt from ad valorem taxation “such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes.”¹¹ The Legislature implements these 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 education, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities or other uses of the property.¹³ The portions of the property used predominantly for qualified purposes are exempt.¹⁴

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

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

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, s. 3(a).

¹² Section 196.196, F.S.

¹³ Section 196.196(1), F.S.

¹⁴ Section 196.196(2), F.S.

Incidental use of property for an exempt purpose will not qualify the property for an exemption nor will the incidental use of the property for a non-exempt purpose impair an exemption.^{15, 16, 17}

Portions of property used for profitmaking purposes are not exempt and is subject to ad valorem taxation; however, the Legislature has allowed property to remain exempt even when used for profitmaking purposes when the use of the property does not require a business or occupational license and the revenue derived from the profitmaking activity is used wholly for exempt purposes.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 196.196(2), F.S., to clarify that the portions of property that are not predominantly used for charitable, religious, scientific, or literary purposes are not exempt from ad valorem taxation. The bill further provides that an ad valorem exemption is not affected so long as the predominant use of such property is for charitable, religious, scientific, or literary purposes.

The provisions of the bill first apply on or after January 1, 2022.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (b) of section 18 of the Florida 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

¹⁵ Section 196.196(2), F.S.

¹⁶ *Underhill v. Edwards*, 400 So.2d 129, 132 (Fla. 5th DCA 1981). The district court found that trustees of a private not-for-profit hospital were not entitled to an exemption on the new wing's first floor, which was used for a private purpose and not for a charitable purpose or other exempt purpose, despite the fact that the portion of the hospital used for a non-exempt purpose represented only a very small percentage of the otherwise exempt property.

¹⁷ *Central Baptist Church of Miami, Florida Incorporated v. Dade County, Florida, et. al.*, 216 So.2d 4, 6 (Fla 1968). The Supreme Court found that "limited part time rental of a portion of the church lot for commercial parking on weekday business hours is reasonably incidental to the primary use of the church property as a whole for church or religious purposes and is not a sufficiently divergent commercial use that eliminates the exemption as to the commercial parking lot portion of the property." at 6.

¹⁸ Section 196.196(4), F.S.

insignificant fiscal impact,^{19, 20} which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.²¹

The Revenue Estimating Conference determined that the bill may increase or decrease local government property tax revenue in any given year by an insignificant amount beginning in Fiscal Year 2022-2023. If the actual reductions exceed \$2.2 million, the mandates provisions may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill may increase or decrease local government property tax revenue in any given year by an insignificant amount beginning in Fiscal Year 2022-2023.

B. Private Sector Impact:

The bill appears to clarify current statutory provisions, as such, the impact is unknown at this time.

¹⁹ FLA. CONST. art. VII, s. 18(d).

²⁰ 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).

²¹ 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).

C. **Government Sector Impact:**

The bill appears to clarify current statutory provisions, as such, an impact to local governments is unknown at this time.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 196.196 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/CS by Finance and Tax on March 25, 2021:

The committee substitute makes technical changes.

CS by Community Affairs on March 10, 2021:

The committee substitute removes the provisions of the underlying bill and provides that an ad valorem exemption for charitable, religious, scientific, or literary purposes is not affected so long as the predominant use of the property is for such exempt purpose. The committee substitute also provides that the provisions of the bill first apply to taxable years beginning on or after January 1, 2022.

B. **Amendments:**

None.



593148

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 20 - 21
and insert:
literary purposes are not exempt. However, an exemption for the portions of property used for charitable, religious, scientific, or literary purposes is not affected so long as the predominant use of such property is for

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



593148

11 And the title is amended as follows:

12 Delete lines 5 - 7

13 and insert:

14 valorem taxation; specifying that exemptions for
15 certain portions of property from ad valorem taxation
16 are not affected so long as such portions of property
17 are used for specified purposes; providing



365910

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2021	.	
	.	
	.	
	.	

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

- 1 **Senate Amendment to Amendment (593148)**
- 2
- 3 Delete line 5
- 4 and insert:
- 5 literary purposes are not exempt. An exemption for the

By the Committee on Community Affairs; and Senator Gruters

578-02666-21

20211214c1

1 A bill to be entitled
 2 An act relating to nonprofit taxation; amending s.
 3 196.196, F.S.; specifying that portions of property
 4 not used for certain purposes are not exempt from ad
 5 valorem taxation; specifying that exemptions from ad
 6 valorem taxation are not affected so long as portions
 7 of property are used for certain purposes; providing
 8 applicability; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Subsection (2) of section 196.196, Florida
 13 Statutes, is amended to read:
 14 196.196 Determining whether property is entitled to
 15 charitable, religious, scientific, or literary exemption.—
 16 (2) Only those portions of property used predominantly for
 17 charitable, religious, scientific, or literary purposes are
 18 ~~shall be~~ exempt. The portions of property which are not
 19 predominantly used for charitable, religious, scientific, or
 20 literary purposes are not exempt. However, an exemption is not
 21 affected so long as the predominant use of the property is for
 22 charitable, religious, scientific, or literary purposes. In no
 23 event shall an incidental use of property either qualify such
 24 property for an exemption or impair the exemption of an
 25 otherwise exempt property.
 26 Section 2. The amendments made by this act to s. 196.196,
 27 Florida Statutes, first apply to taxable years beginning on or
 28 after January 1, 2022, and do not provide a basis for an
 29 assessment of any tax not paid or create a right to a refund or

Page 1 of 2

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

578-02666-21

20211214c1

30 credit of any tax paid before the effective date of this act.
 31 Section 3. This act shall take effect July 1, 2021.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 17, 2021

I respectfully request that **Senate Bill #1214**, relating to Nonprofit Taxation, be placed on the:

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

Please let me know if you have any questions.

Sincerely,

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

Joe Gruters

Cc: Robert Babin, Staff Director
Stephanie Bell-Parke, Committee Administrative Assistant

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/21

Meeting Date

1214

Bill Number (if applicable)

Topic Nonprofit Taxation

Amendment Barcode (if applicable)

Name Melissa Ramba

Job Title lobbyist

Address 108 S Monroe St.

Phone 850-570-0269

Street

Tallahassee

City

Fl.

State

32301

Zip

Email Melissa@flapartners.com

Speaking: For Against Information

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

Representing Marie Selby Botanical Gardens

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

3.25.21

Meeting Date

1214

Bill Number (if applicable)

Topic Nonprofit Taxation

Amendment Barcode (if applicable)

Name Greg Black

Job Title Lobbyist

Address PO Box 838

Phone 8505098022

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 Florida Association of Museums

AND FLORIDA Nonprofit 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.

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)

3/25/21

Meeting Date

1214

Bill Number (if applicable)

Topic Nonprofit Taxation

Amendment Barcode (if applicable)

Name Amy Maguire

Job Title Principal

Address 101 E. Kennedy Blvd.

Phone (727) 656-8413

Street

Tampa FL 33602

Email amaguire@shumakeradvisors.com

City

State

Zip

Speaking: For Against Information

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

Representing Shumaker Advisors Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/21

Meeting Date

1214

Bill Number (if applicable)

593148

Amendment Barcode (if applicable)

Topic _____

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla.

Address 1828 Piggins Rd Phone 850-219-0220

Street

Tallahassee

FL

32308

City

State

Zip

Email llevy@levylawtax.com

Speaking: For Against Information

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

Representing Property Appraisers' Ass'n of Fla

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1256

INTRODUCER: Community Affairs Committee and Senator Polsky

SUBJECT: Homestead Exemption for Seniors 65 and Older

DATE: March 24, 2021

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1256 amends the process by which a senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions. Current law authorizes local governments to grant additional homestead exemptions for low-income persons over the age of 65 and requires the person to submit, annually, a sworn statement that his or her income still qualifies for the exemption. The bill removes the annual requirement to submit a sworn statement and requires the person to notify the property appraiser upon a change in income that may result in disqualification.

The Revenue Estimating Conference analyzed the original filed version of the bill and determined that it will have an indeterminate positive or negative impact on local property tax revenue beginning in Fiscal Year 2022-23. The changes made by the committee substitute have not been analyzed by the conference and may result in a different fiscal impact.

The bill takes effect July 1, 2021.

II. Present Situation:

General Overview of Property Taxation

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

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

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ 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 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

Property Tax Exemptions for Homesteads

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.¹² This exemption does not apply to ad valorem taxes levied by school districts.

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

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

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

¹² Section 196.031(1)(b), F.S.

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution authorizes the Legislature to allow counties and municipalities to grant one or both of the following additional homestead property tax exemptions for persons aged 65 years or over who hold title to the property.¹³ By adoption of an ordinance, a county or municipality may:

- Exempt up to \$50,000 of homestead value if the person's household income, for tax roll year 2021, does not exceed \$31,100.¹⁴
- Exempt the homestead entirely if the subject property's just value is less than \$250,000, the person has maintained the property as his or her permanent residence for at least 25 years, and whose income, for tax roll year 2021, does not exceed \$31,100.¹⁵

Requirements for Ordinances Granting Additional Homestead Exemptions

The ordinance granting an additional homestead exemption for low-income seniors must:

- Follow the typical procedures for adoption of a nonemergency ordinance. An ordinance granting a full exemption for homestead property valued less than \$250,000 must be approved by a super majority vote (majority plus one) of the members of the governing body.¹⁶
- Specify that the exemption applies only to taxes levied by the governmental entity granting the exemption.¹⁷
- Specify the amount of the exemption, which may not exceed the limits provided in statute.¹⁸
- Require the taxpayer claiming the exemption to submit to the property appraiser a sworn statement of household income each year.¹⁹

Requirements for Sworn Statements of Household Income

The Department of Revenue (department) must require the sworn statement to be supported by copies of federal income tax returns for the prior year, W-2 forms, any request for an extension of time to file such statement, and any other document the department finds necessary. The person's sworn statement must attest to the accuracy of such documents and the person must agree that the property appraiser may inspect such documents. Upon renewal of the exemption, the supporting documents are not required, unless requested by the property appraiser. In addition, the property appraiser may randomly audit such statements.²⁰

Failure to Comply

A person who is found by the property appraiser to have improperly received an exemption in any year within the last ten years is subject to repayment of the taxes exempted plus a penalty of

¹³ FLA. CONST. Art. VII, s. 6(d)(1) and (2).

¹⁴ The original statutory income threshold of \$20,000 is adjusted annually by the percentage change in the average cost-of-living index. See s. 196.075(3), F.S. For the current income threshold, see: Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited March 19, 2021).

¹⁵ *Id.*

¹⁶ Section 196.075(4)(a), F.S.

¹⁷ Section 196.075(4)(b), F.S.

¹⁸ Section 196.075(4)(c), F.S.

¹⁹ Section 196.075(4)(d), F.S.

²⁰ Section 196.075(5), F.S.

50 percent of the unpaid taxes plus interest at a rate of 15 percent per year. If such penalty is not paid in 30 days, the property appraiser must record a notice of tax lien against any property in the county owned by that person, or property in other counties if that person no longer owns property in the appraiser's county.²¹

A person granted an exemption as a result of a clerical mistake or omission by the property appraiser may not be assessed a penalty or interest.²²

III. Effect of Proposed Changes:

The bill amends s. 196.075, F.S., to require that an ordinance enacted by a local government authorizing an additional homestead exemption for low-income seniors must require the taxpayer to submit a sworn statement of household income only when initially claiming the exemption, rather than annually.

The bill provides that the property appraiser must annually notify eligible taxpayers of the adjusted income limitation. The taxpayer must then notify the property appraiser by May 1 if his or her household income exceeds such income limitation.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (b) of section 18 of the Florida 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 have an indeterminate positive or negative impact on local property tax revenues. If the actual reductions exceed \$2.2 million, the mandates provisions may apply.

²¹ Section 196.075(9), F.S.

²² *Id.*

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:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference analyzed the original filed version of the bill and determined that it will have an indeterminate positive or negative impact on local property tax revenue beginning in Fiscal Year 2022-23. The changes made by the committee substitute have not been analyzed by the conference and may result in a different fiscal impact.

B. Private Sector Impact:

The bill amends the process by which an eligible senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions, which may reduce the burden of submitting sworn statements annually.

C. Government Sector Impact:

Property appraisers may incur expenses as a result of implementing the new notification procedures required in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.075 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on March 16, 2021:

The committee substitute:

- Deletes a provision in current law regarding the submission of supporting documentation when renewing a homestead exemption for low-income seniors.
- Moves the date by which a taxpayer must notify the property appraiser that their income has exceeded the income limitation from March 1 to May 1, annually.
- Removes duplicate reference to penalties for a taxpayer receiving an additional homestead exemption to which he or she is not entitled. With the amendment, taxpayers are still subject to such penalties under s. 196.075(9), F.S.

- B. **Amendments:**

None.

By the Committee on Community Affairs; and Senator Polsky

578-02925-21

20211256c1

A bill to be entitled

An act relating to homestead exemption for seniors 65 and older; amending s. 196.075, F.S.; revising provisions to require certain taxpayers to submit a claim for homestead exemption only one time if certain conditions are met; requiring the property appraiser to provide specified information related to income limitations on an annual basis; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) and subsection (5) of section 196.075, Florida Statutes, are amended to read:
196.075 Additional homestead exemption for persons 65 and older.-

(4) An ordinance granting an additional homestead exemption as authorized by this section must meet the following requirements:

(d) It must require that a taxpayer claiming the exemption for the first time annually submit to the property appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue.

(5) The department must require by rule that the filing of the statement be supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), any request for an extension of time to file returns, and any other documents it finds necessary, for each member of the household, to be submitted for inspection by the property

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578-02925-21

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appraiser. The taxpayer's sworn statement shall attest to the accuracy of the documents and grant permission to allow review of the documents if requested by the property appraiser. ~~Submission of supporting documentation is not required for the renewal of an exemption under this section unless the property appraiser requests such documentation.~~ Once the documents have been inspected by the property appraiser, they shall be returned to the taxpayer or otherwise destroyed. Annually, the property appraiser shall notify each taxpayer of the adjusted income limitation set forth in subsection (3). The taxpayer must notify the property appraiser by May 1 if his or her household income exceeds the most recent adjusted income limitation. The property appraiser may conduct ~~is authorized to generate~~ random audits of the taxpayers' sworn statements to ensure the accuracy of the household income reported. If ~~se~~ selected for audit, a taxpayer shall execute Internal Revenue Service Form 8821 or 4506, which authorizes the Internal Revenue Service to release tax information to the property appraiser's office. All reviews conducted in accordance with this section shall be completed on or before June 1. The property appraiser may not grant ~~or renew~~ the exemption if the required documentation requested is not provided.

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

Page 2 of 2

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture
Appropriations Subcommittee on Education
Community Affairs
Education
Ethics and Elections
Judiciary

SENATOR TINA SCOTT POLSKY

29th District

March 17, 2021

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

Chair Rodriguez,

I respectfully request that you place CS/SB 1256, relating to Homestead Exemption for Seniors 65 and Older, on the agenda of the Committee on Finance and Tax at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Kindest Regards,

A handwritten signature in black ink, appearing to read "Tina S. Polsky".

Senator Tina S. Polsky
Florida Senate, District 29

cc: Robert Babin, Staff Director
Stephanie Bell-Parke, Administrative Assistant

REPLY TO:

- 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/25/2024

Meeting Date

1256

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Ass'n of Fla.

Address 1828 Riggins Rd

Phone 850-219-0220

Street

Tallahassee

City

FL

State

32308

Zip

Email llevy@levylawfax.com

Speaking: For Against Information

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

Representing Property Appraisers' Ass'n of Fla.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7068

INTRODUCER: Finance and Tax Committee

SUBJECT: Tax Administration

DATE: March 25, 2021

REVISED: _____

ANALYST

Bruno

STAFF DIRECTOR

Babin

REFERENCE

ACTION

FT Submitted as Comm. Bill/Fav

I. Summary:

SPB 7068 includes several unrelated issues regarding tax administration. The SPB:

- Removes the penalty for taxpayers who opt to prepay their property taxes in installments but submit their first payment after the due date.
- Provides an alternate method of determining the severance tax rate for titanium dioxide when the current price index cannot be used.
- Creates a process to allow freight forwarding agents to receive a Certificate of Freight Forwarding Agent Address which can be used to avoid payment of sales tax on tangible personal property to be exported.
- Requires dealers to provide records in an electronic format when the dealer currently maintains those records in an electronic format.
- Allows the aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes.

The Revenue Estimating Conference determined that the bill will reduce local revenues by zero or an insignificant amount every year beginning in Fiscal Year 2022-2023.

The bill has an effective date of January 1, 2022, except as provided otherwise.

II. Present Situation:

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Section 1 – Prepayment of Property Tax by Installment Method

Present Situation

Taxpayers are generally allowed to prepay property taxes in installments and to receive discounts on the first three of those payments. If the taxpayer elects to prepay his or her taxes, but is late with the first payment, the tax collector may either accept or not accept the first installment of the prepayment if made prior to July 31. If the tax collector chooses to accept the first installment then the discount is lost and the payment must be accompanied by a 5 percent penalty. If the tax collector chooses not to accept the late first installment, the taxpayer is not eligible to participate in the prepayment program for that tax year.

Proposed Change

The bill amends s. 197.222, F.S., to specify that tax collectors must accept late payments of a first installment if made prior to July 31 and removes the 5 percent penalty.

Section 2 – Titanium Dioxide Severance Tax Rate

Present Situation

Florida imposes a tax on the severance of heavy minerals from the soils or waters of this state for commercial use. The heavy minerals tax rate is calculated each year based on the producer price index for titanium dioxide published by the U.S. Bureau of Labor Statistics. Due to a lack of data, this index is no longer created.¹ The Department of Revenue (department) is permitted to adopt a comparable index by rule. However, the department is unable to identify a comparable index.

Proposed Change

The bill amends s. 211.3106, F.S., to specify that if the producer price index is discontinued or cannot be calculated and if there is no comparable index, then the tax rate from the immediately preceding year must be used.

Section 3 – Certificate of Forwarding Agent Address

Present Situation

Tangible personal property delivered by the seller to a licensed exporter or common carrier for export outside Florida is not subject to sales tax.²

Certain forwarding agents receive tangible personal property at their place of business within Florida, consolidate the property for shipment, and deliver the property to a common carrier for shipment outside Florida. These transactions are exempt from sales tax under current law.

¹ U.S. Bureau of Labor Statistics, *Producer Price Index by Industry: Synthetic Dye and Pigment Manufacturing: Titanium Dioxide, Composite and Pure (DISCONTINUED) [PCU32513032513011]*, retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PCU32513032513011> (last visited March 18, 2021).

² Section 212.06(5)(a)1., F.S.

However, the original vendor of the tangible personal property delivering said property to the Florida address of the forwarding agent that is consolidating the property for export frequently charges tax for these purchases as verifying the tax-exempt status can be difficult.

Proposed Change

Generally, the bill amends s. 212.13, F.S., to create a process that allows forwarding agents to receive a certificate that can be provided to vendors to document the exempt nature of sales for export.

The bill defines the following terms:

- “Certificate” means a Florida Certificate of Forwarding Agent Address.
- “Facilitating” means preparation for or arranging for export.
- “Forwarding agent” means a person or business whose principal business activity is facilitating for compensation the export of property owned by other persons.
- “NAICS” means those classifications contained in the North American Industry Classification System as published in 2007 by the Office of Management and Budget, Executive Office of the President.

A forwarding agent engaged in international export may apply to the department for a Certificate of Forwarding Agent address. The application must include specified information concerning the forwarding agent’s location and export activities. Each certificate expires five years after issue, and provides for an ongoing duty of the forwarding agent to disclose material changes to the information contained in the application.

The bill amends s. 212.06, F.S. to add a forwarding agent who has received a Certificate of Forwarding Agent Address as a defined “dealer”.

The bill lists the records that must be kept, and that those records must be stored in an electronic format. The records must be made available for the department’s review pursuant to current law.

The bill directs the department to verify that forwarding agents who possess a certificate are actively engaged in facilitating export of property. The bill also provides that the certificate cannot be used to fraudulently avoid sales tax and gives the department the authority to revoke certificates. The bill further provides that fraudulent activity is subject to liability for the tax and civil and criminal penalties.

The bill provides that a certificate may be accepted by a dealer in lieu of collecting and remitting sales tax. It further directs the department to create an online system for verification of certificates. Finally, it outlines the records which need to be kept by a selling dealer to avoid liability for tax.

Section 4 – Electronic Records/Sales Tax Audit

Present Situation

Sales and use tax dealers are required to maintain certain records and make those records available to the department for inspection during reasonable hours at the dealer’s place of

business.³ Many dealers maintain records in an electronic format. However, the department has encountered dealers who refuse to share their records without a physical visit. Due to the pandemic, physical visits are limited.

It is unknown how many dealers keep their records in an electronic format. However, the department provided that approximately 85 percent of dealers file their taxes electronically.

Proposed Change

The bill amends s. 212.13(2), F.S., to require dealers to provide electronic records, when requested by the department, if the dealer already maintains the records in an electronic format. The bill removes language referencing a physical visit requirement from s. 212.13(2), F.S.

Section 5 – Theft of State Funds

Present Situation

When a dealer collects sales tax from customers but fails to remit those tax dollars to the state, the dealer can be prosecuted for theft of sales tax.⁴ These prosecutions often involve multiple collection periods for which the dealer has collected but failed to remit taxes. Aggregation of collection periods is not specifically provided for in sales tax law. However, the general theft statute in Florida does allow the aggregation of amounts stolen from a similar course of conduct.⁵

Proposed Change

The bill amends s. 212.15(2), F.S., providing specific authority for aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes, mirroring the construction of the general theft statute.

Section 6 amends s. 213.053, F.S., to exempt the newly created verification database of freight forwarding addresses in section 3 of the bill from the department's confidentiality requirements.

Section 7 reenacts s. 212.13, F.S., to conform to changes made by the bill.

Section 8 provides emergency rule making authority to the department for the implementation of the bill and provides a sunset date of January 1, 2025, for this authority.

Section 9 provides that the bill is effective January 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or limits their ability to raise revenue or receive state tax revenue.

³ Section 212.13(2), F.S.

⁴ Section 212.15(2), F.S.

⁵ Section 812.012(10)(c), F.S.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its 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. However, the mandates requirements do not apply to laws having an insignificant fiscal impact^{6, 7} which for Fiscal Year 2021-2022, is forecast at \$2.2 million or less.⁸

The Revenue Estimating Conference determined that this bill will have an insignificant negative impact to local revenues on a recurring basis. Therefore, the mandates provision will likely not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. 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 determined that the bill will reduce local revenues by zero or an insignificant amount every year beginning in Fiscal Year 2022-2023.

B. Private Sector Impact:

Taxpayers who elect the installment method of payment of property tax but are delinquent with their first payment will not have a pay a penalty on that payment.

⁶ FLA. CONST. art. VII, s. 18(d).

⁷ 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 at p. 1, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 18, 2021).

⁸ 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 March 18, 2021).

Businesses that keep electronic records will be required to provide statutorily mandated records to the department in that format.

Dealers who do not remit sales tax collections to the state can have the amount aggregated in determining the level of offense.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 197.222, 211.3106, 212.06, 213.053, 212.13, and 212.15.

The bill reenacts part of section 212.08 of the Florida Statutes without change.

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.

FOR CONSIDERATION By the Committee on Finance and Tax

593-02038B-21

20217068pb

1 A bill to be entitled
 2 An act relating to tax administration; amending s.
 3 197.222, F.S.; requiring, rather than authorizing, tax
 4 collectors to accept late payments of prepaid property
 5 taxes within a certain timeframe; deleting a late
 6 payment penalty; amending s. 211.3106, F.S.;
 7 specifying the severance tax rate for a certain heavy
 8 mineral under certain circumstances; amending s.
 9 212.06, F.S.; revising the definition of the term
 10 "dealer"; revising a condition for a sales tax
 11 exception for tangible personal property imported,
 12 produced, or manufactured in this state for export;
 13 defining terms; specifying application requirements
 14 and procedures for a forwarding agent to apply for a
 15 Florida Certificate of Forwarding Agent Address from
 16 the Department of Revenue; requiring forwarding agents
 17 receiving such certificate to register as dealers for
 18 purposes of the sales and use tax; specifying
 19 requirements for sales tax remittance and for
 20 recordkeeping; specifying the timeframe for expiration
 21 of certificates and procedures for renewal; requiring
 22 forwarding agents to update information; requiring the
 23 department to verify certain information; authorizing
 24 the department to suspend or revoke certificates under
 25 certain circumstances; requiring the department to
 26 provide a list on its website of forwarding agents who
 27 have received certificates; providing circumstances
 28 and requirements for and construction related to
 29 dealers accepting certificates or relying on the

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30 department's website list in lieu of collecting
 31 certain taxes; providing criminal penalties for
 32 certain violations; authorizing the department to
 33 adopt rules; amending s. 212.13, F.S.; revising
 34 recordkeeping requirements for dealers collecting the
 35 sales and use tax; amending s. 212.15, F.S.; providing
 36 that stolen sales tax revenue may be aggregated for
 37 the purposes of determining the grade of certain
 38 criminal offenses; amending s. 213.053, F.S.;
 39 authorizing the department to publish a list of
 40 forwarding agents who have received Florida
 41 Certificates of Forwarding Agent Address on its
 42 website; reenacting s. 192.0105(3)(a), F.S., relating
 43 to taxpayer rights, to incorporate the amendment made
 44 to s. 197.222, F.S., in a reference thereto;
 45 reenacting s. 212.07(1)(c), F.S., relating to the
 46 sales, storage, and use tax, to incorporate the
 47 amendment made to s. 212.06, F.S., in a reference
 48 thereto; reenacting s. 212.08(18)(f), F.S., relating
 49 to the sales, rental, use, consumption, distribution,
 50 and storage tax, to incorporate the amendment made to
 51 s. 212.13, F.S., in a reference thereto; authorizing
 52 the department to adopt emergency rules; providing for
 53 expiration of that authority; providing effective
 54 dates.

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

58 Section 1. Effective July 1, 2021, paragraph (a) of

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59 subsection (1) of section 197.222, Florida Statutes, is amended
60 to read:

61 197.222 Prepayment of estimated tax by installment method.—

62 (1) Taxes collected pursuant to this chapter may be prepaid
63 in installments as provided in this section. A taxpayer may
64 elect to prepay by installments for each tax notice for taxes
65 estimated to be more than \$100. A taxpayer who elects to prepay
66 shall make payments based upon an estimated tax equal to the
67 actual taxes levied upon the subject property in the prior year.
68 In order to prepay by installments, the taxpayer must complete
69 and file an application for each tax notice with the tax
70 collector on or before April 30 of the year in which the
71 taxpayer elects to prepay the taxes. After submission of an
72 initial application, a taxpayer is not required to submit
73 additional annual applications as long as he or she continues to
74 elect to prepay taxes in installments. However, if in any year
75 the taxpayer does not so elect, reapplication is required for a
76 subsequent election. Installment payments shall be made
77 according to the following schedule:

78 (a) The first payment of one-quarter of the total amount of
79 estimated taxes due must be made by June 30 of the year in which
80 the taxes are assessed. A 6 percent discount applied against the
81 amount of the installment shall be granted for such payment. The
82 tax collector shall ~~may~~ accept a late payment of the first
83 installment through July 31, ~~and the late payment must be~~
84 ~~accompanied by a penalty of 5 percent of the amount of the~~
85 ~~installment due.~~

86 Section 2. Paragraph (e) of subsection (3) of section
87 211.3106, Florida Statutes, is amended to read:

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88 211.3106 Levy of tax on severance of heavy minerals; rate,
89 basis, and distribution of tax.—

90 (3)

91 (e) ~~If in the event~~ the producer price index for titanium
92 dioxide is discontinued or can no longer be calculated, ~~then~~ a
93 comparable index must ~~shall~~ be selected by the department and
94 adopted by rule. If there is no comparable index, the tax rate
95 for the immediately preceding year must be used.

96 Section 3. Subsection (5) of section 212.06, Florida
97 Statutes, is amended, and paragraph (m) is added to subsection
98 (2) of that section, to read:

99 212.06 Sales, storage, use tax; collectible from dealers;
100 "dealer" defined; dealers to collect from purchasers;
101 legislative intent as to scope of tax.—

102 (2)

103 (m) The term "dealer" also means a forwarding agent as
104 defined in sub-subparagraph (5)(b)1.c. who has applied for and
105 received a Florida Certificate of Forwarding Agent Address from
106 the department.

107 (5)(a)1. Except as provided in subparagraph 2., it is not
108 the intention of this chapter to levy a tax upon tangible
109 personal property imported, produced, or manufactured in this
110 state for export, provided that tangible personal property may
111 not be considered as being imported, produced, or manufactured
112 for export unless the importer, producer, or manufacturer
113 delivers the same to a forwarding agent licensed exporter for
114 exporting or to a common carrier for shipment outside this the
115 state or mails the same by United States mail to a destination
116 outside this the state; or, in the case of aircraft being

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117 exported under their own power to a destination outside the
 118 continental limits of the United States, by submission to the
 119 department of a duly signed and validated United States customs
 120 declaration, showing the departure of the aircraft from the
 121 continental United States; and further with respect to aircraft,
 122 the canceled United States registry of said aircraft; or in the
 123 case of parts and equipment installed on aircraft of foreign
 124 registry, by submission to the department of documentation as ~~7~~
 125 ~~the extent of which shall be~~ provided by rule, showing the
 126 departure of the aircraft from the continental United States;
 127 nor is it the intention of this chapter to levy a tax on any
 128 sale that ~~which~~ the state is prohibited from taxing under the
 129 Constitution or laws of the United States. Every retail sale
 130 made to a person physically present at the time of sale is ~~shall~~
 131 ~~be~~ presumed to have been delivered in this state.

132 2.a. Notwithstanding subparagraph 1., a tax is levied on
 133 each sale of tangible personal property to be transported to a
 134 cooperating state as defined in sub-subparagraph c., at the rate
 135 specified in sub-subparagraph d. However, a Florida dealer is
 136 ~~will be~~ relieved from the requirements of collecting taxes
 137 pursuant to this subparagraph if the Florida dealer obtains from
 138 the purchaser an affidavit providing ~~setting forth~~ the
 139 purchaser's name, address, state taxpayer identification number,
 140 and a statement that the purchaser is aware of his or her
 141 state's use tax laws, is a registered dealer in Florida or
 142 another state, or is purchasing the tangible personal property
 143 for resale or is otherwise not required to pay the tax on the
 144 transaction. The department may, by rule, provide a form to be
 145 used for the purposes of this sub-subparagraph ~~set forth herein~~.

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146 b. For purposes of this subparagraph, the term "a
 147 cooperating state" means a state ~~is one~~ determined by the
 148 executive director of the department to cooperate satisfactorily
 149 with this state in collecting taxes on mail order sales. To be
 150 determined a cooperating state, a ~~No~~ state must meet ~~shall be so~~
 151 ~~determined unless it meets~~ all the following minimum
 152 requirements:

153 (I) It levies and collects taxes on mail order sales of
 154 property transported from that state to persons in this state,
 155 as described in s. 212.0596, upon request of the department.

156 (II) The tax so collected must ~~shall~~ be at the rate
 157 specified in s. 212.05, not including any local option or
 158 tourist or convention development taxes collected pursuant to s.
 159 125.0104 or this chapter.

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

163 (IV) Such state authorizes the department to audit dealers
 164 within its jurisdiction who make mail order sales that are the
 165 subject of s. 212.0596, or makes arrangements deemed adequate by
 166 the department for auditing them with its own personnel.

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

172 c. For purposes of this subparagraph, the term "sales of
 173 tangible personal property to be transported to a cooperating
 174 state" means mail order sales to a person who is in the

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175 cooperating state at the time the order is executed, from a
176 dealer who receives that order in this state.

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

182 e. The tax levied by sub-subparagraph a., when collected,
183 shall be held in the State Treasury in trust for the benefit of
184 the cooperating state and shall be paid to it at a time agreed
185 upon between the department, acting for this state, and the
186 cooperating state or the department or agency designated by it
187 to act for it; however, such payment shall in no event be made
188 later than 30 days from the last day of the calendar quarter
189 after the tax was collected. Funds held in trust for the benefit
190 of a cooperating state are shall not be subject to the service
191 charges imposed by s. 215.20.

192 f. The department is authorized to perform such acts and to
193 provide such cooperation to a cooperating state with reference
194 to the tax levied by sub-subparagraph a. as is required of the
195 cooperating state by sub-subparagraph b.

196 g. In furtherance of this act, dealers selling tangible
197 personal property for delivery in another state shall make
198 available to the department, upon request of the department,
199 records of all tangible personal property so sold. Such records
200 must shall include a description of the property, the name and
201 address of the purchaser, the name and address of the person to
202 whom the property was sent, the purchase price of the property,
203 information regarding whether sales tax was paid in this state

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204 on the purchase price, and such other information as the
205 department may by rule prescribe.

206 (b)1. As used in this subsection, the term:

207 a. "Certificate" means a Florida Certificate of Forwarding
208 Agent Address.

209 b. "Facilitating" means preparation for or arranging for
210 export.

211 c. "Forwarding agent" means a person or business whose
212 principal business activity is facilitating for compensation the
213 export of property owned by other persons.

214 d. "NAICS" means those classifications contained in the
215 North American Industry Classification System as published in
216 2007 by the Office of Management and Budget, Executive Office of
217 the President.

218 e. "Principal business activity" means the activity from
219 which the person or business derives the highest percentage of
220 its total receipts.

221 2. A forwarding agent engaged in international export may
222 apply to the department for a certificate.

223 3. Each application must include:

224 a. The designation of an address for the forwarding agent.

225 b. A certification that:

226 (I) The tangible personal property delivered to the
227 designated address for export originates with a United States
228 vendor;

229 (II) The tangible personal property delivered to the
230 designated address for export is irrevocably committed to export
231 out of the United States through a continuous and unbroken
232 exportation process; and

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233 (III) The designated address is used exclusively by the
 234 forwarding agent for such export.
 235 c. A copy of the forwarding agent's last filed federal
 236 income tax return showing the entity's principal business
 237 activity classified under NAICS code 488510, except as provided
 238 under subparagraph 4. or subparagraph 5.
 239 d. A statement of the total revenues of the forwarding
 240 agent.
 241 e. A statement of the amount of revenues associated with
 242 international export of the forwarding agent.
 243 f. A description of all business activity that occurs at
 244 the designated address.
 245 g. The name and contact information of a designated contact
 246 person of the forwarding agent.
 247 h. The forwarding agent's website address.
 248 i. Any additional information the department requires by
 249 rule to demonstrate eligibility for the certificate and a
 250 signature attesting to the validity of the information provided.
 251 4. An applicant that has not filed a federal return for the
 252 preceding tax year under NAICS code 488510 shall provide all of
 253 the following:
 254 a. A statement of estimated total revenues.
 255 b. A statement of estimated revenues associated with
 256 international export.
 257 c. The NAICS code under which the forwarding agent intends
 258 to file a federal return.
 259 5. If an applicant does not file a federal return
 260 identifying a NAICS code, the applicant shall provide
 261 documentation to support that its principal business activity is

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262 that of a forwarding agent as defined in sub-subparagraph
 263 (b)1.c. and that the applicant is otherwise eligible for the
 264 certificate.
 265 6. A forwarding agent that applies for and receives a
 266 certificate shall register as a dealer with the department.
 267 7. A forwarding agent shall remit the tax imposed under
 268 this chapter on any tangible personal property shipped to the
 269 designated forwarding agent address if no tax was collected and
 270 the tangible personal property remained in this state or when
 271 delivery to the purchaser or purchaser's representative occurs
 272 in this state. This subparagraph does not prohibit the
 273 forwarding agent from collecting such tax from the consumer of
 274 the tangible personal property.
 275 8. A forwarding agent shall maintain the following records:
 276 a. Copies of sales invoices or receipts between the vendor
 277 and the consumer when provided by the vendor to the forwarding
 278 agent. If sales invoices or receipts are not provided to the
 279 forwarding agent, the forwarding agent must maintain export
 280 documentation evidencing the value of the purchase consistent
 281 with the federal Export Administration Regulations, 15 C.F.R.
 282 parts 730-774.
 283 b. Copies of federal returns evidencing the forwarding
 284 agent's NAICS principal business activity code.
 285 c. Copies of invoices evidencing shipment to the forwarding
 286 agent.
 287 d. Invoices between the forwarding agent and the consumer
 288 or other documentation evidencing the ship-to destination
 289 outside the United States.
 290 e. Invoices for foreign postal or transportation services.

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291 f. Bills of lading.292 g. Any other export documentation.

293

294 Such records must be kept in an electronic format and made
 295 available for the department's review pursuant to subparagraph
 296 9. and ss. 212.13 and 213.35.

297 9. Each certificate expires 5 years after the date of
 298 issuance, except as specified in this subparagraph.

299 a. At least 30 days before expiration, a new application
 300 must be submitted to renew the certificate, and the application
 301 must contain the information required in subparagraph 3. Upon
 302 application for renewal, the certificate is subject to the
 303 review and reissuance procedures prescribed by this chapter and
 304 department rule.

305 b. Each forwarding agent shall update its application
 306 information annually or within 30 days of any material change.

307 c. The department shall verify that the forwarding agent is
 308 actively engaged in facilitating the international export of
 309 tangible personal property.

310 d. The department may suspend or revoke the certificate of
 311 any forwarding agent that fails to respond within 30 days to a
 312 written request for information regarding its business
 313 transactions.

314 10. The department shall provide a list on its website of
 315 forwarding agents that have applied for and received a
 316 certificate from the department. The list must include a
 317 forwarding agent's entity name, address, and expiration date as
 318 provided on the certificate.

319 11. A dealer may accept a copy of the forwarding agent's

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320 certificate or rely on the list of forwarding agents' names and
 321 addresses on the department's website in lieu of collecting the
 322 tax imposed under this chapter when the property is required by
 323 terms of the sale to be shipped to the designated address on the
 324 certificate. A dealer who accepts a valid copy of a certificate
 325 in good faith and ships purchased tangible personal property to
 326 the address on the certificate is not liable for any tax due on
 327 sales made during the effective dates indicated on the
 328 certificate.

329 12. The department may revoke a forwarding agent's
 330 certificate for noncompliance with this paragraph. Any person
 331 found to fraudulently use the address on the certificate for the
 332 purpose of evading tax is subject to the penalties provided in
 333 s. 212.085.

334 13. The department may adopt rules to administer this
 335 paragraph, including rules relating to procedures, application
 336 and eligibility requirements, and forms.

337 (c)1. Notwithstanding the provisions of paragraph (a), it
 338 is not the intention of this chapter to levy a tax on the sale
 339 of tangible personal property to a nonresident dealer who does
 340 not hold a Florida sales tax registration, provided such
 341 nonresident dealer furnishes the seller a statement declaring
 342 that the tangible personal property will be transported outside
 343 this state by the nonresident dealer for resale and for no other
 344 purpose. The statement must ~~shall~~ include, but not be limited
 345 to, the nonresident dealer's name, address, applicable passport
 346 or visa number, arrival-departure card number, and evidence of
 347 authority to do business in the nonresident dealer's home state
 348 or country, such as his or her business name and address,

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349 occupational license number, if applicable, or any other
 350 suitable requirement. The statement ~~must shall~~ be signed by the
 351 nonresident dealer and ~~must shall~~ include the following
 352 sentence: "Under penalties of perjury, I declare that I have
 353 read the foregoing, and the facts alleged are true to the best
 354 of my knowledge and belief."

355 2. The burden of proof of subparagraph 1. rests with the
 356 seller, who must retain the proper documentation to support the
 357 exempt sale. The exempt transaction is subject to verification
 358 by the department.

359 ~~(d)(e)~~ Notwithstanding ~~the provisions of~~ paragraph (a), it
 360 is not the intention of this chapter to levy a tax on the sale
 361 by a printer to a nonresident print purchaser of material
 362 printed by that printer for that nonresident print purchaser
 363 when the print purchaser does not furnish the printer a resale
 364 certificate containing a sales tax registration number but does
 365 furnish to the printer a statement declaring that such material
 366 will be resold by the nonresident print purchaser.

367 Section 4. Effective July 1, 2021, subsection (2) of
 368 section 212.13, Florida Statutes, is amended to read:

369 212.13 Records required to be kept; power to inspect; audit
 370 procedure.-

371 (2) Each dealer, as defined in this chapter, shall secure,
 372 maintain, and keep as long as required by s. 213.35 a complete
 373 record of tangible personal property or services received, used,
 374 sold at retail, distributed or stored, leased or rented by said
 375 dealer, together with invoices, bills of lading, gross receipts
 376 from such sales, and other pertinent records and papers as may
 377 be required by the department for the reasonable administration

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378 of this chapter. ~~→~~ All such records must be made available to the
 379 department at reasonable times and places and by reasonable
 380 means, including in an electronic format when so kept by the
 381 dealer which are located or maintained in this state shall be
 382 open for inspection by the department at all reasonable hours at
 383 such dealer's store, sales office, general office, warehouse, or
 384 place of business located in this state. Any dealer who
 385 maintains such books and records at a point outside this state
 386 must make such books and records available for inspection by the
 387 department where the general records are kept. Any dealer
 388 subject to the provisions of this chapter who violates this
 389 subsection commits these provisions is guilty of a misdemeanor
 390 of the first degree, punishable as provided in s. 775.082 or s.
 391 775.083. If, however, any subsequent offense involves
 392 intentional destruction of such records with an intent to evade
 393 payment of or deprive the state of any tax revenues, such
 394 subsequent offense is shall be a felony of the third degree,
 395 punishable as provided in s. 775.082 or s. 775.083.

396 Section 5. Effective July 1, 2021, subsection (2) of
 397 section 212.15, Florida Statutes, is amended to read:

398 212.15 Taxes declared state funds; penalties for failure to
 399 remit taxes; due and delinquent dates; judicial review.-

400 (2) Any person who, with intent to unlawfully deprive or
 401 defraud the state of its moneys or the use or benefit thereof,
 402 fails to remit taxes collected under this chapter commits theft
 403 of state funds, punishable as follows:

404 (a) If the total amount of stolen revenue is less than
 405 \$1,000, the offense is a misdemeanor of the second degree,
 406 punishable as provided in s. 775.082 or s. 775.083. Upon a

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407 second conviction, the offender commits a misdemeanor of the
 408 first degree, punishable as provided in s. 775.082 or s.
 409 775.083. Upon a third or subsequent conviction, the offender
 410 commits a felony of the third degree, punishable as provided in
 411 s. 775.082, s. 775.083, or s. 775.084.

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

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

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

423
 424 The amount of stolen revenue may be aggregated in determining
 425 the grade of the offense.

426 Section 6. Subsection (5) of section 213.053, Florida
 427 Statutes, is amended to read:

428 213.053 Confidentiality and information sharing.—

429 (5) This section does not prevent the department from doing
 430 any of the following:

431 (a) Publishing statistics so classified as to prevent the
 432 identification of particular accounts, reports, declarations, or
 433 returns; ~~or~~

434 (b) Publishing a list of forwarding agents who have
 435 received a Florida Certificate of Forwarding Agent Address,

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436 which list shall include the forwarding agent's entity name,
 437 address, and certificate expiration date on the department's
 438 website pursuant to s. 212.06(5)(b)10.; or

439 ~~(c)(b)~~ Using telephones, e-mail, facsimile machines, or
 440 other electronic means to do any of the following:

441 1. Distribute information relating to changes in law, tax
 442 rates, interest rates, or other information that is not specific
 443 to a particular taxpayer;

444 2. Remind taxpayers of due dates;

445 3. Respond to a taxpayer to an electronic mail address that
 446 does not support encryption if the use of that address is
 447 authorized by the taxpayer; or

448 4. Notify taxpayers to contact the department.

449 Section 7. For the purpose of incorporating the amendment
 450 made by this act to section 197.222, Florida Statutes, in a
 451 reference thereto, paragraph (a) of subsection (3) of section
 452 192.0105, Florida Statutes, is reenacted to read:

453 192.0105 Taxpayer rights.—There is created a Florida
 454 Taxpayer's Bill of Rights for property taxes and assessments to
 455 guarantee that the rights, privacy, and property of the
 456 taxpayers of this state are adequately safeguarded and protected
 457 during tax levy, assessment, collection, and enforcement
 458 processes administered under the revenue laws of this state. The
 459 Taxpayer's Bill of Rights compiles, in one document, brief but
 460 comprehensive statements that summarize the rights and
 461 obligations of the property appraisers, tax collectors, clerks
 462 of the court, local governing boards, the Department of Revenue,
 463 and taxpayers. Additional rights afforded to payors of taxes and
 464 assessments imposed under the revenue laws of this state are

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465 provided in s. 213.015. The rights afforded taxpayers to assure
 466 that their privacy and property are safeguarded and protected
 467 during tax levy, assessment, and collection are available only
 468 insofar as they are implemented in other parts of the Florida
 469 Statutes or rules of the Department of Revenue. The rights so
 470 guaranteed to state taxpayers in the Florida Statutes and the
 471 departmental rules include:

472 (3) THE RIGHT TO REDRESS.—

473 (a) The right to discounts for early payment on all taxes
 474 and non-ad valorem assessments collected by the tax collector,
 475 except for partial payments as defined in s. 197.374, the right
 476 to pay installment payments with discounts, and the right to pay
 477 delinquent personal property taxes under a payment program when
 478 implemented by the county tax collector (see ss. 197.162,
 479 197.3632(8) and (10)(b)3., 197.222(1), and 197.4155).

480 Section 8. For the purpose of incorporating the amendment
 481 made by this act to section 212.06, Florida Statutes, in a
 482 reference thereto, paragraph (c) of subsection (1) of section
 483 212.07, Florida Statutes, is reenacted to read:

484 212.07 Sales, storage, use tax; tax added to purchase
 485 price; dealer not to absorb; liability of purchasers who cannot
 486 prove payment of the tax; penalties; general exemptions.—

487 (1)

488 (c) Unless the purchaser of tangible personal property that
 489 is incorporated into tangible personal property manufactured,
 490 produced, compounded, processed, or fabricated for one's own use
 491 and subject to the tax imposed under s. 212.06(1)(b) or is
 492 purchased for export under s. 212.06(5)(a)1. extends a
 493 certificate in compliance with the rules of the department, the

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494 dealer shall himself or herself be liable for and pay the tax.

495 Section 9. For the purpose of incorporating the amendment
 496 made by this act to section 212.13, Florida Statutes, in a
 497 reference thereto, paragraph (f) of subsection (18) of section
 498 212.08, Florida Statutes, is reenacted to read:

499 212.08 Sales, rental, use, consumption, distribution, and
 500 storage tax; specified exemptions.—The sale at retail, the
 501 rental, the use, the consumption, the distribution, and the
 502 storage to be used or consumed in this state of the following
 503 are hereby specifically exempt from the tax imposed by this
 504 chapter.

505 (18) MACHINERY AND EQUIPMENT USED PREDOMINANTLY FOR
 506 RESEARCH AND DEVELOPMENT.—

507 (f) Purchasers shall maintain all documentation necessary
 508 to prove the exempt status of purchases and fabrication activity
 509 and make such documentation available for inspection pursuant to
 510 the requirements of s. 212.13(2).

511 Section 10. (1) The Department of Revenue is authorized,
 512 and all conditions are deemed met, to adopt emergency rules
 513 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
 514 implementing the amendment made by this act to s. 212.06,
 515 Florida Statutes.

516 (2) Notwithstanding any other law, emergency rules adopted
 517 pursuant to subsection (1) are effective for 6 months after
 518 adoption and may be renewed during the pendency of procedures to
 519 adopt permanent rules addressing the subject of the emergency
 520 rules.

521 (3) This section shall take effect upon becoming a law and
 522 expires January 1, 2025.

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523 Section 11. Except as otherwise expressly provided in this
524 act and except for this section, which shall take effect upon
525 becoming a law, this act shall take effect January 1, 2022.

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/25/2021

Meeting Date

SB 7068

Bill Number (if applicable)

Topic Tax Administration

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 International E-Commerce Forwarder Association, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 224

INTRODUCER: Senator Berman

SUBJECT: Sales Tax Exemption

DATE: March 25, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Bruno</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 224 exempts from sales and use tax the following items that assist individuals in living and aging independently in their homes:

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

The bill specifies that the exemption only applies to purchases of these items made for personal or noncommercial use. The bill also provides that the exemption does not apply to the items listed when purchased by a business, including, but not limited to, medical institutions and assisted living facilities (ALFs).

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$1.2 million for Fiscal Year 2021-2022, with a recurring loss of \$2.9 million.¹ The bill will reduce local government revenue by \$0.4 million for Fiscal Year 2021-2022, with a recurring loss of \$0.9 million.²

The bill has an effective date of January 1, 2022.

¹ The Revenue Estimating Conference, *2021 Regular Session Revenue Estimating Conference: Impact Conference Results*, p. 1, March 5, 2021, available at <http://www.edr.state.fl.us/content/conferences/revenueimpact/2021%20Session%20Conference%20Table.pdf> (last visited March 19, 2021).

² *Id.*

II. Present Situation:

Independent Living

The term “independent living” is not defined in Florida Statutes. “Independent living” may refer to a living arrangement for people with disabilities who need supportive services.³ It may also refer to a living arrangement for elderly persons with the physical and mental capacity to live independently but who wants companionship or otherwise needs supportive services.⁴

Independent living communities are communities in which healthy individuals may live on their own without daily assistance.⁵ Currently, there are over 400 independent living communities in Florida,⁶ many of which offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.⁷

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,⁸ admissions,⁹ transient rentals,¹⁰ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida’s sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.¹¹ Sales tax receipts accounted for approximately 79 percent of the state’s General Revenue in Fiscal Year 2019-2020.¹²

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.¹³ 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.”¹⁴ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered.¹⁵

³ The Disability Achievement Center, *What is Independent Living?* available at <http://www.disabilityachievementcenter.org/about-us-2/about-centers-for-independent-living/> (last visited March 19, 2021).

⁴ aPlaceforMom, *Independent Living in Florida*, available at <https://www.aplaceformom.com/independent-living/florida> (last visited March 19, 2021).

⁵ *Id.*

⁶ *Id.*

⁷ SeniorLiving.org, *Selecting an Independent Living Community*, February 25, 2021, available at <https://www.seniorliving.org/independent-living/> (last visited March 19, 2021).

⁸ Section 212.05(1)(a)1.a., F.S.

⁹ Section 212.04(1)(b), F.S.

¹⁰ Section 212.03(1)(a), F.S.

¹¹ Section 212.07(2), F.S.

¹² The Office of Economic and Demographic Research, *Florida Tax Handbook*, p. 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited March 19, 2021) (hereinafter cited as “The Handbook”).

¹³ Section 212.055, F.S.

¹⁴ Section 212.054(2)(a), F.S.

¹⁵ The Handbook at p. 225.

III. Effect of Proposed Changes:

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

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

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

The bill has an effective date of January 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) Art. VII, s. 18 of Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant fiscal impact^{16, 17} which for Fiscal Year 2021-2022, is forecast at approximately \$2.2 million or less.¹⁸

The Revenue Estimating Conference estimates the bill will reduce local government revenues by \$0.9 million, recurring.¹⁹ Therefore, this bill appears to have an insignificant impact on local governments and the mandate provision may not apply.

B. Public Records/Open Meetings Issues:

None.

¹⁶ FLA. CONST. art. VII, s. 18(d).

¹⁷ 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 at p. 1, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 19, 2021).

¹⁸ 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 March 19, 2021).

¹⁹ *Id.* at Note 2.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable. The bill does not create or increase state taxes or fees. Thus, Art. VII, s. 19 of the Florida Constitution does not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates the bill will reduce General Revenue Fund receipts by \$1.2 million for Fiscal Year 2021-2022, with a recurring loss of \$2.9 million.²⁰ Additionally, the Conference estimates local government revenue will be reduced by \$0.4 million for Fiscal Year 2021-2022, with a recurring loss of \$0.9 million.²¹

B. Private Sector Impact:

Certain taxpayers will pay less tax when purchasing these items.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

²⁰ *Id.*

²¹ *Id.*

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Berman

31-00070-21

2021224__

A bill to be entitled

An act relating to a sales tax exemption; amending s. 212.08, F.S.; exempting from the sales and use tax specified items that assist in independent living; providing applicability; providing an effective date.

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

Section 1. Paragraph (u) is added to subsection (5) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(u) Items that assist in independent living.—

1. The following items, when purchased for noncommercial home or personal use, are exempt from the tax imposed by this chapter:

a. A bed transfer handle selling for \$60 or less.

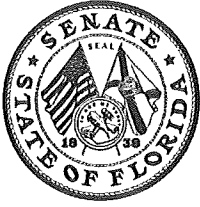
b. A bed rail selling for \$110 or less.

c. A grab bar selling for \$100 or less.

d. A shower seat selling for \$100 or less.

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

Section 2. This act shall take effect January 1, 2022.



The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 16, 2021

I respectfully request that **Senate Bill #224**, relating to Sales Tax Exemption, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Lori Berman", written over a horizontal line.

Senator Lori Berman
Florida Senate, District 31

CC: Senator Janet Cruz, Vice Chair
Robert Babin, Staff Director



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Community Affairs
Health Policy
Military and Veterans Affairs, Space,
and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JANET CRUZ

18th District

March 25, 2021

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

Dear Chair Rodriguez,

I respectfully request to be excused from the Finance and Tax Committee meeting on March 25, 2021. I will monitor the committee virtually to remain informed on the topics that are on the agenda.

Please let me know if you have any questions or concerns regarding this request.

Thank you,

A handwritten signature in blue ink, appearing to read "Janet Cruz", with a large, sweeping flourish extending to the left.

Janet Cruz
State Senator, District 18

REPLY TO:

- 210A S. MacDill Avenue, Tampa, Florida 33609 (813) 348-1017 FAX: (888) 263-3681
- 216 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Finance and Tax Committee

Judge:

Started: 3/25/2021 9:01:02 AM

Ends: 3/25/2021 9:27:20 AM

Length: 00:26:19

9:01:01 AM Meeting called to order by Chair Rodriguez
9:01:07 AM Roll call by CAA Stephanie Bell-Parke
9:01:20 AM Quorum present
9:01:35 AM Senator Cruz is excused
9:01:39 AM Comments from Chair Rodriguez
9:02:08 AM Introduction of Tab 3, CS/SB 1214 by Chair Rodriguez
9:02:25 AM Explanation of CS/SB 1214, Nonprofit Taxation by Senator Gruters
9:03:46 AM Comments from Chair Rodriguez
9:03:51 AM Introduction of Amendment Barcode 593148 by Chair Rodriguez
9:03:55 AM Explanation of Amendment by Senator Gruters
9:04:08 AM Comments from Chair Rodriguez
9:04:12 AM Introduction of Amendment-to-Amendment Barcode 365910 by Chair Rodriguez
9:04:19 AM Explanation of Amendment-to-Amendment by Senator Gruters
9:04:31 AM Comments from Chair Rodriguez
9:04:35 AM Closure waived
9:04:38 AM Amendment-to-Amendment adopted
9:04:47 AM Comments from Chair Rodriguez
9:04:57 AM Speaker Lauren, Property Appraisers Office in support of Amendment
9:05:19 AM Comments from Chair Rodriguez
9:05:27 AM Closure waived
9:05:31 AM Amendment adopted
9:05:37 AM Comments from Chair Rodriguez
9:05:50 AM Greg Black, Florida Association of Museums waives in support
9:06:01 AM Melissa Ramba, Marie Selby Botanical Garden waives in support
9:06:18 AM Comments from Chair Rodriguez
9:06:29 AM Senator Harrell in debate
9:07:15 AM Senator Gruters in closure
9:07:21 AM Roll call by CAA
9:08:04 AM CS/CS/SB 1214 reported favorably
9:08:21 AM Introduction of Tab 5 , SPB 7068 by Chair Rodriguez
9:08:51 AM Explanation of SPB 7068, Tax Administration by Daniel Bruno, Staff Attorney
9:13:02 AM Comments from Chair Rodriguez
9:13:12 AM French Brown, Florida International E-Commerce Forwarder Association, Inc. waives in support
9:13:29 AM Comments from Chair Rodriguez
9:13:40 AM Senator R. Rodrigues moves that SPB 7068 be submitted as a Committee Bill
9:13:50 AM Motion adopted
9:13:55 AM Roll call by CAA
9:13:58 AM SPB 7068 reported favorably
9:14:10 AM Introduction of Tab 4, CS/SB 1256 by Chair Rodriguez
9:14:33 AM Explanation of CS/SB 1256, Homestead Exemption for Seniors 65 and Older by Senator Polsky
9:15:12 AM Comments from Chair Rodriguez
9:15:28 AM Closure waived
9:15:30 AM Roll call by CAA
9:15:35 AM CS/SB 1256 reported favorably
9:15:46 AM Introduction of Tab 1, CS/SB 302 by Chair Rodriguez
9:16:12 AM Explanation of CS/SB 302, Small Business Saturday Sales Tax Holiday by Senator Taddeo
9:17:11 AM Comments from Chair Rodriguez
9:17:38 AM Carolyn Johnson, Florida Chamber of Commerce waives in support
9:17:43 AM Pamela Burch Fort waives in support
9:17:53 AM Comments from Chair Rodriguez
9:17:57 AM Senator Taddeo in closure
9:18:02 AM Roll call by CAA

9:18:32 AM CS/SB 302 reported favorably
9:18:48 AM Introduction of Tab 6, SB 224 by Chair Rodriguez
9:19:02 AM Explanation of SB 224, Sales Tax Exemption by Senator Berman
9:19:46 AM Comments from Chair Rodriguez
9:20:05 AM Closure waived
9:20:09 AM Roll call by CAA
9:20:12 AM SB 224 reported favorably
9:20:23 AM Recording Paused
9:23:55 AM Recording Resumed
9:24:07 AM Introduction of Tab 2, SB 806 by Chair Rodriguez
9:25:06 AM Explanation of SB 806, Tax Exemption for Diapers and Incontinence Products by Senator Book
9:26:08 AM Comments from Chair Rodriguez
9:26:24 AM Closure waived
9:26:28 AM Roll call by CAA
9:26:31 AM SB 806 reported favorably
9:26:43 AM Comments from Chair Rodriguez
9:26:56 AM Senator Harrell moves to adjourn
9:27:07 AM Meeting adjourned