

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 24, 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>	Pre-meeting
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 EDR, *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-reports/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 (EDR), *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 EDR's 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.
