

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 7061 PCB WMC 21-01 Taxation
SPONSOR(S): Ways & Means Committee, Payne and others
TIED BILLS: N/A **IDEN./SIM. BILLS:** N/A

FINAL HOUSE FLOOR ACTION: 117 Y's 1 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 7061 passed the House on April 23, 2021. The bill was amended in the Senate on April 29, 2021, and returned to the House on April 30, 2021. The House concurred in the Senate amendment and subsequently passed the bill as amended on April 30, 2021.

The bill includes numerous provisions designed to provide tax improvements for both families and businesses.

For sales tax, the bill includes:

- A ten-day "back-to-school" tax holiday in late July and early August for certain clothing, school supplies, and personal computers;
- A ten-day "disaster preparedness" tax holiday in late May and early June for specified disaster preparedness items;
- A seven-day "Freedom Week" tax holiday the first week of July for certain admissions and certain recreational items and supplies;
- Changes that allow businesses to pay sales tax on behalf of their customers in certain circumstances;
- A five-year extension of the deadline for a new data center to apply for an existing tax exemption;
- A sales tax exemption for items used in independent living;

For property taxes, the bill:

- Increases a property tax discount from 50 percent to a full exemption for certain multifamily projects that provide affordable housing to low-income families;
- Clarifies the application of an exemption from ad valorem taxation for portions of property used for charitable, religious, scientific, or literary purposes;
- Provides property tax relief for elevation of certain properties vulnerable to flooding;
- Allows certain transfers of property without loss of homestead protection;
- Provides tax exemptions for property used by an educational institution for educational purposes;
- Requires the tax collector to accept late payments on the first installment of prepaid property taxes, and removes the late payment penalty for those payments; and
- Removes the requirement for certain hospitals to report charitable services.

For corporate income tax and other taxes, the bill:

- Creates the Strong Families Tax Credit Program, capped at \$5 million total annually, for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being.
- Creates a credit for two fiscal years, capped at \$2.5 million, for businesses that employ student interns.
- Provides a one-time increase in funding of \$17.5 million for the Brownfields Tax Credit Program to fund a backlog of approved credits.

The bill also makes updates related to tax administration, provides that certain modifications to documents to update an interest rate are not subject to the documentary stamp tax, repeals the Sports Development Program, and increases distributions of cigarette tax revenue to the H. Lee Moffitt Cancer Center.

The total state and local government impact of the bill in Fiscal Year 2021-22 is estimated to be -\$169.0 million (-\$34.1 million recurring). The bill also provides a nonrecurring General Revenue appropriation of \$208,000 to implement the Strong Families Tax Credit Program. See Fiscal Comments section for details.

The bill was approved by the Governor on May 21, 2021, ch. 2021-31, L.O.F., and will become effective on July 1, 2021, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,¹ unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's General Revenue collections (79.0 percent for FY 2019-20)² and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Sales Tax Absorption

Current Situation

Generally, sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.³ Section 212.07(4), F.S., prohibits dealers from advertising, directly or indirectly, that they will absorb, pay, or refund the purchaser all or any part of the sales tax due with the sale of their property or services. A person who violates this provision, whether by advertising or refunding, is guilty of a misdemeanor of the second degree.⁴ A subsequent offense constitutes a misdemeanor of the first degree.⁵

Several states, including Arizona,⁶ California,⁷ Kentucky,⁸ and have similar laws that prohibit dealers from absorbing or refunding taxes to a purchaser.⁹ However, a growing number of states permit tax absorption, including Wisconsin,¹⁰ Pennsylvania,¹¹ and Georgia.¹²

¹ The Legislature reduced the sales tax rate on commercial rentals to 5.5% effective January 1, 2020. See s. 5, ch. 2019-42, L.O.F.

² Sources of General Revenue, p. 16 of the 2020 Florida Tax Handbook (2020), available on the Office of Economic and Demographic Research website at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited March 24, 2021).

³ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://floridarevenue.com/taxes/taxesfees/Pages/sales_tax.aspx (last visited April 5, 2021).

⁴ Section 775.082(4)(b), F.S., "For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days" and s. 775.083(1)(e), F.S., "\$500, when the conviction is of a misdemeanor of the second degree..."

⁵ Section 775.082(4)(a), F.S., "For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year" and s. 775.083(1)(d), F.S., "\$1,000, when the conviction is of a misdemeanor of the first degree."

⁶ AZ Rev. Stat. § 42-5165, available at

<https://www.azleg.gov/viewdocument/?docName=http%3A%2F%2Fwww.azleg.gov%2Fars%2F42%2F05165.htm> (last visited April 5, 2021).

⁷ CA Rev. & Tax Code § 6205 (2021), available at <https://www.cdtfa.ca.gov/lawguides/vol1/sutl/6205.html> (last visited April 5, 2021).

⁸ KY Rev. Stat. § 139.220 (2011), available at <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=47346#:~:text=139.220> (last visited April 5, 2021).

⁹ Gail Cole, *Absorbing Sales Tax* (Jul. 22, 2019), <https://www.avalara.com/us/en/blog/2015/11/absorbing-sales-tax-wacky-tax-wednesday.html> (last visited February 13, 2020).

¹⁰ WI Dep't. of Revenue, *Sales and Use Tax Report at 2* (Jul. 2011), available at <https://www.revenue.wi.gov/SalesUseTaxReport/11-2.pdf> (last visited April 5, 2021).

¹¹ PA Act 2019-13 § 7 (eff. Jul. 1, 2019). See also, Pa. Dep't. of Revenue, *State Tax Summary* (Jul. 2019), available at https://www.revenue.pa.gov/GeneralTaxInformation/TaxLawPoliciesBulletinsNotices/TaxSummaries/Documents/2019_tax_summary.pdf (last visited April 5, 2021).

¹² GA Code. §48-8-36 (2015), available at <https://law.justia.com/codes/georgia/2015/title-48/chapter-8/article-1/part-2/section-48-8-36/> (last visited April 5, 2021).

Businesses cite various reasons for seeking to absorb sales tax, ranging from quickly moving customers through their lines¹³ to preventing confusion during state sales tax holidays when certain items are exempt from sales tax but others are not.¹⁴

Proposed Changes

The bill amends s. 212.07(4), F.S., to allow a dealer to advertise that the dealer will pay all or any part of the applicable sales tax on behalf of the purchaser, or refund the sales tax for the purchaser, subject to the following conditions:

- First, the dealer must expressly state on any charge ticket, sales slip, invoice, or other tangible evidence of sale provided to the purchaser that the dealer will pay the tax imposed in ch. 212, F.S. The dealer must not imply or state that the sale is exempt from taxes imposed in ch. 212, F.S.; and
- Second, the dealer must provide the amount of tax that was due on the charge ticket, sales slip, invoice, or other tangible evidence of sale given to the purchaser.

If a dealer violates this provision, they are guilty of a misdemeanor of the second degree. A subsequent offense constitutes a misdemeanor of the first degree.

The bill also amends s. 212.15, F.S., to expand the criminal offense of failure to remit collected taxes to the DOR to include taxes absorbed by the dealer. Depending on the amount of revenue stolen, and whether the dealer has prior offenses, he or she is subject to penalties ranging from a second-degree misdemeanor to a first-degree felony.¹⁵

Data Centers

Current Situation

A data center provides a central location for a business to house all of the necessary computer hardware—servers, server racks, cables and other infrastructure, and cooling components—and computer software required to, “organize, process, store and disseminate large amounts of data.”¹⁶ Currently, more than 100 data centers and colocation data centers are located in Florida. The majority of data centers located in Florida are in South Florida, Orlando, Tampa, and Jacksonville.¹⁷

In 2017, the legislature adopted a provision that exempts from sales and use tax data center property purchased, rented, or leased by a data center’s owners and tenants when used to construct, maintain, and operate computer server equipment at a data center.¹⁸ The data center’s owners and tenants must make a cumulative capital investment of \$150 million and the data center must have at least 15 megawatts of total power capacity and at least 1 megawatt of power capacity dedicated to each individual owner and tenant of the data center. Additionally, a datacenter must meet the requisite investment requirements no later than June 30, 2022, must submit to subsequent periodic review by DOR to assure continued qualification, and is subject to revenue clawback provisions if it utilizes the tax

¹³ *MJR Group, LLC v. Mich. Dep’t. of Treasury*, No. 329119, 2016 WL 7611479 (Mich. Ct. App. Dec. 29, 2016), available at <https://law.justia.com/cases/michigan/court-of-appeals-unpublished/2016/329119.html> (last visited April 5, 2021).

¹⁴ Slim Smith, *Statewide ‘Sales Tax Holiday’ set for July 31-Aug. 1* (Jul. 22, 2015), <https://www.washingtontimes.com/news/2015/jul/22/statewide-sales-tax-holiday-set-for-july-31-aug-1/> (last visited April 5, 2021).

¹⁵ Section 212.15(2)(a), F.S., as amended by the bill, provides that if a dealer fails to remit absorbed taxes totaling less than \$1,000, the offense is a misdemeanor in the second degree. If the total amount of stolen revenue is \$1,000 or more but less than \$20,000, the offense is a felony of the third degree. If the total amount of stolen revenue is \$20,000 or greater but less than \$100,000, the offense is a felony of the second degree. If the amount of stolen revenue is \$100,000 or greater, the offense is a felony of the first degree.

¹⁶ TechTarget, *Definition, data center*, <http://searchdatacenter.techtarget.com/definition/data-center> (last visited April 11, 2021).

¹⁷ *Florida Data Centers*, <https://www.datacenters.com/united-states/florida> (last visited April 11, 2021).

¹⁸ Section 26, ch. 2017-36 (HB 7109).

exemption and is not qualified. As of April 2, 2021, no data centers have applied for or received this exemption.¹⁹

Proposed Changes

The bill extends the deadline for a company to meet the initial requisite investment requirements from June 30, 2022, to June 30, 2027.

Independent Living Items

Current Situation

Florida has approximately 4.34 million residents over age 65, who represent 20.1 percent of its total residents.²⁰ As these residents age, many prefer to stay in their homes for as long as possible, known as “aging in place.”²¹ One of the primary factors in an individual’s ability to age in place is their ability to perform activities of daily living. These can vary, but typically include activities in six basic categories: personal hygiene, dressing, feeding, ambulating, maintaining continence, and toileting.²²

Performing acts of daily living can require adaptive tools, like bed transfer handles and bed rails for ambulating, and grab bars and shower seats for personal hygiene tasks. These tools, as items of tangible personal property, are subject to sales tax under existing Florida law.²³

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 assisted living facility.

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted more than two dozen temporary periods (commonly called “sales tax holidays”) during which specified items were exempted from sales tax.

Back-to-School Sales Tax Holidays--Florida has enacted a “back-to-school” sales tax holiday nineteen times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. The following table describes the history of back-to-school sales tax holidays in Florida.

¹⁹ When adopting an impact for this proposed change, the Revenue Estimating Conference was informed by the Department of Revenue that no taxpayer has applied for or received this exemption. Impact available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/page354-359.pdf> (last visited April 11, 2021).

²⁰ Age Distribution (Percentage) of the Population of Florida and its Counties, Florida Estimates of Population 2020, Bureau of Economic and Business Research, University of Florida (April 1, 2020) available at <http://edr.state.fl.us/Content/population-demographics/data/Estimates2020.pdf> (last visited May 10, 2021).

²¹ Florida’s Safe Mobility for Life Coalition, administered by the Florida Department of Transportation, defines aging in place as “living in a community with some level of independence in a residence of your choice. This includes having access to services that are needed day to day, while maintaining your independence and quality of life.” More information is available at <http://safemobilityfl.com/AginginPlace.htm> (last visited May 10, 2021).

²² Acts of Daily Living, available at <https://www.ncbi.nlm.nih.gov/books/NBK470404/> (last visited May 10, 2021).

²³ Chapter 212, F.S.

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7-16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 5-7, 2016	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less
August 4-6, 2017	3 days	\$60 or less	\$60 or less	N/A	\$750 or less	\$15 or less
August 3-5, 2018	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less
August 2-6, 2019	5 days	\$60 or less	\$60 or less	N/A	\$1,000 or less	\$15 or less
August 7-9, 2020	3 days	\$60 or less	\$60 or less	N/A	First \$1,000 of the sales price	\$15 or less

For the 2019-20 school year, 66 districts (98 percent) had opening days during the second week of August (Aug. 12-16, 2019). The remaining county had its opening day on August 19, 2019. For the 2020-21 school year, the first day of school changed in many counties as a result of the Covid-19 pandemic, and there was not a consistent opening day. All 67 counties did begin their 2020-21 school year in August.

Hurricanes and Disasters in Florida--The Florida Office of Insurance Regulation estimated insured losses of over \$9.1 billion due to Hurricane Michael in 2018,²⁴ \$20.7 billion due to Hurricane Irma in 2017,²⁵ \$1 billion due to hurricanes Hermine and Mathew in 2016,²⁶ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four hurricanes in 2005.²⁷ Tropical Storm Fay was estimated to have

²⁴ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited March 24, 2021).

²⁵ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited March 24, 2021).

²⁶ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> (last visited March 24, 2021).

²⁷ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited March 24, 2021).

resulted in \$242 million of damage in 2008.²⁸ The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.²⁹

Florida has enacted a “disaster preparedness” sales tax holiday seven times since 2006. The length of the exemption period has varied from three to 12 days. The type and value of exempt items has also varied, but has generally included reusable ice, light sources, fuel containers, batteries, coolers and ice chests, radios, tie down tools and sheeting, and generators.

Recreation in Florida--According to the Florida Fish and Wildlife Conservation Commission, recreational fishing, hunting and wildlife-viewing in Florida generate an economic impact of \$10.1 billion annually.³⁰ Florida leads all states in economic impacts for its marine recreational fisheries,³¹ and there are over two million Florida residents who are angler fisherman.³² In addition, more than 29 million visitors used Florida’s state parks and trails for swimming, nature watching, kayaking, and other outdoor activities in 2019,³³ and the Florida Fish and Wildlife Conservation Commission estimates that wildlife viewing alone contributes almost \$5 billion to the state’s economy.³⁴

In addition, admissions to live events is an important part of Florida’s economy. For example, Florida’s sports industry represents an estimated \$57.4 billion per year in economic impact to the state, representing 10 major professional sports franchises in five major sports leagues, as well as significant additional amateur, semi-professional, and recreational sports programs.³⁵ Live music is a significant part of Florida’s economy as well – three of the top 100 arenas in the world are located in Florida, and their gross ticket sales alone for 2020 were estimated to be more than \$111 million, not including related economic impact from hotels, food and beverage, and merchandise sales.³⁶ The pandemic hit live music and sporting events particularly hard – representative music companies saw earnings drop 95% in 2020,³⁷ 90% of independent music venue owners believed they would go out of business by the end of 2020 without significant financial intervention by the government,³⁸ and most sports – if played in 2020 or early 2021 at all – were played in front of limited or no audience.³⁹

Proposed Changes

²⁸ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.florir.com/siteDocuments/HurricaneSummary2008.pdf> (last visited March 24, 2021).

²⁹ Florida Division of Emergency Management, *Disaster Supply Kit Checklist*, <https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/> (last visited March 24, 2021).

³⁰ Florida Fish and Wildlife Conservation Commission (FWC), *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation> (last visited April 3, 2021).

³¹ Florida Fish and Wildlife Conservation Commission (FWC), *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation> (last visited April 3, 2021).

³² FWC, *Overview – Fast Facts*, available at: <http://myfwc.com/about/overview> (last visited April 3, 2021).

³³ Florida State Parks Foundation, *Why Florida State Parks and Trails are Important to Florida’s Economic Health*, available at: <https://www.floridastateparksfoundation.org/Impact> (last visited April 3, 2021).

³⁴ FWC, *Economics*, available at <https://myfwc.com/about/overview/economics/> (last visited April 3, 2021).

³⁵ Florida Sports Foundation, *Florida Sports Fast Facts*, available at https://playinflorida.com/wp-content/uploads/2019/06/01_01_2020-FastFacts-Sports-in-progress-temp-1.pdf (last visited April 10, 2021).

³⁶ *Worldwide Ticket Sales from Top One Hundred Arenas*, available at https://www.pollstar.com/Chart/2020/04/Q1Top100Arenas_822.pdf (last visited April 11, 2021).

³⁷ “The Concert Business vs. COVID-19: The Road to a 2021 Recovery” (February 20, 2021) available at <https://edm.com/industry/concert-business-vs-covid-19> (last visited April 12, 2021).

³⁸ “America’s Independent Music Venues Could Close Soon Due To Coronavirus” (June 9, 2020) available at <https://www.npr.org/sections/coronavirus-live-updates/2020/06/09/873196748/americas-independent-music-venues-could-close-soon-due-to-coronavirus> (last visited April 12, 2021).

³⁹ *The Future of Sports: How the Roles of Athletes, Fans and Industry Businesses will Change after COVID-19* (October 2, 2020) available at <https://www.uschamber.com/on-demand/coronavirus-pandemic/the-future-of-sports-how-the-roles-of-athletes-fans-and-industry-businesses-will-change-after-covid-19> (last visited April 12, 2021).

The bill establishes a temporary back-to-school sales tax holiday in late July and early August 2021, a temporary disaster preparedness sales tax holiday in late May and early June 2021, and a temporary outdoor recreation sales tax holiday in the first week of July 2021.

Back-to-School Holiday--A ten-day sales tax holiday would be authorized from July 31, 2021, through August 9, 2021. During the holiday, the following items that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts various “school supplies” that cost \$15 or less per item during the holiday.

Additionally exempted would be the first \$1000 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

The “back-to-school” sales tax holiday would apply at the option of the dealer if less than five percent of the dealer’s gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by July 24, 2021, the dealer must notify the DOR in writing 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.

Disaster Preparedness Sales Tax Holiday-- The bill provides for a ten-day sales tax holiday from May 28, 2021, through June 6, 2021 for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$40 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$100 or less;
- A ground anchor system or tie-down kit selling for \$100 or less;
- A gas or diesel fuel tank selling for \$50 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$50 or less;
- A nonelectric food storage cooler selling for \$60 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$1,000 or less;
- Reusable ice selling for \$20 or less; and
- Portable power banks selling for \$60 or less.

Freedom Week Sales Tax Holiday-- The bill provides for a seven-day sales tax holiday from July 1, 2021 through July 7, 2021, for specified admissions and items related to recreational activities. During the holiday, the following admissions, if purchased during this week, are exempt from the state sales tax and county discretionary sales surtaxes:⁴⁰

- A live music event scheduled to be held between July 1, 2021, and December 31, 2021;
- A live sporting event scheduled to be held between July 1, 2021, and December 31, 2021;
- A movie shown in a movie theater between July 1, 2021, and December 31, 2021;

⁴⁰ If an admission is purchased exempt under this section and is subsequently resold outside of the holiday period, tax will be collected on the resale price.

- Entry to a museum, including annual passes;
- Use of or access to state parks, including annual passes;
- Entry to a ballet, play, or musical theatre performance scheduled to be held between July 1, 2021, and December 31, 2021;
- Season tickets to ballet, play, or musical theatre performances;
- Entry to a fair, festival, or cultural event scheduled to be held between July 1, 2021, and December 31, 2021; and
- Use of or access to gyms and physical fitness facilities between July 1, 2021, and December 31, 2021.

During the sales tax holiday, the following items are exempt from the state sales tax and county discretionary sales surtax:

- **Boating and Water Activity Supplies**
 - The first \$75 of the sales price of life jackets, coolers, paddles, and oars
 - The first \$50 of the sales price of safety flares
 - The first \$150 of the sales price of water skis, wakeboards, kneeboards, and recreational inflatable tubes or floats capable of being towed
 - The first \$300 of the sales price of paddleboards and surfboards
 - The first \$500 of the sales price of canoes and kayaks
 - The first \$25 of the sales price of snorkels, goggles, and swimming masks
- **Camping Supplies**
 - The first \$200 of the sales price of tents
 - The first \$50 of the sales price of sleeping bags, portable hammocks, camping stoves, and collapsible camping chairs
 - The first \$30 of the sales price of camping lanterns or flashlights
- **Fishing Supplies⁴¹**
 - The first \$75 of the sales price of rods and reels, if sold individually, or the first \$150, if sold as a set
 - The first \$30 of the sales price of tackle boxes or bags
 - The first \$5 of the sales price of bait or fishing tackle, if sold per item, or the first \$10, if multiple items are sold together.
- **General Outdoor Supplies**
 - The first \$15 of the sales price of sunscreen or insect repellant
 - The first \$100 of the sales price of sunglasses
 - The first \$200 of the sales price of binoculars
 - The first \$30 of the sales price of water bottles
 - The first \$50 of the sales price of hydration packs
 - The first \$250 of the sales price of outdoor gas or charcoal grills
 - The first \$50 of the sales price of bicycle helmets
 - The first \$250 of the sales price of bicycles
- **Sports Equipment**
 - Any item used in individual or team sports, not including clothing or footwear, selling for \$40 or less

The above sales tax holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Forwarding Agent Certificate

Current Situation

⁴¹ The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.

Generally speaking, Florida sales and use tax does not apply to tangible personal property imported, produced, or manufactured in Florida for export.⁴² Therefore, the sale of items deemed committed to the export process that are purchased by a vendor and shipped directly to a licensed exporter or forwarding agent in Florida are exempt from sales tax. There are transportation and logistics businesses located in Florida that specialize in global package delivery. The business model of these businesses is designed to facilitate a foreign consumer's purchase of merchandise originating with an American vendor and the delivery of such merchandise to the foreign consumer, with no intervening use in the United States. These businesses are sometimes referred to as forwarding agents. There is no current statutory mechanism whereby a forwarding agent can provide documentation to sellers that indicates that purchases of otherwise taxable items, when delivered to the forwarding agent for export, are not taxable.

Proposed Changes

The bill defines the term "forwarding agent" to mean a person or business whose principal business activity is facilitating for compensation the export of property owned by other persons. The bill amends s. 212.06, F.S., to revise the term "dealer" to include forwarding agents. The bill creates a process that allows forwarding agents to apply for and receive, upon approval and verification, a Florida Certificate of Forwarding Agent Address (certificate) from DOR. Each certificate expires 5 years after the issuance date. A forwarding agent that applies for and receives a certificate must register as a dealer with DOR. The certificate can be provided to vendors to evidence to the vendor the tax-free status of purchases directly delivered to the forwarding agent's address for export. The bill requires forwarding agents to maintain certain documentation, including copies of sales invoices or receipts or federally required export documentation in order to evidence the value of the purchase. These records must be kept in an electronic format and made available for DOR's review.

The bill requires DOR to publish a list on its website of forwarding agents who have received a certificate, including the forwarding agent's entity name, address, and certificate expiration date. A dealer may accept a copy of the forwarding agent's certificate or rely on the list of forwarding agents' names and addresses published on DOR's website to verify the tax-free status of a purchase.

The bill provides DOR rulemaking authority to administer the procedures, application and eligibility requirements, and forms related to the forwarding agent provisions of the bill.

⁴² Section 212.06(5)(a)1, F.S.
STORAGE NAME: h7061z1.DOCX
DATE: 6/1/2021

Sports Development Program

Current Situation

Florida is home to many professional and semi-professional sports teams, organizations and facilities, including professional football, basketball, baseball, hockey, and soccer teams, National Association of Stock Car Racing (NASCAR) sanctioned tracks, and professional equestrian and rodeo events. Generally, team facilities are located on property leased by or purchased from local governments. The state has established several programs to incentivize sports development in Florida, including the Sports Development Program.

Created by the Legislature in 2014, the Sports Development Program⁴³ allows for distributions of state sales and use tax revenue pursuant to s. 212.20, F.S., to fund professional sports franchise facilities. The Department of Economic Opportunity (DEO) administers the Program and is responsible for screening applicants⁴⁴ for state funding. The purpose of the Program is to provide state funding for the construction, reconstruction, renovation, or improvement of a sports facility,⁴⁵ the proposed acquisition of land to construct a new facility, and construction of improvements to state-owned land necessary for the efficient use of the facility. The amount that an applicant may receive is generally based on 75 percent of the average annual new incremental state sales taxes generated by sales at the facility.

DEO accepts applications between June 1 and November 1 each year. Within 60 days of receiving a completed application, DEO is required to evaluate the application and notify the applicant in writing of their decision to recommend or deny approval. DEO provides the Legislature with a list of the recommended applicants, ranked in the order of the project's likelihood to positively impact the state. To receive funding, an application must be approved by the Legislature in a conforming bill or general law approved by the Governor, and DEO must certify the applicant and its approved request for funding and notify the Department of Revenue (DOR) of the initial certification and distribution amount.⁴⁶ A certified applicant must enter a contract with DEO that sets forth the terms of the program and provides for reimbursements to the state in specified circumstances.

An applicant remains certified for 30 years or the length of the agreement between the beneficiary⁴⁷ and the local government that owns the facility or the property on which the facility is or will be located, whichever is less.

DEO may only recommend one distribution per applicant, facility or beneficiary. Furthermore, no facility or beneficiary can receive more than one distribution under s. 212.20, F.S., for any state-administered, sports-related program.⁴⁸ An exception exists for applicants who can show that the beneficiary that was

⁴³ Section 288.11625, F.S.

⁴⁴ Section 288.11625(2), F.S. An "applicant" is a unit of local government which is responsible for the construction, management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.

⁴⁵ *Id.* A "facility" is a structure, and its adjoining parcels of local-government-owned land, primarily used to host games or events held by a beneficiary and does not include any portion used to provide transient lodging.

⁴⁶ In addition to the standard application process, s. 288.11625(11), F.S., provides for an alternative application process to receive state funding under the Program. Under this process, the Legislative Budget Commission (LBC) can approve applications for new facilities or projects that commenced between March 1, 2013, and July 1, 2014, and such applicants are not subject to the competitive evaluation and ranking component. An applicant certified under the special application process remains subject to other provisions and requirements under the Program.

⁴⁷ *Id.* A "beneficiary" is a professional sports franchise of the NFL, NHL, NBA, the National League or American League of MLB, Minor League Baseball, MLS, the North American Soccer League (NASL), the Professional Rodeo Cowboys Association (PRCA), the promoter or host of a signature event administered by Breeders' Cup Limited, or the promoter of a signature event sanctioned by the National Association of Stock Car Auto Racing (NASCAR). A beneficiary may also be an applicant under this program.

⁴⁸ Such sports-related programs include Professional Sports Franchises (s. 288.1162, F.S.), Spring Training Baseball Franchises (s. 288.11621, F.S.), Sports Development (s. 288.11625, F.S.), and Retention of MLB Spring Training Franchises (s. 288.11631, F.S.). However, if an applicant for the Sports Development Program is already receiving distributions under the Professional Sports Franchises Program (s. 288.1162, F.S.) for the same facility or beneficiary, the applicant is eligible for an additional distribution of up to \$1 million if the total project cost exceeds \$100 million.

the subject of a previous distribution under s. 212.20, F.S., no longer plays at the facility that is the subject of the application under the new program.

Since its inception, DEO has received applications for participation in the Sports Development Program; however, no applicants have been certified and no funds have been distributed under the Program.

- In FY 2014-15, DEO received four applications: the City of Jacksonville, the City of Orlando, Daytona International Speedway, LLC, and South Florida Stadium, LLC. All applicants qualified for the “special” application process.
- In FY 2015-16, DEO received four applications: Buccaneers Football Stadium Limited Partnership, the City of Jacksonville, Daytona International Speedway, LLC, and South Florida Stadium, LLC. The Buccaneers application was incomplete and not transmitted to the Legislature, the other applications qualified for the special application process.
- In FY 2016-17, DEO received one application, from Buccaneers Stadium, LLC. DEO reviewed the application under the “general” application process.
- DEO did not receive any applications for the Program in FYs 2017-18, 2018-19, or 2019-20.⁴⁹

The following table provides basic information about the 10 professional sports franchises in Florida that could qualify for the Sports Development Program and their current facilities:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Hard Rock Stadium (originally Joe Robbie Stadium)	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Amalie Arena (previously Tampa Bay Times Forum)	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	TIAA Bank Field (previously EverBank Field)	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field (occupied by Rays since 1998)	1990	Pinellas
Orlando City Soccer Club/ “Lions”	Soccer	MLS	2015	Exploria Stadium (previously Orlando City Stadium)	2017	Orange

⁴⁹ Staff phone call with John Schrader, Director of Legislative Affairs, DEO (Mar. 3, 2021).

Proposed Changes

The bill repeals s. 288.11625, F.S., eliminating the Sports Development Program. To conform with the elimination of the Program, the bill also removes provisions relating to the distribution of funds under the program, reimbursement provisions, and reporting requirements.

Property Tax

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.⁵⁰

The property appraiser annually determines the “just value”⁵¹ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁵² Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.⁵³

The Florida Constitution prohibits the state from levying ad valorem taxes on real property⁵⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵⁵ The just valuation standard generally requires the property appraiser to consider the highest and best use of property.⁵⁶

Affordable Housing

Current Situation

The Florida Constitution provides that portions of property used predominately for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.⁵⁷

Section 196.1978, F.S., authorizes property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not-for-profit corporation used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.⁵⁸ In order to qualify for the exemption, the property must comply with s. 196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

In 2017,⁵⁹ the Legislature provided that property used as affordable housing will be considered used for a charitable purpose and qualify for a 50 percent property tax discount if the property:

⁵⁰ 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.

⁵¹ 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).

⁵² *See* s. 192.001(2) and (16), F.S.

⁵³ Sections 197.322 and 197.333, F.S.

⁵⁴ Florida Constitution, art. VII, s. 1(a).

⁵⁵ *See* Florida Constitution, art. VII, s. 4.

⁵⁶ Section 193.011(2), F.S.

⁵⁷ Florida Constitution, art. VII, s. 3.

⁵⁸ The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. *See* 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

⁵⁹ Chapter 2017-36, s. 6, Laws of Fla.

- Provides affordable housing to natural persons or families meeting the extremely-low, very-low, or low-income limits specified in s. 420.0004, F.S.;
- Contains more than 70 units used to provide affordable housing to the above group; and
- Is subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The property tax discount begins on January 1 of the year following the 15th year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities.⁶⁰

Proposed Changes

The bill amends s. 196.1978, F.S., to fully exempt those portions of property in a multifamily project that provide housing to extremely-low-income, very-low-income, or low-income families.

Property Entitled to Charitable, Religious, Scientific, or Literary Exemptions

Current Situation

When calculating ad valorem taxes, a property's value is reduced by any exemptions provided by law, including exemptions for educational, literary, scientific, religious, or charitable purposes.⁶¹ The Legislature implements these constitutional exemptions and sets forth the criteria to determine whether property is entitled to an exemption.⁶² These implementation provisions give property appraisers a guide when assessing or exempting property.⁶³

In determining whether the use of a property qualifies the property for an educational, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.⁶⁴ Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation.⁶⁵ Property owned by an exempt organization used exclusively for exempt purposes is totally exempt from ad valorem taxation.

Incidental use of otherwise exempt property for non-exempt purposes does not make the property non-exempt.⁶⁶ Likewise, mere incidental educational, literary, scientific, religious, or charitable use of property does not qualify the property for the exemption. For example, a nursing home which operated as a business, collecting fees for services and increasing in value, was not granted a charitable exemption even though, incidental to business operations, they allowed some residents to pay reduced or zero fees.⁶⁷

By default, property used for profitmaking purposes is subject to ad valorem taxation.⁶⁸ A revenue-generating use is not considered profitmaking if the activity does not require a business or occupational license and the revenue generated is used exclusively for exempt purposes.⁶⁹

⁶⁰ Section 196.1978(c), F.S.

⁶¹ Art. VII, s. 3., Fla. Const.

⁶² Chapter 196, F.S.

⁶³ *State ex rel. Cragor Co. v. Doss*, 150 Fla. 486, 8 So.2d 15 (1942).

⁶⁴ Section 196.196(1)(a)-(b), F.S.

⁶⁵ Section 196.196(2), F.S.

⁶⁶ *Id.*

⁶⁷ *Haines v. St. Petersburg Methodist Home, Inc.*, 173 So.2d 176 (Fla 2d DCA 1965).

⁶⁸ Section 196.196(4), F.S.

⁶⁹ Section. 196.196(4), F.S.

When applying for an exemption, an applicant must provide the property appraiser with fiscal and other records showing the financial condition, record of operation, and exempt and non-exempt uses of the property.⁷⁰ In determining whether the property, or any portion thereof, is being used for a profitmaking purpose, the property appraiser or value adjustment board must consider the reasonableness of:

- Any advances or payments made by any person, company, or other entity controlled by the applicant to any officer, director, trustee, or stockholder of the applicant;
- Any guaranty of a loan to, or an obligation of, any officer, director, trustee, member, or stockholder of the applicant or any entity controlled by such person, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the applicant;
- Any contractual arrangement by the applicant (or any officer, director, trustee, member, or stockholder of the applicant) for the rendition of services, the provision of goods or supplies, the management of the applicant, the construction or renovation of the property of the applicant, the procurement of the real, personal, or intangible property of the applicant, or other similar financial interest in the affairs of the applicant;
- Payments made for salaries for the operation of the applicant or for services, supplies and materials used by the applicant, reserves for repair, replacement, and depreciation of the property of the applicant, payment of mortgages, liens, and encumbrances upon the property of the applicant, or other purposes; and
- Charges made by the applicant for any services rendered by it in relation to the value of those services, and, if such charges exceed the value of the services rendered, whether the excess is used to pay maintenance and operational expenses in furthering its exempt purpose or to provide services to persons unable to pay for the services.⁷¹

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant is a non-profit entity.⁷²

Proposed Changes

The bill provides that the portions of a property that are not predominantly used for charitable, religious, scientific, or literary purposes are not exempt from taxation, but that portions of a property used for charitable, religious, scientific, or literary purposes are exempt as long as the predominant use of the exempted property is for those purposes.

The provisions of the bill apply to taxable years beginning on or after January 1, 2022, and do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before July 1, 2021.

⁷⁰ Section 196.195(1), F.S.

⁷¹ Section 196.195(2), F.S.

⁷² Section 196.195(4), F.S.

Current Situation

As mentioned above, Florida exempts from ad valorem tax property owned by an educational institution and used exclusively for educational purposes.⁷³ Generally, in order to be exempt, the property has to be both owned by and education institution and used for educational purposes by the education institution or other exempt entity. The exemption has been expanded to include unique ownership situations. For instance, land, buildings, and other improvements used exclusively for educational purposes is deemed to be owned by an educational institution (and therefore exempt) if the entity that owns 100% of the land is a nonprofit entity and the land is leased by an educational institution that owns the buildings and other improvements to the real property and that is a nonprofit entity under 501(c)(3) of the Internal Revenue Code that provides education limited to kindergarten through grade 8.⁷⁴

An entity, institution, or organization that teaches students to perform services in connection with motion picture production may receive a sales tax exemption for their purchase or lease of tangible personal property or real property. Such institution must have enrolled at least 500 students and conduct classes at a fixed location in this state.⁷⁵

Proposed Changes

The bill amends s. 196.198, F.S., to provide that land, buildings, and other improvements used exclusively for educational purposes shall be deemed owned by an educational institution if the educational institution that currently uses the land, buildings, and other improvements for educational purposes is an educational institution described under s. 212.0602, F.S. and, under a lease, the educational institution is responsible for any taxes owed and for ongoing maintenance and operational expenses for the land, buildings, and other improvements. The educational institution must receive the full benefit of the exemption. The owner of the property must disclose to the educational institution the full amount of the benefit derived from the exemption and the method for ensuring that the educational institution receives the benefit.

The bill also amends s. 196.198, F.S., to provide that property owned by a house of public worship and used by an educational institution for educational purposes limited to students in preschool through grade 8 shall be exempt. The bill provides that the provisions related to houses of public worship clarifies existing law and applies to actions pending as of July 1, 2021.

Installment Payments

Current Situation

Section 197.222, F.S., allows a taxpayer to prepay estimated property taxes by making quarterly installment payments and receive a specified percentage discount.⁷⁶ A taxpayer who elects to pay taxes by the installment method must make payments based upon an estimated tax which is equal to the actual taxes levied upon the property in the preceding year. To participate in the installment plan, the taxpayer's estimated taxes must be more than \$100.

The first installment payment is due June 30. Tax collectors may choose to accept late payments on the first installment through July 31. However, the six percent discount is lost and a five percent penalty

⁷³ Section 196.198, F.S.

⁷⁴ *Id.*

⁷⁵ Section 212.0606, F.S.

⁷⁶ Section 197.222(1), F.S., provides for a 6 percent discount applied to the first installment payment, a 4.5 percent discount for the second installment payment, and a 3 percent discount for the third payment. No discount is provided for the fourth installment payment.

is assessed on the amount of the installment payment. There is a lack of uniformity among tax collectors regarding the acceptance of the late payment. As a result, taxpayers may be treated differently statewide depending on the acceptance of late payments by individual tax collectors.

Proposed Changes

The bill creates consistent treatment of taxpayers statewide by requiring tax collectors to accept a late payment of the first installment payment through July 31 without the five percent penalty. However, taxpayers who pay the first installment payment after June 30 will continue to lose the six percent discount.

Hospital Community Benefit Reporting

Current Situation

Florida generally exempts from property taxation the property of nonprofit hospitals qualified as 501(c)(3) charitable organizations.⁷⁷ In determining the extent of the exemption to be granted to hospitals, nursing homes, and homes for special services, portions of the property leased as parking lots or garages operated by private enterprise are not exempt from taxation.⁷⁸ Property or facilities which are leased to a nonprofit corporation which provides direct medical services to patients in a nonprofit or public hospital and qualify under s. 196.196, F.S., are exempt from taxation.⁷⁹

To qualify for a federal tax exemption, hospitals must report their community benefit activities to the Internal Revenue Service by filing IRS Form 990 and a supplemental Schedule H form. Community benefit activities include the net, unreimbursed costs of charity care (providing free or discounted services to patients who qualify under the hospital's financial assistance policy); participation in means-tested government programs, such as Medicaid; health professions education; health services research; subsidized health services; community health improvement activities; and cash or in-kind contributions to other community groups.⁸⁰ Net community benefit activities do not include revenue from uncompensated care pools or programs, such as Low Income Pool (LIP) or Disproportionate Share Hospital (DSH) funds.⁸¹

The LIP program⁸² provides government funding to safety net providers, including hospitals, for the costs of uncompensated charity care for low-income individuals who are uninsured. Uncompensated care (UC) includes charity care for the uninsured but does not include UC for insured individuals, bad debt, or Medicaid and the Children's Health Insurance Program (CHIP) shortfall. The low-income pool consists of a capped annual allotment of \$1 billion total computable for each year of the 5 year demonstration period.⁸³ Local governments, such as counties, hospital taxing districts and other state agencies provide funding for the non-federal share of the \$1 billion LIP distributions.⁸⁴

⁷⁷ Section 196.197, F.S.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ James, Julia. Health Affairs, *Nonprofit Hospitals' Community Benefit Requirements* (2016), available at: <https://www.healthaffairs.org/doi/10.1377/hpb20160225.954803/full/> (last viewed May 12, 2021); Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2020), available at <https://www.irs.gov/instructions/i990sh> (last visited May 12, 2021).

⁸¹ Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2020), available at <https://www.irs.gov/instructions/i990sh> (last visited May 12, 2021).

⁸² *Managed Medical Assistance Section 1115 Demonstration Waiver Authorities*, (June 8, 2018), p. 29, available at https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/mma/Special_Terms_and_Conditions_CMS_Approved_June_8_2018.pdf (last visited May 12, 2021).

⁸³ Florida Agency for Health Care Administration, *Low Income Pool Background*, available at: <https://ahca.myflorida.com/Medicaid/Finance/finance/LIP-DSH/LIP/background.shtml> (last visited May 12, 2021)

⁸⁴ *Id.*

Hospitals that serve a significantly disproportionate number of low-income patients may receive DSH payments from the Centers for Medicare and Medicaid Services (CMS)⁸⁵ to cover the costs of providing care to uninsured patients.⁸⁶ Under federal law, state Medicaid programs are required to make DSH payments to qualifying hospitals that serve a large number of Medicaid and uninsured individuals.⁸⁷ Each year, the Florida Legislature delineates how the DSH funds will be distributed to each eligible facility through either statutory formulas or other direction in the implementing bill or proviso. In CS/HB 7097 (2020), the Legislature created a new statute, 193.019, F.S., that laid out the process for local tax appraisers to compare the value of charity care provided by a hospital in each county to the tax value of the hospital's property exemption in each county. If the value of the charity care is less than the tax value of the all of the hospital's exempt property, then the hospital's exemption on each parcel in a county will be reduced to reflect the ratio of the hospital's charity care in the county to the tax value of all of the hospital's exempt property in the county.

Section 193.019, F.S., requires hospitals, when applying for the exemption each year, to provide their IRS form 990, schedule H, and a schedule displaying: the value of charitable services provided or performed in each Florida county in which a hospital's properties are located; and the portion of charitable services reported by the hospital on its most recently filed IRS Form 990, schedule H, attributable to the services and activities provided or performed by the hospital outside of Florida. The sum of the amounts provided in the schedule must equal the total net community benefit expense reported by the hospital on its most recently filed IRS Form 990, schedule H.

Section 193.019, F.S., also requires hospitals to provide a statement signed by the hospital's CEO and an independent certified public accountant that the information submitted is true and correct.

These changes are scheduled to go into effect January 1, 2022.

Proposed Changes

The bill repeals s. 193.019, F.S., thus eliminating the hospitals community benefit reporting requirements for property tax exemption purposes.⁸⁸

⁸⁵ CMS is a federal agency within the U.S. Department of Health and Human Services that administers healthcare coverage through the Medicare, Medicaid, CHIP, and the Health Insurance Marketplace.

⁸⁶ Health Resources and Services Administration, *Disproportionate Share Hospitals*, <https://www.hrsa.gov/opa/eligibility-and-registration/hospitals/disproportionate-share-hospitals/index.html>.

⁸⁷ MedicaidGov, *Medicaid Disproportionate Share Hospital (DSH) Payments*, <https://www.medicaid.gov/medicaid/finance/dsh/index.html>.

⁸⁸ Chapter 2020-10, s. 2, Laws of Fla. (creating s. 193.019, F.S., effective Jan. 1, 2022).

Homestead Property Change of Ownership

Current Situation

Homestead property is assessed at just value as of January 1 of the year following a change of ownership. A change of ownership is any sale, foreclosure, or transfer of legal or beneficial title, except where:⁸⁹

- After the change the same owner is still entitled to the homestead exemption and:
 - The transfer of title is to correct an error;
 - The transfer is between legal and equitable title or equitable and equitable title and no additional person applies for a homestead exemption;
 - The change is by means of an instrument in which the owner is listed as both grantee and grantor, and one or more other individuals who do not apply for a homestead exemption are named as grantee; or
 - The person is a lessee entitled to the homestead exemption.
- The change is between husband and wife, including a change or transfer to a surviving spouse or a transfer due to dissolution of marriage;
- The transfer occurs by intestate inheritance to a surviving spouse or minor children; or
- Upon the death of the owner, the transfer is between the owner and someone who is a permanent resident and who is legally or naturally dependent upon the owner.

Proposed Changes

The bill amends s. 193.155, F.S., to create two additional situations when a change in the ownership of homestead property would not result in the property being reassessed at just value. A change of ownership would not occur when the owner entitled to the homestead exemption is both grantor and grantee, and when one or more other individuals who held title as joint tenants with rights of survivorship with the owner are removed from the title.

The bill also provides that a change of ownership does not occur when:

- Multiple owners hold title as joint tenants with rights of survivorship;
- One or more owners were entitled to an received the homestead exemption on the property;
- The death of one or more owners occurs; and
- Following the transfer, the surviving owner or owners previously entitled to receive the homestead exemption continue to be entitled to and receive the homestead exemption.

Property Damaged by Calamity or Misfortune

Current Situation

In general, changes, additions, or improvements to real property are assessed at just value as of the first January 1 after they are substantially completed.⁹⁰

However, when property is damaged or destroyed by calamity or misfortune, the property may be repaired or replaced without the change, addition, or improvement being assessed at just value; rather, the change, addition, or improvement is assigned the taxable value and other tax characteristics (i.e. assessment limitation) that the damaged or replaced property had before being damaged or destroyed. This treatment has certain limitations. For instance, the change, addition, or improvement may not exceed 110 percent of the square footage of the property before it was damaged or destroyed.⁹¹ Any square footage greater than 110 percent of the replaced property is assessed at just value. For residential property, the 110 percent limitation does not apply if the change, addition, or improvement is to property no larger than 1,500 square feet.⁹²

⁸⁹ Section 193.155(3)(a), F.S.

⁹⁰ Sections 193.155(4)(a), 193.1554(6)(a), and 193.1555(6)(a), F.S.

⁹¹ Sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

⁹² Section 193.155(4)(b), F.S.

While the treatment under current law is relatively clear regarding the main structures on property, such as residences and other buildings, the current statutes are less clear with regard to ancillary improvements such as piers, docks, etc.⁹³

Proposed Changes

The bill clarifies that ancillary improvements may also be repaired or replaced without the change, addition, or improvement being assessed at just value and that the assessment made for repaired or replaced property must be calculated based on the assessed value as of the January 1 immediately before the damage or destruction occurred.

The changes made by the bill regarding property damaged or destroyed by calamity or misfortune are remedial and clarifying and may not affect any assessment for tax rolls before 2021, unless the assessment is under review by a value adjustment board or a Florida court. For property repaired or replaced prior to 2021 and not assessed as provided by the bill, a property appraiser must recalculate the just and assessed value for each subsequent year so that the 2021 tax roll and subsequent rolls are assessed as provided by the bill.

Property Voluntarily Elevated for Flood Mitigation

Current Situation

A homestead⁹⁴ property's tax assessment cannot be increased in one year by more than the greater of three percent or the percent change in the Consumer Price Index, except under certain circumstances.⁹⁵ Similarly, a nonhomestead residential property's tax assessment cannot increase by more than 10 percent each year, except that the same exceptions that apply to homestead properties also apply to nonhomestead residential properties.⁹⁶ One such exception is that changes, additions, and improvements to homestead or nonhomestead residential property are assessed at market value, which can increase the total assessment by any amount.⁹⁷

However, as mentioned above, current law specifies that changes, additions, or improvements that replace all or a portion of homestead or nonhomestead residential property⁹⁸ damaged or destroyed by misfortune or calamity may not increase the property's assessed value when the square footage of the property as changed or improved does not exceed 110 percent of the square footage of the property before the damage or destruction.⁹⁹ Additionally, the property's assessed value may not increase if the total square footage of the homestead property as changed or improved does not exceed 1,500 square feet.¹⁰⁰

Hurricanes and other storms that result in flooding have caused billions of dollars in damage across all parts of Florida. Local jurisdictions throughout the state recognize, plan for, and manage development in flood hazard areas. The Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program, which was created to offer federally subsidized flood insurance to property

⁹³ See ss. 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

⁹⁴ The term "homestead" means a property held by every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, that is exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of \$25,000 and, for all levies other than school district levies, on the assessed valuation greater than \$50,000 and up to \$75,000, upon establishment of right thereto in the manner prescribed by law. Art. VII, s. 6(a), Fla. Const.; s. 192.001(8), F.S.

⁹⁵ Art. VII, s. 4(d), Fla. Const.

⁹⁶ Art. VII, s. 4(h), Fla. Const.

⁹⁷ Sections 193.155(4)(a) and 193.1554(6)(a), F.S.

⁹⁸ The term "nonhomestead residential property" means residential real property that contains nine or fewer dwelling units, including vacant property zoned and platted for residential use. Section 193.1554(1), F.S.

⁹⁹ Sections 193.155(4)(b) and 193.1554(6)(b), F.S.

¹⁰⁰ *Id.*

owners and to encourage land-use controls in floodplains.¹⁰¹ Communities eligible to participate in the National Flood Insurance Program Community Rating System receive discounts on flood insurance premiums.¹⁰² To participate in the National Flood Insurance Program, communities agree to regulate all development in flood hazard areas mapped by FEMA.¹⁰³

A Flood Insurance Rate Map is an official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.¹⁰⁴ These maps have many applications relevant to resilience planning, including communicating base flood elevations and flood risk, establishing special flood hazard areas where flood insurance is required, and setting local floodplain and building standards.¹⁰⁵

When an owner or developer constructs, adds to, or substantially improves a building in a flood hazard area, certain requirements intended to minimize future flood damage must be satisfied. These provisions are found in the Florida Building Code (FBC) and require design professionals and builders to address requirements related to elevation, wave loads, flood velocity, and debris impact, along with other applicable load and design requirements.¹⁰⁶

Proposed Changes

The bill specifies that changes, additions, or improvements that replace all or a portion of a homestead or nonhomestead residential property for the purpose of voluntarily elevating the property do not increase the property's assessed value if:

- The square footage of the property after the voluntary elevation does not exceed 1,500 square feet or does not exceed 110 percent of the square footage of the property before the elevation; and
- At the time the voluntary elevation commenced, the property was not deemed uninhabitable in part or in whole under state or local law; all ad valorem taxes, special assessments, county or municipal utility charges, and other government-imposed liens against the property had been paid; and the property did not comply with FEMA's National Flood Insurance Program requirements and Florida Building Code elevation requirements and was elevated in compliance with such requirements.

If a voluntary elevation results in the property exceeding more than 110 percent of its previous square footage, the assessed value must be increased by the value of that portion in excess of 110 percent of the previous area. Conforming areas below an elevated structure designated only for parking, storage, or access may not be included in the 110 percent calculation unless the area exceeds 110 percent of the square footage before the voluntary elevation.

The bill requires the property owner to provide elevation certificates for both the original and elevated property. The bill specifies that the term "voluntary elevation" or "voluntarily elevated" means the elevation of an existing nonconforming property or the removal and rebuilding of a nonconforming property.

¹⁰¹ 42 U.S.C. § 4001 *et seq.*; 44 C.F.R. Ch. I, Subchap. B.; FEMA, *Flood Insurance*, available at <https://www.fema.gov/national-flood-insurance-program> (last visited Feb. 18, 2021).

¹⁰² FEMA, *National Flood Insurance Program Community Rating System*, available at <https://www.fema.gov/floodplain-management/community-rating-system> (last visited Feb. 18, 2021).

¹⁰³ Build a Safer Florida Inc., *Flood Resistant Construction and the 6th Edition Florida Building Code* (2017), available at https://floridabuilding.org/fbc/thecode/2017-6edition/BASF_2017_flood_061217.pdf (last visited Mar. 2, 2021).

¹⁰⁴ 44 C.F.R. § 59.1.

¹⁰⁵ FEMA, *Flood Maps*, available at https://www.fema.gov/media-library-data/1516468489259-8eb4bfef27ab35159b2f140a2926e809/What_Goes_Into_a_Flood_Map.pdf (last visited Feb. 18, 2021); Florida Division of Emergency Management, *Enhanced State Hazard Mitigation Plan, State of Florida* (2018), 102-103, available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Mar. 10, 2021); Florida Department of Environmental Protection, *Florida Adaptation Planning Guidebook: Glossary* (2018), 40-41, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Mar. 10, 2021).

¹⁰⁶ Build a Safer Florida Inc., *Flood Resistant Construction and the 6th Edition Florida Building Code* (2017), available at https://floridabuilding.org/fbc/thecode/2017-6edition/BASF_2017_flood_061217.pdf (last visited Mar. 2, 2021).

This section of the bill takes effect on the same date that HJR 1377¹⁰⁷, or a similar joint resolution, is approved by the electors at the general election held in November 2022 or at an earlier special election specifically authorized for that purpose. If approved by the voters, the joint resolution and this section of the bill will take effect on January 1, 2023.

Strong Families Tax Credit

Current Situation

Department of Children and Families

The Department of Children and Families (DCF) mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹⁰⁸ DCF must develop a strategic plan to fulfil its mission and establish measureable goals, objectives, performance standards, and quality assurance requirements to ensure DCF is accountable to taxpayers.¹⁰⁹

Under s. 20.19(4), F.S., the DCF is required to provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

The DCF must develop a strategic plan for fulfilling its mission and establish a set of measurable goals, objectives, performance standards, and quality assurance requirements to ensure it is accountable. The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.¹¹⁰ These private providers include managing entities delivering behavioral health services and community-based care lead agencies to deliver child welfare services.

¹⁰⁷ HJR 1377 (2021), to which this section of the bill is tied for purposes of an effective date, proposes an amendment to Article VII, section 4(i) of the Florida Constitution to authorize the Legislature to prohibit the consideration of any change or improvement to real property used for residential purposes made to improve the property's resistance to flood damage. If approved by the voters, the joint resolution will be effective on January 1, 2023.

¹⁰⁸ Section 20.19(1), F.S.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline (hotline) and child protective investigations. The DCF and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

The DCF's practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child's natural supports in his or her environment. The DCF contracts for case management, out-of-home services, and related services with CBCs.

The CBCs combine the outsourcing of foster care and related services to service agencies with an increased *local community ownership* of service delivery and design.¹¹¹ CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.¹¹²

The DCF remains responsible for a number of child welfare functions, including operating the hotline, performing child protective investigations, and providing children's legal services.¹¹³ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.¹¹⁴

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The Legislature created the FICW to provide research and evaluation that contributes to a more sustainable, accountable, and effective child welfare system. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.¹¹⁵ Current law requires the FICW to establish an affiliate network of public and private universities with accredited degrees in social work. In 2017, the FICW expanded its affiliate network to include research affiliates, and there are now over 50 research faculty affiliates.

State Revenue Sources

Briefly described below are select taxes imposed by Florida on certain businesses and products within the state.

Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.¹¹⁶ Corporate income tax is remitted to the DOR and distributed to General Revenue. Net collections of corporate income tax in FY 2020-21 are forecast to be \$2.81 billion.¹¹⁷

¹¹¹ The Florida Department of Children and Families (DCF), *Community-Based Care*, <https://www.myflfamilies.com/service-programs/community-based-care/> (last visited Mar. 10, 2021).

¹¹² DCF, *Community-Based Care Lead Agency Map*, <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited Mar. 10, 2020).

¹¹³ OPPAGA, report 06-50.

¹¹⁴ *Id.*

¹¹⁵ Section 1004.615, F.S.

¹¹⁶ Sections 220.11(2) and 220.63(2), F.S.

¹¹⁷ *General Revenue Consensus Estimating Conference Comparison Report*, p. 27, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 5, 2021).

Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums.¹¹⁸ Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to General Revenue with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium taxes are forecast to be \$930.1 million in FY 2020-21 with distributions to General Revenue of \$681 million.¹¹⁹

Severance Taxes on Oil and Gas Production

Oil and gas production severance taxes are imposed on persons who sever oil or gas in Florida for sale, transport, storage, profit, or commercial use.¹²⁰ These taxes are remitted to the DOR and distributed to General Revenue with additional distributions to the Minerals Trust Fund and to the counties where production occurred. Receipts from the severance taxes on oil and gas are estimated to be \$1.3 million in FY 2020-2021 with distributions to General Revenue of \$9.3 million.¹²¹

Sales Taxes Paid by Direct Pay Permit Holders

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves the DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.¹²²

Alcoholic Beverage Taxes

Florida imposes excise taxes on malt beverages, wines, and other beverages.¹²³ The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR).

The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.¹²⁴ Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Collections of alcoholic beverage taxes are forecast to be \$757.1 million in FY 2020-21 with distributions to General Revenue of \$297.5 million.¹²⁵

Currently, there are no statutory provisions for a tax credit program for eligible contributions made to eligible organizations that work to promote the welfare of children.

Background Screening

¹¹⁸ Section 624.509, F.S. (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.)

¹¹⁹ *General Revenue Consensus Estimating Conference Comparison Report*, p. 34, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 5, 2021).

¹²⁰ Sections 211.02(1) and 211.025, F.S.

¹²¹ *General Revenue Consensus Estimating Conference Comparison Report*, p. 38, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last accessed April 5, 2021).

¹²² Section 212.183, F.S., and rule 12A-1.0911, F.A.C. Direct pay permit holders include: dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

¹²³ Sections 563.05, 564.06, and 565.12, F.S.

¹²⁴ Section 561.02, F.S.

¹²⁵ *General Revenue Consensus Estimating Conference Comparison Report*, p. 31, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited April 5, 2021).

Level 1 and Level 2 Criminal History Record Checks are terms used under Florida law to convey the method of the criminal history record check and the extent of the data searched. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the Federal Bureau of Investigation (FBI) or other states:

- Level 1: a state-only name-based check.
- Level 2: a state and national fingerprint-based check and consideration of disqualifying offenses, applicable to employees and volunteers designated by law as holding positions of responsibility or trust and those required to be fingerprinted pursuant to ch. 435, F.S.¹²⁶

Public Law (Pub. L.) 92-544 authorizes the Federal Bureau of Investigation (FBI) to exchange criminal history record information (CHRI) with state and local governmental agencies' officials for licensing and employment purposes. Criteria established under Pub. L. 92-544 requires state statutes to designate an authorized governmental agency to be responsible for receiving and screening the results of the CHRI to then determine an applicant's suitability for employment or licensing. For level 2 screening, the Florida Department of Law Enforcement (FDLE) is this state's authorized governmental agency given the responsibility to perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for each employee for whom the request is made.¹²⁷

Under current law, designated eligible charitable organizations are not considered authorized governmental agencies to conduct background screenings and, therefore, are unable to request or obtain national records pursuant to s. 435.04, F.S. However, the FDLE's Volunteer and Employee Criminal History System (VECHS) allows certain non-governmental organizations to obtain national criminal history results through the FDLE.

Once the FDLE receives fingerprints and payment for criminal history record requests, with the assistance of the FBI, the FDLE will provide the organization:¹²⁸

- Either an indication that the person has no criminal history or the criminal history record that shows arrests and convictions for Florida and other states, if any; and
- Notification of any warrants or domestic violence injunctions that the person may have.

Proposed Changes

Tax Credits for Contributions to Eligible Charitable Organizations

The bill creates s. 402.60, F.S., known as the Strong Families Tax Credit Program. This program provides tax credits for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being. The tax credits are a dollar-for-dollar credit against certain tax liabilities.

The tax credit can be taken against the business's liability for several state taxes, including:

- Corporate income tax;
- Insurance premium tax;
- Severance taxes on oil and gas production;
- Alcoholic beverage tax on beer, wine, and spirits; or
- Self-accrued sales tax liability of direct pay permit holders.

New sections are created in each of the applicable tax chapters to create the credit authorized in s. 402.60, F.S., as discussed further below.

¹²⁶ Section 435.05, F.S.

¹²⁷ Section 435.05(1)(c), F.S.

¹²⁸ FDLE, *VECHS Program-Process and Forms*, <https://www.fdle.state.fl.us/Background-Checks/VECHS-Process-and-Forms> (last visited Mar. 15, 2021).

Certification and Responsibilities of Eligible Charitable Organizations

To qualify for the program, an eligible charitable organization must be exempt as a 501(c)(3) organization under the Internal Revenue Code, must be a Florida entity with its principal office in the state of Florida, and must provide services to:

- Prevent child abuse, neglect, abandonment, or exploitation;
- Assist fathers in learning and improving parenting skills or to engage absent fathers in being more engaged in their children's lives;
- Provide books to the homes of children eligible for a free or reduced-price meal program or those testing below grade level in kindergarten through fifth grade;
- Assist families who have children with a chronic illness or a physical, intellectual, developmental, or emotional disability; or
- Provide workforce development services to families of children eligible for a free or reduced-price meal program.

An eligible charitable organization cannot:

- Provide, pay for, or provide coverage for abortions or financially support any other entity that provides, pays for or provides coverage for abortions, or
- Receive more than 50% of its total annual revenue from the DCF, either directly or indirectly.

Additionally, to participate in the program, the organization must:

- Apply to DCF for designation as an eligible charitable organization;
- Provide one-time and ongoing information as requested by the DCF;
- Spend 100% of received funds on direct services for Florida residents for an approved purpose under the Strong Families tax credit;
- Apply for admittance into FDLE's VECHS program and, if accepted, conduct level 2 background screening and perform a check of the Dru Sjodin National Sex Offender Public Website for all volunteers and staff working directly with children in any program funded under the bill;
- Annually provide a copy of its most recent IRS Return of Organization Exempt from Income Tax form (Form 990); and
- Hire an independent certified public accountant to conduct an audit of the organization and provide the audit report to the DCF within 180 days after completion of the organization's fiscal year.

Responsibilities of the Department of Children and Families

The DCF would be responsible for reviewing and approving or denying applications from potential eligible charitable organizations. It must also review and designate eligible charitable organizations each year. The DCF is also responsible for creating and maintaining a section of their website dedicated to this tax credit program and providing information on the process for becoming an eligible charitable organization, a list of current eligible charitable organizations, and the process for a taxpayer to select an eligible charitable organization as the recipient of funding through the tax credit program.

Revenue Sources

Corporate Income Tax

The bill creates s. 220.1876, F.S., which, for taxable years beginning on or after January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under ch. 220, F.S., for corporate income tax.

Insurance Premium Tax

The bill creates s. 624.51057, F.S., which, for taxable years beginning on or after January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under s. 624.509(1), F.S.

Severance Taxes on Oil and Gas Production

The bill creates s. 211.0253, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under ss. 211.02 or 211.025, F.S., for oil or gas production. However, the credit may not exceed 50% of the tax due on the return the credit is taken, and this credit may be used only after any credit under s. 211.0251, F.S., has been used, up to a total of 50% of the liability on the return. The bill directs the DOR to disregard tax credits under this section for purposes of the distributions of tax revenue under s. 211.06, F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Sales Taxes Paid by Direct Pay Permit Holders

The bill creates s. 212.1834, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any state sales tax due from a direct pay permit holder as a result of the direct pay permit held pursuant to s. 212.183, F.S. The bill directs the DOR to disregard tax credits under this section for purposes of the distributions of tax revenue under s. 212.20, F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Alcoholic Beverage Taxes

The bill creates s. 561.1213, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against tax due under ss. 563.05, 564.06, or 565.12, F.S., except for taxes imposed on domestic wine production. Further, the credit is limited to 90% of the tax due on the return the credit is taken. The Division is directed to disregard tax credits under this section for purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Application and Approval of Tax Credits by the DOR

Businesses that wish to participate in the program by making a donation to an eligible charitable organization must apply to the DOR beginning October 1, 2021, for an allocation of tax credit. The taxpayer must specify in the application each tax for which the taxpayer requests a credit, the applicable taxable year for a credit under ss. 220.1876 or 624.51056, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0252, 212.1833, or 561.1212, F.S., relating to oil and gas production, direct pay permit sales, and alcoholic beverage tax credits, respectively. The DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of the Division prior to approving an alcoholic beverage tax credit under s. 561.1212, F.S.

Any unused credit may be carried forward up to ten years. The bill generally does not allow a taxpayer to convey, transfer, or assign the credit to another entity unless all of the assets of the taxpayer are conveyed, transferred, or assigned in the same transaction. Upon approval of the DOR, transfers may be made between members of an affiliated group of corporations if the credit transferred will be taken against the same type of tax.

Rescinding Tax Credits

A taxpayer may apply to the DOR to rescind all or part of an approved tax credit. The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the DOR if the taxpayer receives notice that the rescindment has been accepted.

Cap on Annual Tax Credit Approvals

The annual tax credit cap for all credits under this program is \$5 million per state fiscal year.

Provisions Specific to Corporate Income and Insurance Premium Taxes

The bill amends two additional corporate income tax provisions related to the ordering and administration of tax credits to:

- Specify the order that credits for contributions to eligible charitable organizations are to be claimed relative to other credits authorized under ch. 220, F.S., and
- Add tax credit amounts claimed under s. 220.1877, F.S., back to taxable income for the purpose of determining a taxpayer's "adjusted federal income."

The bill amends one additional insurance premium tax provision related to the ordering of credits to specify the order that credits for contributions to eligible charitable organizations are to be claimed relative to other credits authorized under ch. 659, F.S.

Florida Institute for Child Welfare

The bill directs the FICW to perform an analysis of the tax credit and the use of the funds and submit a report to the Governor, the Speaker of the House of Representatives, and President of the Senate by October 31, 2025.

The bill provides rulemaking authority to the DOR, DCF, Auditor General, and the DBPR. In addition, the DOR is granted emergency rulemaking authority for purposes of implementing the act. An appropriation of \$208,000 is provided to the DOR for implementation costs of the Strong Families Tax Credit program.

Internship Tax Credit

Current Situation

Florida currently does not offer tax credits relating to student internships.

Proposed Changes

The bill creates s. 220.198, F.S., the Florida Internship Tax Credit Program, which authorizes a state corporate income tax credit of \$2,000 for each student intern employed by a qualified business, up to a maximum of \$10,000 in any taxable year, for taxable years beginning on or after January 1, 2022.

The bill amends s. 220.02, F.S., to specify the order in which the credit is applied in relation to other corporate income tax credits. The bill amends s. 220.13, F.S., to require a taxpayer to add claimed credit amounts back to its taxable income, which prevents the taxpayer from claiming the amount as both a credit and a deduction.

The bill defines a “student intern” as a person who has completed at least 60 credit hours at a state university or a Florida College System institution, regardless of whether the student intern receives course credit for the internship; a person who is enrolled in a career center operated by a school district under s. 1001.44, F.S., or a charter technical career center; or any graduate student enrolled at a state university. The bill defines “full time” as at least 30 hours per week. The bill defines a “qualified business” as a business that is in existence and has been continuously operating for at least three years.

The bill authorizes a qualified business to receive a credit against Florida corporate income tax liability in the amount of \$2,000 per student intern employed by the qualified business. Under the bill, a business would qualify to receive the tax credit if:

- The business employed at least one student in an internship in which the student worked full time for at least nine consecutive weeks, and the qualified business provides the department documentation evidencing each internship claimed.
- At the start of an internship, each student intern provides the qualified business with verification by the student intern’s state university, Florida College System institution, career center operated by a school district under s. 1001.44, F.S., or charter technical career center that the student intern is enrolled and maintains a minimum grade point average of 2.0 on a 4.0 scale, if applicable. The qualified business may accept a letter from the applicable educational institution stating that the student intern is enrolled as evidence that the student meets these requirements.
- The qualified business provides the department documentation for the current taxable year to show that at least 20 percent of the business’s full-time employees were previously employed by that business as student interns, or the business:
 - For the three prior years on average, employed ten or fewer full-time employees;
 - Previously hired at least one student intern; and
 - For the current taxable year, employs on a full-time basis at least one employee who was previously employed by the business as a student intern.

The bill establishes a maximum credit of \$10,000 in any taxable year and authorizes a qualified business to carry forward any unused portion of the tax credit for up to two taxable years. The combined total amount of tax credits which may be granted is capped at \$2.5 million in each of state Fiscal Years 2021-2022 and 2022-2023. The department must approve the tax credit prior to the taxpayer taking the credit on a return, and must approve credits on a first-come, first-served basis.

The bill authorizes the Department of Revenue to adopt rules governing the manner and form of applications for the tax credit and establishing qualification requirements for the tax credit.

Contaminated Site Rehabilitation Tax Credit Program (“Brownfields”)

Current Situation

In 1998, the Legislature provided the Department of Environmental Protection (DEP) the direction and authority to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites.

This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;¹²⁹
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.¹³⁰

The credits are limited as follows:

- Eligible tax credit applicants may receive up to \$500,000 per site per year in tax credits.
- The total amount of tax credits for all sites that may be granted by DEP is \$10 million annually.
- In the event that approved tax credit applications exceed the \$10 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year to receive tax credits in first come, first served order from the next year’s authorization.

Since 1998, the VCTC Program has approved approximately \$120.7 million in VCTCs.¹³¹ Since 2008, the tax credits approved have consistently exceeded the original \$2 million cap. The Legislature increased the cap from \$2 million to \$5 million in 2011, and then to \$10 million in 2017. The Legislature provided for a one-time increase in 2015 (from \$5 million to \$21.6 million) to clear the backlog at that time,¹³² and again in FY 2018-19, when an additional \$8.5 million was authorized.¹³³

As of September 10, 2020, DEP had a backlog of \$10.8 million in approved tax credits that have not been funded.¹³⁴ For the most recent year, \$17.6 million was requested, of which \$16.7 million is expected to be approved based on the average approval rate.¹³⁵ The \$10 million annual amount for this year will not fully address last year’s approved \$10.8 million in credits, so \$0.8 million will carry over. This will result in an estimated backlog of \$17.5 million for FY 2021-22.

Proposed Changes

The bill provides a one-time increase in funding of \$17.5 million available for the Brownfields program for FY 2021-22, so the total credits available for that year will be \$27.5 million. The allowable credits return to \$10 million in FY 2022-23.

¹²⁹ Section 376.30781, F.S.

¹³⁰ Section 220.1845, F.S.

¹³¹ Florida Brownfields Redevelopment Program Annual Report August 2020, p. 6, available at https://floridadep.gov/sites/default/files/2019-20_BF_Annual_Report_Final_Cover_Letter.pdf (last visited April 23, 2021).

¹³² *Id.*

¹³³ Section. 220.1845(2)(f), F.S.

¹³⁴ DEP, Voluntary Cleanup Tax Credit Backlog, https://floridadep.gov/sites/default/files/VCTC-Pending-Awards_10Sep2020.pdf (last visited April 23, 2021).

¹³⁵ Email from Scott Sweeney, Voluntary Cleanup Tax Credit Program Manager at Florida Department of Environmental Protection, dated April 26, 2021 (on file with the staff of the Ways & Means Committee).

Documentary Stamp Tax

Current Situation

Florida's Documentary Stamp Tax on Notes and Mortgages

Florida law currently levies a documentary stamp tax, capped at \$2,450,¹³⁶ on promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same.¹³⁷ Florida law also levies a documentary stamp tax, with no cap, on mortgage, trust deeds, security agreements, or other evidence of indebtedness filed or recorded in this state, and for renewal of the same.¹³⁸ The documents are all taxed at 35 cents on each \$100 or fraction thereof of the indebtedness or obligation.¹³⁹

For purposes of taxing renewals of the documents described above, a renewal only includes the modifications of an original document which changes the terms of the indebtedness by adding one or more obligors, increasing the principal balance, or changing the interest rate, maturity date, or payment terms.¹⁴⁰ Modifications to documents that do not modify the terms of the indebtedness are not renewals and are not subject to the documentary stamp tax. Such non-taxable modifications include:¹⁴¹

- Modifications given or recorded to correct error;
- Modification of covenants, conditions, or terms unrelated to the debt;
- Severing of a lien into separate liens;
- Providing for additional, substitute, or further security for the indebtedness;
- Consolidating indebtedness or collateral;
- Adding, changing, or deleting guarantors; or
- Substituting a new mortgagee or payee.

When renewal of a promissory note only extends or continues the identical contractual obligations of the original promissory note and evidences part or all of the original indebtedness, not including any accumulated interest thereon and without enlargement in any way of the original contract and obligation, such renewal note is not subject to the documentary stamp tax, so long as the renewal note has attached to it the original promissory note with other specified notation thereon.¹⁴²

London Interbank Offered Rate (LIBOR)

When two parties enter into a financial contract in which interest payments are to be exchanged, those payments are frequently based on the LIBOR, which provides the benchmark rate for the resulting interest rate.¹⁴³ Since 1986, the LIBOR has been the primary reference rate used in setting interest rates for adjustable rate mortgages, asset-backed securities, municipal bonds, credit default swaps, private student loans, and other types of debt.¹⁴⁴

¹³⁶ Sections 201.07 and 201.08, F.S.

¹³⁷ Section 201.08(1)(a), F.S.

¹³⁸ Section 201.08(1)(b), F.S.

¹³⁹ Section 201.08(1)(a) and (b), F.S.

¹⁴⁰ Section 201.08(5), F.S.

¹⁴¹ *Id.*

¹⁴² Section 201.09(1), F.S.

¹⁴³ Consumer Finance Protection Bureau, *You Might Have Heard That LIBOR is Going Away. Here's What You Need to Know About LIBOR and Adjustable-Rate Loans* (Oct. 17, 2019), <https://www.consumerfinance.gov/about-us/blog/libor-going-away-heres-what-you-need-know-about-libor-and-adjustable-rate-loans/> (last visited Mar. 5, 2021).

¹⁴⁴ Forbes, *What Is Libor And Why Is It Being Abandoned?* (Dec. 16, 2020), <https://www.forbes.com/advisor/investing/what-is-libor/> (last visited Mar. 5, 2021).

The LIBOR is calculated daily by the Intercontinental Exchange (ICE) Benchmark Administration.¹⁴⁵ Eighteen international banks submit rates that each bank believes it would pay, not what it actually pays, if it had to borrow money from another bank on the interbank lending market in London.¹⁴⁶ After removing the four highest and four lowest submissions, the ICE Benchmark Administration calculates the rate in five currencies: UK Pound Sterling, the Swiss Franc, the Euro, Japanese Yen, and the U.S. Dollar.¹⁴⁷

It is estimated that \$200 trillion in financial contracts reference the U.S. Dollar LIBOR.¹⁴⁸ Although the derivatives market accounts for 95 percent of the outstanding value of all financial products referencing the U.S. Dollar LIBOR, the LIBOR is also referenced in several trillion dollars of corporate loans, floating-rate mortgages, floating-rate notes, and securitized products.¹⁴⁹ As of 2019, \$1.2 trillion worth of residential mortgage loans and \$1.3 trillion of consumer loans referenced the LIBOR.¹⁵⁰ The LIBOR has come under increasing scrutiny from regulators and financial markets alike following documented patterns of attempted manipulation by participating banks and a sustained decline in unsecured interbank borrowing.¹⁵¹ Others have noted the declining correlations between the LIBOR and actual bank funding costs.¹⁵²

In 2014, the Federal Reserve Board and the Federal Reserve Bank of New York convened the Alternative Reference Rates Committee (ARRC) to identify an alternative reference rate for use primarily in derivatives contracts.¹⁵³ The ARCC was reconstituted in 2018 with an expanded membership in an effort to push a wider segment of market participants to focus on their exposure to the LIBOR.¹⁵⁴

In 2017, the ARRC identified the Secured Overnight Financing Rate (SOFR) as its recommended alternative to the U.S. Dollar LIBOR.¹⁵⁵ SOFR is fully-transaction based and is a broad measure of the cost of borrowing cash overnight collateralized by U.S. Treasury securities.¹⁵⁶ SOFR is based on transaction data from three segments of the Treasury repurchase agreement market: (1) tri-party repurchase agreements, (2) General Collateral Finance repurchase agreements; and (3) bilateral repurchase agreement transactions cleared through the Fixed Income Clearing Corporation.¹⁵⁷ The Federal Reserve Bank of New York publishes SOFR data daily, as well as SOFR Averages and a SOFR Index.¹⁵⁸

The entity that regulates the LIBOR, the Financial Conduct Authority (FCA) of the United Kingdom, states that the LIBOR will cease after the end of 2021, though some U.S. Dollar LIBOR panels have been extended to the end of June 2023.¹⁵⁹ Accordingly, the FCA is recommending transitions to alternative rates before these dates.¹⁶⁰

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ Alternative Reference Rates Committee, *Frequently Asked Questions* (Dec. 18, 2020), <https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/ARRC-faq.pdf> (last visited Mar. 5, 2021).

¹⁴⁹ *Id.*

¹⁵⁰ Forbes, *supra* note 8.

¹⁵¹ *Id.*

¹⁵² Bowman et al., *How Correlated is LIBOR with Bank Funding Costs?* (June 29, 2020), <https://www.federalreserve.gov/econres/notes/feds-notes/how-correlated-is-libor-with-bank-funding-costs-20200629.htm> (last visited Mar. 5, 2021).

¹⁵³ Alternative Reference Rates Committee, *supra* note 12.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ New York Federal Reserve, *Transition From LIBOR*, <https://www.newyorkfed.org/arrc/sofr-transition> (last visited Mar. 5, 2021); Financial Conduct Authority, *Transition From LIBOR* (Jan. 19, 2021), <https://www.fca.org.uk/markets/libor> (last visited Mar. 5, 2021).

¹⁶⁰ Financial Conduct Authority, *supra* note 23.

Some financial contracts that reference the LIBOR include robust fallback language¹⁶¹ that contemplates a replacement interest rate index or replacement interest rate calculation in the event that the rate referenced in the contract is discontinued. However, the ARCC has reported that most contracts referencing the LIBOR may not have robust fallback language.¹⁶² Financial institutions and other market participants are in the process of assessing their exposure to the discontinuation of the LIBOR.¹⁶³ For contracts based on the LIBOR that do not contain sufficient fallback language, such contracts may need to be modified in order to provide a substantially similar interest rate.

Proposed Changes

The bill provides that a modification of an original document which changes only the interest rate and is made as the result of the discontinuation of an index to which the original interest rate is referenced is not a renewal and is not subject to the documentary stamp tax.

Cigarette Tax Distribution - H. Lee Moffitt Cancer Center (Moffitt)

Current Situation

Moffitt was established by the Legislature in 1981, began construction in 1983, and opened to patients on Oct. 27, 1986.¹⁶⁴ Moffitt began its research on cancer in 1993 and became a National Cancer Institute (NCI) designated cancer center in 1998. In 2001, Moffitt achieved NCI Comprehensive Cancer Center designation indicating that it is one of “the strongest institutions in the nation dedicated to scientific innovation and excellence; to interdisciplinary research, training and education; and to coordinated recognition and pursuit of new research opportunities.” Currently, Moffitt is the only NCI-designated Comprehensive Cancer Center based in Florida.¹⁶⁵

Moffitt treats cancer patients and performs cancer research. Moffitt is Florida’s largest multi-disciplinary medical group practice that is dedicated to cancer care. The Moffitt Medical Group (MMG), based at Moffitt Cancer Center, also provides services at other hospitals and clinics throughout the state of Florida and beyond. The MMG consists of 377 oncology specialists, including 221 board-certified physicians and 156 advanced practice professionals, as well as other staff who specialize in nearly 30 cancer programs and services.¹⁶⁶ Additionally, Moffitt employs about 800 research faculty scientists, career staff scientists, postdocs, graduate students, and support staff dedicated to cancer research.¹⁶⁷

Moffitt’s Cigarette Tax Revenue

As provided in s. 210.20(2)(b), F.S., the distribution of cigarette tax revenue to the H. Lee Moffitt Cancer Center is 4.04 percent of net cigarette tax collections each fiscal year, or 4.04 percent of net cigarette taxes that were collected in State Fiscal Year 2001-2002, whichever is greater. This provision continues through June 30, 2053, under current law. For the purpose of determining the distribution amounts, net cigarette tax collections are defined as the cigarette tax imposed by s. 210.02, F.S., less

¹⁶¹ Fallback language should consist of contractual provisions that specify the trigger events for a transition to a replacement rate, the replacement rate, and the spread adjustment to align the replacement rate with the benchmark being replaced—in this case U.S. Dollar LIBOR. Alternative Reference Rates Committee, *Summary of ARRC’s LIBOR Fallback Language* (Nov. 2019), https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2019/LIBOR_Fallback_Language_Summary.pdf (last visited Mar. 5, 2021).

¹⁶² *Id.*

¹⁶³ See, e.g., U.S. Securities and Exchange Commission Office of Compliance Inspections and Examinations, *Risk Alert* (June 18, 2020), https://www.sec.gov/files/Risk%20Alert%20-%20OCIE%20LIBOR%20Initiative_1.pdf (last visited Mar. 5, 2021); Board of Governors of the Federal Reserve System et al., *Statement on LIBOR Transition* (Nov. 30, 2020), <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20201130a1.pdf> (last visited Mar. 5, 2021).

¹⁶⁴ See <https://moffitt.org/about-moffitt/our-story/> (last visited April 29, 2021).

¹⁶⁵ See <https://moffitt.org/about-moffitt/nci-designation/> (last visited April 29, 2021).

¹⁶⁶ See <https://moffitt.org/about-moffitt/medical/> (last visited April 29, 2021).

¹⁶⁷ See <https://moffitt.org/about-moffitt/research/> (last visited April 29, 2021).

the service charges provided for in s. 215.20, F.S., and less 0.9 percent of the amount derived from the cigarette tax imposed by s. 210.02, F.S.

Because cigarette tax collections today are substantially lower than they were in the 2001-2002 fiscal year, the Moffitt distribution amount is estimated to be \$15. million each fiscal year, which is equal to the amount Moffitt would have received in the 2001-2002 fiscal year.¹⁶⁸ After all distributions from the cigarette tax are made, the remainder goes to the General Revenue Fund.

Proposed Changes

Beginning July 1, 2021, and continuing through June 30, 2024, the bill increases the portion of net cigarette taxes distributed to the Moffitt Cancer Center from 4.04 percent to 7 percent. Beginning July 1, 2024, and continuing through June 30, 2054, the bill increases the portion of net cigarette taxes distributed to the Moffitt Cancer Center from 7 percent to 10 percent. The provisions relating to the lookback to Fiscal Year 2001-02 remain the same.

Heavy Minerals Tax Rate

Current Situation

Under current law, an excise tax is levied upon those who engage in the business of severing heavy minerals from the soils or waters of this state for commercial use. The heavy minerals tax rate is to be calculated each year based on the annual producer price index (PPI) for titanium dioxide published by the U.S. Bureau of Labor Statistics (BLS).¹⁶⁹ However, due to a lack of data, BLS has ceased posting the PPI for titanium dioxide. In the event that the PPI for titanium dioxide is discontinued, current law authorizes the Department of Revenue (DOR) to adopt a tax rate by rule based on a comparable index.¹⁷⁰ However, DOR has been unable to identify an appropriate comparable index.

Proposed Changes

The bill amends s. 211.3106, F.S., to require DOR to use the tax rate for the immediately preceding year when the statutory rate cannot be calculated and there is no comparable index. The current rate reflects the 2020 tax rate calculation that followed the statutory formula when the PPI for titanium dioxide was last published by the Bureau of Labor Statistics.¹⁷¹ This section takes effect upon becoming a law.

¹⁶⁸ Revenue Estimating Conference, Impact Conference analysis of SB 866 (2021), January 29, 2021, p. 3, *available at* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page19-21.pdf (last visited April 29, 2021).

¹⁶⁹ Section 211.3106(3)(a), F.S.

¹⁷⁰ Section 211.3106(3)(e), F.S.

¹⁷¹ Section 211.3106(3)(c), F.S., requires DOR to provide the base rate, the base rate adjustment, and the resulting tax rate by written notice by April 15 of the current year.

Electronic Records/Sales Tax Audit

Current Situation

Sales and use tax statutes specify the records dealers are required to maintain and make available to DOR for inspection during reasonable hours at the dealer's place of business.¹⁷² As technology has advanced, many dealers maintain their records in an electronic format that can be shared with DOR. However, current law does not clearly require dealers to make their records available for inspection without a physical visit and does not require the records be provided electronically if so kept by the dealer.

Proposed Changes

Section 212.13(2), F.S., is amended to require dealers to provide electronic records when the dealer currently maintains the records in an electronic format and to remove language that references a physical visit requirement.

Theft of State Funds

Current Situation

Under current law, a person commits theft of state funds when he or she fails to remit taxes with the intent to unlawfully deprive or defraud the state of its money or the use or benefit thereof.¹⁷³ When a dealer collects sales tax from customers but fails to remit those tax dollars to the state, DOR may pursue criminal prosecution through local state attorney offices¹⁷⁴. These prosecutions often involve multiple collection periods where the dealer has collected but failed to remit taxes.¹⁷⁵ Current sales tax law does not specifically provide for the aggregation of collection periods in determining the grade of criminal offense.

Proposed Changes

The bill amends s. 212.15, F.S., to provide specific authority to allow for the aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes.

¹⁷² Section 212.13, F.S.

¹⁷³ Section 212.15(2), F.S.

¹⁷⁴ Section 212.15(2) and (3), F.S.

¹⁷⁵ Pursuant to s. 212.15(1), F.S., taxes imposed under chapter 212, F.S., become state funds when collected. The collections are due on the first day of the succeeding month and are delinquent on the 21st day of such month. As a result, there may be multiple collection periods where the dealer has collected but failed to remit taxes.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of multifamily projects that provide housing to extremely-low-income, very-low-income, or low-income families, and educational institutions that meet the new exemption parameters for leases, will realize additional savings on ad valorem taxes.

Business making contributions to eligible charitable organizations under the Strong Families Tax Credit, or who employ student interns under the Internship Tax Credit, will benefit from the dollar-for-dollar credit against certain tax liabilities.

The Back-To-School, Disaster Preparedness, and Freedom Week sales tax holidays will provide tax relief to Florida consumers.

D. FISCAL COMMENTS:

The total state and local impact of the bill in FY 2021-22 is -\$169.0 million (-\$34.1 million recurring) of which - \$141.2 million (-\$31.9 million recurring) is on General Revenue, \$0 is on state trust funds, and - \$27.8 million (-\$2.2 million recurring) is on local government (see table below). Total tax reductions embodied in the language are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$196.3 million in tax reductions is the sum of -\$34.1 million (recurring), and -\$162.2 million (pure nonrecurring in FY 2021-22).

Appropriations Detail—The \$208,000 in General Revenue appropriations in the bill is to offset programming and administrative costs to the Department of Revenue for implementation of the Strong Families Tax Credit.

HB 7061

Fiscal Year 2021-22 Estimated Fiscal Impacts (millions of \$)

	General Revenue		State Trust Funds		Local/Other		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
<u>Sales Tax</u> : Back To School Tax Holiday 10 Days	(53.3)	-	(*)	-	(16.1)	-	(69.4)	-
<u>Sales Tax</u> : Disaster Preparedness Tax Holiday 10 Days	(8.1)	-	(*)	-	(2.4)	-	(10.5)	-
<u>Sales Tax</u> : Freedom Week Tax Holiday 7 Days	(42.0)	-	(*)	-	(12.7)	-	(54.7)	-
<u>Sales Tax</u> : Absorption (Dealers Can Pay Tax)	(**)	(**)	(**)	(**)	(**)	(**)	(**)	(**)
<u>Sales Tax</u> : Data Centers Exemption Extension		(1.1)	-	(*)	-	(0.3)	-	(1.4)
<u>Sales Tax</u> : Independent Living Items	(1.2)	(2.9)	(*)	(*)	(0.4)	(0.9)	(1.6)	(3.8)
<u>Ad Valorem</u> : Affordable Housing 50% to 100%	-	-	-	-	-	(22.8)	-	(22.8)
<u>Ad Valorem</u> : Change of Ownership/Calamity and Misfortune	-	-	-	-	(**)	(**)	(**)	(**)
<u>Ad Valorem</u> : Hospital Community Benefit Reporting	-	-	-	-	-	(**)	-	(**)
<u>Ad Valorem</u> : Use of Charitable Property	-	-	-	-	-	+/- ins.	-	+/- ins.
<u>Ad Valorem</u> : Educational Property - Media Production	-	-	-	-	-	(0.6)	-	(0.6)
<u>Ad Valorem</u> : Educational Property - Houses of Worship	-	-	-	-	(7.6)	(0.5)	(7.6)	(0.5)
<u>Ad Valorem</u> : Elevation for Flood Mitigation	-	-	-	-	-	0/(**)	-	0/(**)
<u>Documentary Stamp Tax</u> : Revision of Interest Rate Index	(**)	(**)	(**)	(**)	-	-	(**)	(**)
<u>Multiple Taxes</u> : Strong Families Tax Credit Program	(5.0)	(5.0)	-	-	-	-	(5.0)	(5.0)
<u>Corporate Income Tax</u> : Brownfields Tax Credit	(17.5)	-	-	-	-	-	(17.5)	-
<u>Corporate Income Tax</u> : Internship Tax Credit	(2.5)	-	-	-	-	-	(2.5)	-
<u>Cigarette Tax</u> : Moffitt Distribution Increase	(11.4)	(22.9)	-	-	11.4	22.9	-	-
<u>DOR Tax Administration Concepts</u> : Installment plan penalties	-	-	-	-	-	0/(*)	-	0/(*)
Appropriation for Strong Families Tax Credit Program	(0.2)	-	-	-	-	-	(0.2)	-
2021-22 Total	(141.2)	(31.9)	-	-	(27.8)	(2.2)	(169.0)	(34.1)
						Pure Nonrecurring =		(162.2)
						Recurring + Pure Nonrecurring (2) =		(196.3)

(*) Impact less than \$50,000; (**) Impact is indeterminate.

(1) Ad valorem tax impacts assume current tax rates.

(2) Recurring tax cut total (excl. appropriations) = -\$34.1 million

Pure nonrecurring tax cuts in FY 2021-22= -\$162.2 million-\$196.3 million