

1 A bill to be entitled
 2 An act relating to sales taxes on mobile homes;
 3 amending s. 212.05, F.S.; specifying the percentage of
 4 the sales price of certain mobile homes that is
 5 subject to sales tax; providing a sales tax exemption
 6 for certain mobile homes; providing an effective date.

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

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 10 Section 1. Paragraph (a) of subsection (1) of section
 11 212.05, Florida Statutes, is amended to read:

12 212.05 Sales, storage, use tax.—It is hereby declared to
 13 be the legislative intent that every person is exercising a
 14 taxable privilege who engages in the business of selling
 15 tangible personal property at retail in this state, including
 16 the business of making or facilitating remote sales; who rents
 17 or furnishes any of the things or services taxable under this
 18 chapter; or who stores for use or consumption in this state any
 19 item or article of tangible personal property as defined herein
 20 and who leases or rents such property within the state.

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

24 (a)1.a. At the rate of 6 percent of the sales price of
 25 each item or article of tangible personal property when sold at

26 retail in this state, computed on each taxable sale for the
27 purpose of remitting the amount of tax due the state, and
28 including each and every retail sale.

29 b. Each occasional or isolated sale of an aircraft, boat,
30 mobile home, or motor vehicle of a class or type which is
31 required to be registered, licensed, titled, or documented in
32 this state or by the United States Government shall be subject
33 to tax at the rate provided in this paragraph. A mobile home
34 shall be assessed sales tax at the rate of 6 percent on 50
35 percent of the sales price of the mobile home, if subject to
36 sales tax as tangible personal property. However, a mobile home
37 is not subject to sales tax if the mobile home will be
38 permanently affixed to the land and the purchaser signs an
39 affidavit stating that he or she intends to seek an "RP" series
40 sticker pursuant to s. 320.0815(2). The department shall by rule
41 adopt any nationally recognized publication for valuation of
42 used motor vehicles as the reference price list for any used
43 motor vehicle which is required to be licensed pursuant to s.
44 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party
45 to an occasional or isolated sale of such a vehicle reports to
46 the tax collector a sales price that ~~which~~ is less than 80
47 percent of the average loan price for the specified model and
48 year of such vehicle as listed in the most recent reference
49 price list, the tax levied under this paragraph shall be
50 computed by the department on such average loan price unless the

51 parties to the sale have provided to the tax collector an
52 affidavit signed by each party, or other substantial proof,
53 stating the actual sales price. Any party to such sale who
54 reports a sales price less than the actual sales price is guilty
55 of a misdemeanor of the first degree, punishable as provided in
56 s. 775.082 or s. 775.083. The department shall collect or
57 attempt to collect from such party any delinquent sales taxes.
58 In addition, such party shall pay any tax due and any penalty
59 and interest assessed plus a penalty equal to twice the amount
60 of the additional tax owed. Notwithstanding any other provision
61 of law, the Department of Revenue may waive or compromise any
62 penalty imposed pursuant to this subparagraph.

63 2. This paragraph does not apply to the sale of a boat or
64 aircraft by or through a registered dealer under this chapter to
65 a purchaser who, at the time of taking delivery, is a
66 nonresident of this state, does not make his or her permanent
67 place of abode in this state, and is not engaged in carrying on
68 in this state any employment, trade, business, or profession in
69 which the boat or aircraft will be used in this state, or is a
70 corporation none of the officers or directors of which is a
71 resident of, or makes his or her permanent place of abode in,
72 this state, or is a noncorporate entity that has no individual
73 vested with authority to participate in the management,
74 direction, or control of the entity's affairs who is a resident
75 of, or makes his or her permanent abode in, this state. For

76 | purposes of this exemption, either a registered dealer acting on
77 | his or her own behalf as seller, a registered dealer acting as
78 | broker on behalf of a seller, or a registered dealer acting as
79 | broker on behalf of the purchaser may be deemed to be the
80 | selling dealer. This exemption shall not be allowed unless:

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

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

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

96 | (III) The aircraft is operated in the state solely to
97 | remove it from the state to a foreign jurisdiction.

98 |
99 | For purposes of this sub-subparagraph, the term "foreign
100 | jurisdiction" means any jurisdiction outside of the United

101 States or any of its territories;

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

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

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

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

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

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

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

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

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

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

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

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

175 (VII) The department is authorized to adopt rules

176 necessary to administer and enforce this subparagraph and to
 177 publish the necessary forms and instructions.

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

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

199 Section 2. This act shall take effect July 1, 2022.