

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7071 PCB WMC 22-01 Taxation

SPONSOR(S): Appropriations Committee, Ways & Means Committee, Payne and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee	16 Y, 0 N	Berg	Aldridge
1) Appropriations Committee	27 Y, 0 N, As CS	Trexler	Pridgeon

SUMMARY ANALYSIS

The bill provides for a number of tax reductions and other tax-related modifications designed to directly impact both families and businesses.

Several provisions related to sales tax are included in the bill:

- A 14-day “back-to-school” tax holiday in July and August 2022 for certain clothing, school supplies, learning aids and puzzles, and personal computers; a 14-day “disaster preparedness” holiday in May and June of 2022 for specified disaster preparedness supplies for families and their pets; a seven-day “Freedom Week” tax holiday in July for specified recreational items and activities; and a seven-day tax holiday in September for tools and equipment needed in skilled trades.
- A two-year exemption for impact-resistant windows, doors, and garage doors for residential properties; a one-year exemption for babies and children’s clothing, shoes, and diapers; a one-year exemption for certain ENERGY STAR certified refrigerators, refrigerator/ freezer combinations, water heaters, and clothes washers and dryers; and a three-month exemption for children’s books.
- A reduction in the sales tax for new mobile homes from six percent to three percent.
- An exemption from sales tax on admissions to Formula One Grand Prix races and World Cup matches.
- An exemption for machinery and equipment used in the production of green energy.

For property taxes, the bill:

- Provides property tax relief for homestead property rendered uninhabitable for 30 days or more due to a catastrophic event in 2023 or thereafter, and provides relief from all assessments to owners affected by the sudden and unforeseen collapse of a residential building in 2021;
- Clarifies the start date for calculating the 15-year waiting period for an affordable housing exemption.
- Increases the value of property exempt from ad valorem taxation for residents who are widows, widowers, blind, or totally and permanently disabled from \$500 to \$5,000;
- Modifies the assessment methodology for land used in the production of aquaculture products; and
- Updates the qualifying operations for the deployed servicemember tax exemption.

For corporate income tax, the bill:

- Adopts the Internal Revenue Code in effect on January 1, 2022, to maintain conformity with federal provisions.
- Adds flexibility in the timing of the New Worlds Reading Initiative and Strong Families Tax Credit programs, and increases the annual cap of the Strong Families Tax Credit to \$10 million.
- Provides an additional \$5 million annually for the Community Contribution Tax Credit program.
- Creates a tax credit for investment in short line railroads.

The bill exempts certain loans related to emergencies from documentary stamp taxes.

The Revenue Estimating Conference met on February 18, 2022, to consider the potential revenue impacts of the bill; however, official estimates are pending for several provisions. Staff estimates the bill will have significant negative indeterminate impacts on General Revenue (positive indeterminate recurring), state trust (negative indeterminate recurring) and local government revenues (negative indeterminate recurring) in Fiscal Year 2022-23. See FISCAL COMMENTS.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array 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 (79.0 percent for Fiscal Year 2019-20)² and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Authorized in 1982, the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.³ It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.⁴

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted more than two dozen short-term, 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 twenty times since 1998. The length of the exemption periods has varied from three to ten 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.

¹ Commercial real estate rentals are subject to a 5.5% sales tax pursuant to s. 212.031(1)(c), F.S.

² Office of Economic and Demographic Research, *Florida Tax Handbook 2020*, p. 16, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited February 14, 2022).

³ Office of Economic and Demographic Research, *Florida Local Government Financial Information Handbook 2021*, p. 55, available at <http://edr.state.fl.us/Content/local-government/reports/lgh21.pdf> (last visited February 14, 2022).

⁴ Id.

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
July 31-August 9, 2021	10 days	\$60 or less	\$60 or less	N/A	First \$1,000 of the sales price	\$15 or less

Hurricanes and Disasters in Florida--The Florida Office of Insurance Regulation estimated insured losses of over \$9.1 billion due to Hurricane Michael in 2018,⁵ \$20.7 billion due to Hurricane Irma in 2017,⁶ \$1 billion due to hurricanes Hermine and Matthew in 2016,⁷ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four hurricanes in 2005.⁸ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.⁹ 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.¹⁰

⁵ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited February 13, 2022).

⁶ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited February 13, 2022).

⁷ Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> (last visited February 13, 2022).

⁸ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited February 13, 2022).

⁹ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.floir.com/siteDocuments/HurricaneSummary2008.pdf> (last visited February 13, 2022).

¹⁰ Florida Division of Emergency Management, *Disaster Supply Kit Checklist*, <https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/> (last visited February 13, 2022).

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 \$14.8 billion annually.¹¹ Florida leads all states in economic impacts for its number of anglers and total expenditures.¹² In addition, more than 29 million visitors used Florida's state parks and trails for swimming, nature watching, kayaking, and other outdoor activities in 2019,¹³ and the Florida Fish and Wildlife Commission estimates that wildlife viewing alone contributes almost \$5 billion to the state's economy.¹⁴

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 ten major professional sports franchises in five major sports leagues, as well as significant additional amateur, semi-professional, and recreational sports programs.¹⁵ 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.¹⁶ The pandemic hit live music and sporting events particularly hard – representative music companies saw earnings drop 95% in 2020,¹⁷ 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,¹⁸ and most sports – if played in 2020 or early 2021 at all – were played in front of limited or no audience.¹⁹

Skilled Trades--Under chapter 212, F.S., the retail sale of all tangible personal property is subject to tax unless an exemption applies. Currently, there is no exemption for tools used by skilled trade workers, such as carpenters, electricians, plumbers, welders, pipefitters, masons, painters, heating and air conditioning technicians, and other service technicians.

According to the Florida Department of Economic Opportunity, a number of skilled trade occupations are in high demand.²⁰ The cost of educational materials, tools, and other items can be a barrier to education, training, and employment for skilled trade workers.

Proposed Changes

The bill establishes four temporary sales tax holidays in 2022: a back-to-school sales tax holiday in late July and early August, a disaster preparedness sales tax holiday in late May and early June, a Freedom Week holiday for recreation and admissions during the week surrounding the Fourth of July, and a Skilled Trade Workforce Tool holiday for tools used in skilled trades for the week surrounding Labor Day.

¹¹ Florida Fish and Wildlife Conservation Commission (FWC), Economic Impact of Hunting, Freshwater Fishing, Saltwater Fishing, Wildlife Viewing, and Recreational Boating, available at: <https://myfwc.com/about/overview/economics/> (last visited February 13, 2022).

¹² FWC, Value of Freshwater Fishing, available at: <https://myfwc.com/conservation/value/freshwater-fishing/> (last visited February 13, 2022).

¹³ 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 February 13, 2022).

¹⁴ Supra note 11.

¹⁵ 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 February 13, 2022).

¹⁶ Worldwide Ticket Sales from Top One Hundred Arenas, available at https://www.pollstar.com/Chart/2020/04/Q1Top100Arenas_822.pdf (last visited February 13, 2022).

¹⁷ "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 February 13, 2022).

¹⁸ "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 February 13, 2022).

¹⁹ 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 February 13, 2022).

²⁰ Regional Demand Occupations List, available at: <http://www.floridajobs.org/workforce-statistics/publications-and-reports/labor-market-information-reports/regional-demand-occupations-list> (last visited February 13, 2022)

Back-to-School Holiday--A 14-day sales tax holiday would be authorized from July 25, 2022, through August 7, 2022. During the holiday, the following items that cost \$100 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 \$50 or less per item during the holiday, and learning aids and jigsaw puzzles that cost \$30 or less per item. “Learning aids” are defined as “flashcards or other learning cards, matching or other memory games, puzzle books and search-and-find books, interactive or electronic books and toys intended to teach reading or math skills, and stacking or nesting blocks or sets.”

Additionally exempted would be personal computers and related accessories with a sales price of \$1,500 or less which are 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 18, 2022, 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 14-day sales tax holiday from May 28, 2022, through June 10, 2022, 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.
- An item normally sold as, or generally advertised as, 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, AAA-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 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.
- A portable power bank selling for \$60 or less.
- A smoke detector or smoke alarm selling for \$70 or less.
- A fire extinguisher selling for \$70 or less.
- A carbon monoxide detector selling for \$70 or less.
- Supplies necessary for the evacuation of household pets.²¹ For purposes of this exemption, necessary supplies are the noncommercial purchase of:

²¹ The list of supplies necessary for the evacuation of household pets were identified by Girl Scout Troop 60601 as part of their Pet Preparedness Project they did for the Girl Scout Silver Award, the second highest honor a Girl Scout can earn. They noted in their request that “Per Pawlicy.com, 56% of Florida households own a pet. According to the website Statista.com, the annual expenses for dog owners is about \$1200 and cats about \$700...We know you care about the health and safety of Floridians’ pets because they are truly part of our family.” Additional information about storm preparation for pets is available on their Facebook page at <https://www.facebook.com/PetPreparednessProject> (last visited February 13, 2022), and more information on their initiative is

- Portable kennels or pet carriers selling for \$100 or less;
- Bags of dry pet food weighing 15 or fewer pounds and selling for \$30 or less;
- Cans or pouches of wet pet food selling for \$2 or less per container, or the equivalent if sold in a box or case;
- Manual can openers selling for \$15 or less;
- Leashes, collars, and muzzles selling for \$20 or less;
- Collapsible or travel-size food or water bowls selling for \$15 or less;
- Cat litter weighing 25 or fewer pounds and selling for \$25 or less;
- Cat litter pans selling for \$15 or less;
- Pet waste disposal bags selling for \$15 or less per package;
- Pet pads selling for \$20 or less per box;
- Hamster or rabbit substrate selling for \$15 or less; and
- Pet beds selling for \$40 or less.

Freedom Week Sales Tax Holiday--The bill provides for a seven-day sales tax holiday from July 1, 2022, through July 7, 2022, 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:²²

- A live music event scheduled to be held between July 1, 2022, and December 31, 2022;
- A live sporting event scheduled to be held between July 1, 2022, and December 31, 2022;
- A movie shown in a movie theater between July 1, 2022, and December 31, 2022;
- 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, 2022, and December 31, 2022;
- Season tickets to ballet, play, or musical theatre performances;
- Entry to a fair, festival, or cultural event scheduled to be held between July 1, 2022, and December 31, 2022; and
- Use of or access to gyms and physical fitness facilities between July 1, 2022, and December 31, 2022.

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 \$35 of recreational pool tubes, pool floats, inflatable chairs, and pool toys
 - 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 Supplies²³
 - 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

available at their change.org petition at <https://www.change.org/p/governor-ron-desantis-please-make-pet-supplies-a-part-of-the-florida-disaster-preparedness-tax-holiday-2022> (last accessed February 13, 2022).

²² 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.

²³ The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.

- 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 repellent
 - 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
- Residential Pool Supplies
 - The first \$100 of the sales price of individual residential pool and spa replacement parts, nets, filters, lights, and covers
 - The first \$150 of the combined sales price of all residential pool and spa chemicals purchased by an individual
- Sports Equipment
 - Any item used in individual or team sports, not including clothing or footwear, selling for \$40 or less

Skilled Worker Tools Sales Tax Holiday--The bill provides a seven-day sales tax holiday from September 3, 2022, through September 9, 2022 for specified tools used by skilled trade workers. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- Hand tools selling for \$50 or less
- Power tools selling for \$250 or less
- Power tool batteries selling for \$150 or less
- Work gloves selling for \$25 or less
- Safety glasses selling for \$25 or less
- Protective coveralls selling for \$50 or less
- Work boots selling for \$120 or less
- Tool belts selling for \$50 or less
- Duffle/tote bags selling for \$50 or less
- Tool boxes selling for \$75 or less
- Tool boxes for vehicles selling for \$300 or less
- Industry text books and code books selling for \$125 or less
- Electrical voltage and testing equipment selling for \$100 or less
- LED flashlights and shop lights selling for \$50 or less
- Handheld pipe cutters, drain opening tools, and plumbing inspection equipment selling for \$100 or less

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

- 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.

Permanent Sales Tax Exemptions or Modifications

Current Situation

Florida Taxation of Mobile Homes

Mobile homes, aircrafts, boats, and certain motor vehicles are classified as tangible personal property²⁴ and are subject to a 6 percent sales tax at each sale, including an occasional or isolated sale.²⁵ In addition, a Florida mobile home is taxed annually in one of the following three ways:²⁶

- Assessed and taxed as real property by the county property appraiser;
- Subjected to an annual license tax by the county tax collector's office; or
- Assessed and taxed as tangible personal property by the county property appraiser.

If the mobile home's owner permanently affixes the mobile home to land that he or she owns, then the mobile home may be considered real property.²⁷ The local property appraiser assesses and then lists the mobile home as real property based on his or her findings. If the mobile home is real property, the owner must make a one-time purchase of a \$3 RP decal from his or her local county tax collector's office.²⁸ The RP decal subjects the mobile home to annual assessment and taxation by the county property appraiser. If the mobile home continues to be affixed to the land, it is considered real property, and therefore taxed as such (exempt from subsequent sales and use tax) at subsequent sales.²⁹

A mobile home that is affixed to land that is owned by someone other than the mobile home's owner is subject to an annual license tax, which is levied by the Department of Highway Safety and Motor Vehicles, and can be purchased at the local county tax collector's office.³⁰ This license tax varies from \$20 to \$80, based on the mobile home's length.³¹

Any mobile home that qualifies for, but fails to pay, the license tax, is assessed and taxed as tangible personal property by the county property appraiser.³² The mobile home is then placed on the tangible personal property assessment roll and is taxed as such for the year. If the owner purchases an annual license tax for the mobile home before January 1 of the next year, then the mobile home will be removed from the tangible personal property assessment roll, and would not be subject to further tangible personal property taxation.³³

Green Hydrogen

Hydrogen is the simplest and smallest element in the periodic table, and no matter how hydrogen is produced, it ends up with the same carbon-free molecule. The pathways to produce hydrogen are diverse, and so are the emissions of greenhouse gases like carbon dioxide (CO₂) and methane (CH₄) that result from the production of many types of hydrogen.³⁴

²⁴ Section 212.02(19), F.S.

²⁵ Section 212.05(1)(a)1.b., F.S.

²⁶ See generally, Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. 01/22), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Feb. 14, 2022).

²⁷ Section 320.015, F.S.

²⁸ While the RP decal is issued by local county property appraisers, it is provided by the Department of Highway Safety and Motor Vehicles to the county tax collectors. The \$3 fee is distributed as follows: \$2.50 to the tax collector, 25 cents to the property appraiser, and 25 cents to the DHSMV. Section 320.0815(2), F.S. See, e.g., Florida Department of Revenue, *Declaration of Mobile Home as Real Property: Form DR-402* (Aug. 1995), <https://floridarevenue.com/property/Documents/dr402.pdf> (last visited Dec. 09, 2021).

²⁹ Florida Department of Revenue, *HB 509 Agency Analysis* (Nov. 24, 2021).

³⁰ Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. 01/22), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Feb 14, 2022).

³¹ Section 320.08(11), F.S.

³² Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev 01/22), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Feb. 14, 2022).

³³ Id.

³⁴ World Economic Forum, *What is Green Hydrogen and Why Do We Need It? An Expert Explains* (Dec. 21, 2021) <https://www.weforum.org/agenda/2021/12/what-is-green-hydrogen-expert-explains-benefits/> (last visited Feb. 4, 2022).

Hydrogen can be produced using a process called electrolysis, which splits water into hydrogen and oxygen.³⁵ When renewable energy is used as the source of electricity to power an electrolyzer,³⁶ the resulting hydrogen can result in zero greenhouse gas emissions³⁷ and is referred to as green hydrogen. Electrolyzers range in size, varying from small appliance-sized units to larger-scale central production facilities that can be tied directly to renewable forms of electricity production to power the unit.³⁸

While utilizing green hydrogen could help reduce emissions, the production of green hydrogen is capital intensive.³⁹ The production cost of green hydrogen must significantly decrease for it to be competitive with more mature carbon-based pathways of energy production.⁴⁰

Green hydrogen can be used for a variety of purposes, including:

- Replacing existing hydrogen feedstock in areas like oil refining, ammonia production, and steelmaking;
- Replacing natural gas in some residential and commercial heating systems;
- Energy storage;
- As an alternative fuel source; and
- Powering fuel-cell vehicles.⁴¹

One company, NextEra Energy,⁴² plans to propose a 20-megawatt electrolyzer in Florida that will produce 100 percent green hydrogen from solar power.⁴³ The green hydrogen produced by the electrolyzer would replace a portion of the natural gas consumed by the utility's existing Okeechobee plant. The electricity to power the electrolyzer would come from solar power.⁴⁴

Florida law provides numerous exemptions from sales and use tax which are related to energy.⁴⁵ One sales tax exemption is for the purchase of machinery and equipment used at a fixed location in which the machinery and equipment is necessary to produce electrical or steam energy resulting from burning boiler fuels other than residual oil. This electrical or steam energy must be primarily used in the manufacturing, processing, compounding, or producing for sale items of tangible personal property in Florida.⁴⁶

Another sales tax exemption is for natural gas, residual oil, recycled oil, waste oil, solid waste material, coal, sulfur, wood, wood residue, and wood bark when purchased for use as a combustible fuel in industrial manufacturing, processing, compounding, or production at a fixed location. This exemption may not be used unless the purchaser signs a certificate stating that the fuel is being purchased exclusively for a designated purpose. This exemption does not apply to the use of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale.⁴⁷

³⁵ *Id.*

³⁶ The process of electrolysis uses an electrolyzer, which is a system that uses electricity to break water into hydrogen and oxygen. Cummins, Inc., *Electrolyzers 101: What They Are, How They Work, and Where They fit in a Green Economy*, <https://www.cummins.com/news/2020/11/16/electrolyzers-101-what-they-are-how-they-work-and-where-they-fit-green-economy> (last visited Feb. 4, 2022).

³⁷ Office of Energy Efficiency & Renewable Energy, *Hydrogen Production: Electrolysis*, U.S. Department of Energy, <https://www.energy.gov/eere/fuelcells/hydrogen-production-electrolysis> (last visited Feb. 6, 2022).

³⁸ *Id.*

³⁹ World Economic Forum, *supra* note 34.

⁴⁰ Office of Energy Efficiency & Renewable Energy, *supra* note 37.

⁴¹ Jason Deign, *5 Early Applications for Green Hydrogen* (Jan. 2, 2020), <https://www.greentechmedia.com/articles/read/5-early-applications-for-green-hydrogen> (last visited Feb. 6, 2022).

⁴² Florida Power & Light Company, a subsidiary of NextEra Energy, operates as one of Florida's four investor-owned electric utilities.

⁴³ Stromska, Karl-Erik, *NextEra Energy to Build Its First Green Hydrogen Plant in Florida* (July 24, 2020), <https://www.greentechmedia.com/articles/read/nextera-energy-to-build-its-first-green-hydrogen-plant-in-florida> (last visited Feb. 4, 2022).

⁴⁴ *Id.*

⁴⁵ Section 212.08, F.S.

⁴⁶ Section 212.08(5)(c), F.S.

⁴⁷ Section 212.08(7)(b), F.S.

Florida's sales tax law, does not currently define or reference the term "green hydrogen."⁴⁸

Admissions

Florida levies a six percent tax on the sale of admissions.⁴⁹ A number of events are exempt from the tax. These include admissions to the National Football League championship game or Pro Bowl, any semifinal game or championship game of a national collegiate tournament, a Major League Baseball, Major League Soccer, National Basketball Association, or National Hockey League all-star game, the Major League Baseball Home Run Derby held before the Major League Baseball All-Star Game, or to National Basketball Association all-star events produced by the National Basketball Association and held at a facility such as an arena, convention center, or municipal facility.

Formula One racing is an open-wheel single-seater style of automobile racing, sanctioned by the Fédération Internationale de l'Automobile (FIA) sports association.⁵⁰ FIA sponsors a series of races each year around the world, known as "Grand Prix" races.⁵¹

The Fédération Internationale de Football Association (FIFA) is the governing body for the World Cup, a worldwide soccer competition held every four years.⁵² The location of the World Cup varies, and a number of cities within host countries are used for both qualifying and tournament matches.⁵³ The 2026 World Cup is currently scheduled to be played in North America. The United States last hosted the World Cup in 1994. FIFA also oversees the Women's World Cup, also held every four years, but taking place one year after the men's tournament.⁵⁴ The United States last hosted the Women's World Cup in 2003.

Proposed Changes

Florida Taxation of Mobile Homes

The bill reduces state sales tax from six percent to three percent on the sale of a new mobile home. The bill relies on the definition of "new mobile home" provided in s. 319.001(8), F.S., which defines it as a mobile home for which equitable or legal title has not yet been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.

Green Hydrogen

The bill provides that machinery and equipment necessary to produce electrical or steam energy that results from burning hydrogen is exempt from sales and use tax.

The bill also provides that hydrogen is exempt from sales and use tax when purchased for use as a combustible fuel in an industrial manufacturing, processing, compounding, or production process at a fixed location.

The bill creates a sales and use tax exemption for green hydrogen. The bill defines the term "green hydrogen" to mean hydrogen created using an electrolytic process powered from renewable energy sources, including solar energy, wind energy, and geothermal energy. The term also includes hydrogen created using the pyrolytic decomposition of methane gas.

⁴⁸ Florida Department of Revenue *HB 1163 Agency Analysis* (Jan. 12, 2022).

⁴⁹ Section 212.04, F.S.

⁵⁰ More information about the sport is available at the FIA website, available at <https://www.fia.com/events/fia-formula-one-world-championship/season-2022/2022-fia-formula-one-world-championship> (last visited February 13, 2022).

⁵¹ *Id.*

⁵² FIFA World Cup, available at <https://www.fifa.com/tournaments/mens/worldcup> (last visited February 21, 2022).

⁵³ FIFA World Cup 2026, available at <https://www.fifa.com/tournaments/mens/worldcup/canadamexicousa2026> (last visited February 21, 2022).

⁵⁴ FIFA Women's World Cup, available at <https://www.fifa.com/tournaments/womens/womensworldcup> (last visited February 21, 2022).

Under the bill, the following are exempt from sales and use tax:

- The purchase of machinery and equipment primarily used⁵⁵ in the production, storage, transportation, compression, or blending of green hydrogen. The machinery and equipment must be used at a fixed location.
- The purchase of machinery and equipment primarily used in the production, storage, transportation, compression, or blending of ammonia derived from green hydrogen, if the ammonia will be converted back to green hydrogen before its use or sale. The machinery and equipment must be used at a fixed location.
- The purchase of machinery and equipment that are necessary to produce electrical energy resulting from the electrochemical reaction of green hydrogen and oxygen in a fuel cell. The electrical energy must be primarily used in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. The machinery and equipment must be used at a fixed location.

The bill provides that purchasers of machinery and equipment qualifying for this exemption must furnish the vendor with an affidavit stating that the item or items to be exempted are for the use designated herein. Purchasers with self-accrual authority⁵⁶ are not required to provide this affidavit but must maintain all documentation necessary to prove the exempt status of purchases.

The bill provides that a person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by ch. 212, F.S., is subject to the penalty set forth in s. 212.085, F.S., providing penalties for the fraudulent claim of a tax exemption and as otherwise provided by law.

Admissions

The bill amends s. 212.04(2)(a), F.S., to provide a tax exemption on the sale of admissions to any Formula One Grand Prix race and any qualifying or support races held at the circuit up to 72 hours before the Grand Prix race, as well as any World Cup match, including any qualifying match held up to 12 months before the World Cup.

Temporary Sales Tax Exemptions

Current Situation

Impact-Resistant Windows, Doors, and Garage Doors

The annual probability that Florida will experience at least one hurricane is 46%.⁵⁷ In addition, the annual probability that Florida will experience at least \$1.4 billion in hurricane related losses is 20 percent.⁵⁸ Put another way, Florida can plan on at least \$1.4 billion in losses once every five years.⁵⁹ Florida is distinguishable from other regions in the United States in terms of hurricane seasonality because it is affected by storms throughout the entire Atlantic hurricane season, and it experiences storms later into the year than any other area of the U.S. coastline.⁶⁰ The damage caused by a hurricane can be anticipated based on its category. A category 1 storm may be anticipated to cause from \$360 million to \$718 million in damage, while a category 5 storm may be anticipated to cause \$72 billion or more in damage.⁶¹ The amount of damage from one hurricane to the next may vary significantly, based on where the storm actually makes landfall in terms of development and population,

⁵⁵ The bill defines the term "primarily used" to mean a use of at least 50 percent.

⁵⁶ Pursuant to s. 212.183, F.S.,

⁵⁷ Jill Malmstadt, Kelsey Scheitlin, and James Elsner, *Florida Hurricanes and Damage Costs*, 49 *Southeastern Geographer*. 108 (2009). https://orange.wateratlas.usf.edu/upload/documents/563_MalmstadtScheitlinElsner2009.pdf (last visited February 13, 2022).

⁵⁸ *Id.* (dollar values adjusted to 2022 dollars).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.* (dollar values adjusted to 2022 dollars).

normalized losses are increasing over time, consistent with the increases in hurricane size and intensity.⁶²

Retrofitting buildings with impact-resistant doors can help reduce the damage caused by hurricanes. During a hurricane, strong winds can pick up objects such as tree limbs, building debris, trash cans, and patio furniture, and this windborne debris can easily break standard doors with unprotected glass.⁶³ This allows wind and water into the building, damaging its contents. In addition, the wind can break the building apart from the inside by blowing off the roof and water damage can lead to significant deterioration of the structural elements of the building.⁶⁴ Installing impact-resistant doors can help protect against windborne debris as they minimize the risk of breaking doors and door glass.⁶⁵ Impact-resistant doors must be third-party tested/rated and commonly include reinforced frames, tighter weather stripping, and energy efficient glass.⁶⁶

Impact-resistant windows, doors, and garage doors are subject to Florida sales tax.

Children's Clothing and Shoes

Florida is home to more than one million children under age five, and welcomes nearly 600 newborns each day.⁶⁷ All of those babies and toddlers require clothing and shoes. There are approximately nine million households in Florida that are consumers of children's clothing and footwear.⁶⁸

Clothing and shoes are generally subject to sales tax in Florida. The Legislature has not previously enacted a sales tax exemption exclusively for children's clothing and shoes.

Children's Diapers

In the first year of a child's life, parents can expect to use approximately 3,000 diapers, or an average of eight diapers per day.⁶⁹ The average cost for a diaper is around \$0.30, but some brands are closer to \$0.75 per diaper.⁷⁰ The average state sales tax paid for disposable diapers for a single child over one year, based on those numbers, is anywhere from \$54 to \$135.

Certain medical products and supplies are exempt from sales and use tax, including supplies or medicine dispensed according to a prescription and other non-prescription common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease.⁷¹ Alcohol wipes,

⁶² *Id.*

⁶³ Retrofit Improvements – Impact Resistant Doors, National Association of Home Builders, <https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/codes/retrofit-improvements/retrofit-improvements-impact-resistant-doors-2020.pdf> (last visited February 13, 2022).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Florida Department of Education, Division of Early Learning; <http://www.floridaearlylearning.com/> (last visited February 12, 2022).

⁶⁸ Bureau of Labor Statistics, Consumer Expenditure Survey, Table 1800. Region of residence: Annual means, standard errors, coefficients of variation, and quarterly percents reporting, Consumer Expenditure Interview Survey, 2019; Florida: Quintiles of income before taxes, 2018-2019.

⁶⁹ Buying Diapers, American Academy of Pediatrics healthychildren.org website, available at <https://www.healthychildren.org/English/ages-stages/baby/diapers-clothing/Pages/Buying-Diapers.aspx> (last visited February 13, 2022).

⁷⁰ *Id.* In addition, a search of major retailers showed a significant variety in prices for name brand diapers.

⁷¹ *See* s. 212.08(2)(a), F.S.

STORAGE NAME: h7071c.APC
DATE: 2/22/2022

bandages, and gauze are examples of common household remedies. Cosmetics⁷² and toilet articles⁷³ are specifically excluded from the common household remedy exemption, notwithstanding the presence of medicinal ingredients therein.

The Department of Business and Professional Regulation (DBPR) is responsible for prescribing and approving a list of common household remedies that qualify for the exemption, which is certified by the DOR from time to time and included in the rules promulgated by the DOR.⁷⁴

Certain products relating to infants are also exempt, including baby food, formulas, and teething lotion.⁷⁵ However, diapers are not currently exempt from sales and use tax in Florida.⁷⁶

Energy Efficient Appliances

The federal government, through the Environmental Protection Agency, certifies a number of products for their efficiency under the ENERGY STAR program.⁷⁷ Products in the ENERGY STAR program are normally affixed with a label noting their certification under the applicable program.⁷⁸

From October 5 through October 11, 2006, Florida exempted from sales and use tax specified energy efficient products priced under \$1,500 and that met or exceeded the requirements of the federal ENERGY STAR program and were sold for noncommercial home or personal use:⁷⁹

From September 19, 2014, through September 21, 2014, Florida provided a sales tax exemption on the first \$1,500 of the sales price of specified new ENERGY STAR products or WaterSense⁸⁰ products.⁸¹ A person was limited to a single purchase for each specific type of item listed above with a sales price over \$500 during the holiday. A second purchase of the same type of product was subject to tax on the entire price. There was no requirement that the purchase be for personal use, or any specific prohibition against purchases for commercial use beyond the limit on the number of items that could be purchased without paying tax.

Children's Books

⁷² Section 212.08(2)(b)2., F.S., defines “cosmetics” as articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance and also means articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.

⁷³ Section 212.08(2)(b)3., F.S., defines “toilet articles” as any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.

⁷⁴ Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/22), available at https://floridarevenue.com/Forms_library/current/dr46nt.pdf (last visited February 12, 2022).

⁷⁵ Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/22), available at https://floridarevenue.com/Forms_library/current/dr46nt.pdf (last visited February 12, 2022).

⁷⁶ However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempt from sales tax during sales tax holidays. *See e.g.* Rule 12AER21-2, F.A.C.

⁷⁷ Information about this program is available at <https://www.energystar.gov/about> (last accessed January 10, 2022).

⁷⁸ See <https://www.energystar.gov/products> for more information about labeling and qualifying products (last accessed January 10, 2022).

⁷⁹ Section 6, Ch. 2006-230, L.O.F. The items exempted were refrigerators, dishwashers, clothes washers, air conditioners, ceiling fans, light bulbs, dehumidifiers, and thermostats.

⁸⁰ The federal WaterSense program certifies items that are water-efficient. Information about this program is available at <https://www.epa.gov/watersense> (last visited January 10, 2022).

⁸¹ Section 21, Ch. 2014-38, L.O.F. The ENERGY STAR items exempted were room air conditioners, air purifiers, ceiling fans, clothes washers, clothes dryers, dehumidifiers, dishwashers, freezers, refrigerators, water heaters, swimming pool pumps, and light bulbs. The WaterSense items exempted were bathroom sink faucets, faucet accessories, high-efficiency toilets and urinals, showerheads, and weather or sensor-based irrigation controllers.

Under ch. 212, F.S., the retail sale of all tangible personal property is subject to tax unless an exemption applies. There is no exemption for general reading materials, for a specific age group or otherwise.⁸²

Results from the 2020-21 Florida statewide, standardized English Language Arts (ELA) assessments showed that 46 percent of 3rd grade students are reading below grade level.⁸³ The statewide, standardized grade 3 ELA assessment is a key indicator of academic performance, as 88 percent of children who did not graduate from high school struggled with reading in 3rd grade.⁸⁴

Moreover, results from the Fall 2021 Florida Kindergarten Readiness Screener indicate that half of Florida's kindergarten-age students are not "ready" for kindergarten based in part on their literacy skills.⁸⁵

A literacy-rich home environment is an important component in improving a child's literacy skills.⁸⁶ A two-decade long study⁸⁷ found that simply having a home library increases children's academic success, vocabulary development, attention and job attainment.⁸⁸

There is no specific, commonly agreed-to definition for what is considered a children's book, however, juvenile works, both fiction and non-fiction, which are primarily intended for children (through elementary school) are widely considered "children's books." Children's books generally fall into a number of categories that loosely relate to the age or reading stage of the reader. Some of the categories of children's books include:

- Board Books (ages 0-2): Generally aimed at babies and toddlers, "board books" tend to be short books with heavy laminated paper or cardboard pages.
- Picture Books (ages 2-7): Generally aimed at babies, toddlers, and young children, picture books are books frequently read aloud, where the primary focus is the illustrations and the words tie in to those pictures.
- Beginning Reader Books (4-8): Short, illustrated books that have graduated levels of stories: as the levels get higher, the books have longer and harder words, begin to have chapters, and have increasingly detailed stories. These can be marketed as, for example, "I Can Read" or "Step Into Reading" books, with indications on the cover for the level of reading required.
- Chapter Books (ages 5-10): Books for independent readers, with short chapters and simple storylines. May or may not have illustrations on each page. Commonly these are series of books, like the Magic Treehouse, Diary of a Wimpy Kid, or the Junie B. Jones series.
- Middle Grade Books (ages 8-12): These are for older elementary school children. Middle grade books typically have more involved storylines and more challenging vocabulary. Newberry Award winning books typically fall into this category.

Proposed Changes

⁸² There is an exemption for religious publications, bibles, hymn books, and prayer books in s. 212.06(9), F.S.

⁸³ Florida Department of Education, Spring 2021 Compared to Spring 2015 ELA Assessment Results, available at <https://www.fldoe.org/accountability/assessments/k-12-student-assessment/results/2021.stml> (last visited February 11, 2022).

⁸⁴ Donald J. Hernandez, *Double Jeopardy: How Third-Grade Reading Skills and Poverty Influence High School Graduation* (2012), The Annie E. Casey Foundation, <https://www.aecf.org/m/resourcedoc/AECF-DoubleJeopardy-2012-Full.pdf> (last visited February 11, 2022).

⁸⁵ Florida Department of Education, Fall 2019 and 2020 Compared to Fall 2021 Florida Kindergarten Readiness Screener (FLKRS) District Results, FLKRS Statewide Results, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/flkrs/flkrs-s-w-results.stml> (last visited February 11, 2022).

⁸⁶ Eileen T. Rodriguez & Catherine S. Tamis-LeMonda, *Trajectories of the Home Learning Environment Across the First 5 Years: Associations with Children's Vocabulary and Literacy Prekindergarten*, 82 CHILD DEVELOPMENT 1058, 1059 (2011).

⁸⁷ Scholarly Culture: How books in adolescence enhance adult literacy, numeracy and technology skills in 31 societies, available at <https://www.sciencedirect.com/science/article/abs/pii/S0049089X18300607> (last visited February 13, 2022).

⁸⁸ JCFS Chicago, The Importance of Having Books in Your Home, available at <https://www.jcfs.org/blog/importance-having-books-your-home> (last visited February 13, 2022)

Impact-Resistant Windows, Doors, and Garage Doors

The bill creates a two-year sales tax exemption from July 1, 2022, to June 30, 2024, on the retail sales of impact-resistant windows, doors, and garage doors.

Children's Clothing and Shoes

The bill creates a one-year sales tax exemption from July 1, 2022, to June 30, 2023 on the retail sale of baby and toddler clothing and shoes. This would include baby and toddler clothing up to and including size 5T, and baby and toddler shoes up to and including size 13T. The bill defines baby and toddler clothing to include any article of wearing apparel, up to and including size 5T, intended to be worn on or about the human body.

Children's Diapers

The bill creates a one-year sales tax exemption from July 1, 2022, through June 30, 2023, on the retail sale of children's diapers, including single-use diapers, reusable diapers, and reusable diaper inserts.

Energy Efficient Appliances

The bill creates a one-year sales tax exemption from July 1, 2022, through June 30, 2023, on the retail sale of these ENERGY STAR appliances:

- Refrigerators or combined refrigerator/freezers selling for \$3,000 or less; and
- Water heaters and clothes washers or dryers selling for \$1,500 or less.

Children's Books

The bill creates a three-month sales tax exemption from May 14 through August 14, 2022, on the retail sale of all children's books.

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.⁸⁹

The property appraiser annually determines the "just value"⁹⁰ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."⁹¹ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31.⁹²

The Florida Constitution prohibits the state from levying ad valorem taxes on real property⁹³ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁹⁴

Sudden and Unforeseen Collapse of a Residential Building

⁸⁹ 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.

⁹⁰ Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. (Article VII, s. 4, Fla. Const.). 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).

⁹¹ Section. 192.001(2) and (16), F.S.

⁹² Sections 197.322 and 197.333, F.S.

⁹³ Article VII, s. 1(a), Fla. Const.

⁹⁴ Article VII, s. 4, Fla. Const.

Current Situation

The Legislature has provided tax relief for property damaged by natural disasters after the January 1 assessment date on at least five occasions.⁹⁵ In 1988, the Legislature provided an abatement of taxes for properties damaged by windstorms or tornadoes.⁹⁶ To receive the abatement, the property owner was required to file an application with the property appraiser by March 1 of the year following the year in which the windstorm or tornado occurred.⁹⁷ After making a determination on the validity of the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of months the property was uninhabitable due to the damage or destruction, the value of the property prior to the damage or destruction, the total taxes due on the property as reduced by the number of months the property was uninhabitable, and the amount of the reduction in taxes.⁹⁸

Upon receipt of the official statement, the tax collector reduced the amount of taxes due on the property on the tax collection roll and informed the board of county commissioners and the Department of Revenue (DOR) of the total reduction in taxes for all property in the county receiving the abatement.⁹⁹ The law was applied retroactively to January 1, 1988, and included a repeal effective July 1, 1989.¹⁰⁰ The language was removed from statute in 1992.¹⁰¹

Most recently, the Legislature applied a similar process to abate taxes for homestead parcels damaged or destroyed by Hurricanes Hermine and Matthew in 2016 or Hurricane Irma in 2017. If the residential improvement was rendered uninhabitable for at least 30 days due to such a hurricane, taxes initially levied in 2019 could be abated.¹⁰² The Legislature created a provision to offset the reduction in ad valorem tax revenue resulting from the abatement for fiscally constrained counties.¹⁰³

On the morning of June 24, 2021, a 12-story condominium in Surfside, Florida unexpectedly experienced structural failure and partially collapsed, resulting in the death of 98 people. The standing portion of the building, rendered uninhabitable, was demolished ten days later. Alongside an extensive emergency management effort, the Governor issued Executive Order 21-160 to suspend deadlines related to property tax administration for taxpayers whose property was destroyed or rendered uninhabitable by the collapse.¹⁰⁴ The suspensions include deadlines regarding the notification and collection of ad valorem taxes. The executive order also requested “the Florida Legislature to explore additional legislative acts as may be necessary to alleviate the taxpayers’ property tax obligations.”¹⁰⁵

Proposed Changes

The bill creates s. 197.3195, F.S., to provide tax relief to parcel owners affected by a sudden and unforeseen collapse of a residential building. The bill requires the tax collector to abate all taxes and non-ad valorem assessments for destroyed parcels, and the property appraiser must notify the owners of the abatement.

The bill defines “residential improvement” to mean a multistory residential building comprised of at least 50 dwelling units. The condition of the residential improvement on January 1 of the year the property was destroyed must have been in such a state that the residential improvement had no value due to a latent defect of the property not readily discernable by inspection.

⁹⁵ Chapters 88-101, 98-185, 2004-474, 2007-106, and 2018-118, L.O.F.

⁹⁶ Section 196.295(3), F.S., repealed by ch. 92-173, s. 8, L.O.F.

⁹⁷ Section 196.295(3)(a), F.S., repealed by ch. 92-173, s. 8, L.O.F.

⁹⁸ Section 196.295(3)(d), F.S., repealed by ch. 92-173, s. 8, L.O.F.

⁹⁹ Section 196.295(3)(e)-(f), F.S., repealed by ch. 92-173, s. 8, L.O.F.

¹⁰⁰ Section 196.295(3)(h), F.S., repealed by ch. 92-173, s. 8, L.O.F.

¹⁰¹ Chapter 92-173, s. 8, L.O.F.

¹⁰² Chapter 2018-118, s. 17, L.O.F. enacting s. 197.318, F.S.

¹⁰³ Section 218.131, F.S., (2018) (Repealed 2019).

¹⁰⁴ Executive Order 21-160, Office of the Governor, Jul. 9, 2021, available at: <https://www.flgov.com/wpcontent/uploads/2021/07/EO-21-160.pdf> (last visited February 11, 2022).

¹⁰⁵ *Id.*, s.2.

Parcel owners whose property tax is abated are not required to make a payment and property appraisers and tax collectors are prohibited from issuing tax notices. The bill requires tax collectors to refund tax payments made for taxes levied in the year of collapse.

The bill requires value adjustment boards to dismiss petitions from parcel owners challenging the value of the parcel for the year of the collapse.

For purposes of determining the “Save Our Homes” assessment limitation for property newly homesteaded by an affected parcel owner, the property appraiser shall look to the just value and assessed value of the destroyed parcel on January 1 of the year preceding the year of the destruction.

The bill provides that property owners that are provided relief from property taxes and non-ad valorem assessments under this section are not eligible to receive relief under s. 197.319, F.S., also created by this bill (see discussion below).

Section 197.3195, F.S., as created by the bill, is repealed December 31, 2023, unless reenacted by the Legislature.

Residential Property Rendered Uninhabitable as a Result of a Catastrophic Event

Current Situation

The Florida Constitution requires all property to be assessed at just value as of January 1 of each year for purposes of ad valorem taxation. The just value of the property is then used to calculate the property taxes owed on the property for that year. Property taxes are not prorated; if an improvement on a property is damaged or destroyed after January 1, the full amount of property tax owed remains due for that year based on the assessed value of the property as of January 1 of that year.

Proposed Changes

The bill creates s. 197.319 F.S., to provide for the prorated refund of property taxes on residential properties rendered uninhabitable by a catastrophic event. The bill defines “catastrophic event” as a calamity or misfortune not caused, either directly or indirectly, by the property owner with the intent to destroy the property. If a residential property is rendered uninhabitable for 30 days or more by a catastrophic event, the property owner may be refunded a portion of their property taxes for the time the property was uninhabitable. To do so, the property owner must file an application for refund with the property appraiser. If the property is restored to an inhabitable condition prior to December 1 of the year in which the catastrophic event occurs, the property owner must file their application for refund no sooner than 30 days after the property is restored. Otherwise, the property owner must file the application no later than March 1 of the year immediately following the catastrophic event. If the property owner fails to file the application by the March 1 deadline due to particular extenuating circumstances, they may file an application for refund and may file a petition to the value adjustment board requesting that the refund be granted.

Along with the application, the property appraiser may request supporting documentation to be submitted, including, but not limited to, utility bills, insurance information, contractors’ statements, building permit applications, or building inspection certificates of occupancy for purposes of determining conditions of uninhabitability and subsequent habitability following any repairs. After receiving the application, the property appraiser must then investigate the statements contained in the application to determine if the property owner is entitled to a refund of taxes. The applicant may file a petition to the value adjustment board if the property appraiser determines that they are not entitled to a refund. If the property appraiser finds that the applicant is entitled to a refund, they must then provide an official written statement to the tax collector within 30 days of making such determination, but no later than April 1 of the year following the date of the catastrophic event providing the following:

- The just value of the property on January 1 of the year in which the catastrophic event occurred
- The number of days the property was uninhabitable
- The postcatastrophic event just value, as determined by the property appraiser
- The percent change in value applicable to the parcel.

Upon receipt of this information, the tax collector will then calculate the damage differential pursuant to this section and process a refund equal to the applicable catastrophic event refund. By September 1 of each year, the tax collector is required to notify DOR of the total reduction in taxes for all properties that qualified for a refund, and the governing board of each affected local government of the reduction in their taxes as a result of refunds. For loss of habitability that occurred due to a catastrophic event in 2021, the deadline to file a claim is June 1, 2022.

The bill does not change current law requirements for the payment of property taxes. The relief created by the bill is available to property owners solely as a refund of taxes paid.

This section is effective January 1, 2023, and will first apply to the 2023 tax rolls.

Property of Widows, Widowers, Blind, and Totally and Permanently Disabled Person

Current Situation

Since 1885, the Florida Constitution has provided a specific exemption for the property of widows and those who are totally and permanently disabled.¹⁰⁶ The current constitutional provision provides an exemption for widows, widowers, blind persons, and totally and permanently disabled persons of at least \$500, but authorizing a greater amount to be set by general law.¹⁰⁷ This exemption is effectuated by s. 196.202, F.S., which provides a \$500 exception for all bona fide residents of the state in the aforementioned categories.¹⁰⁸ A person may be classified as totally and permanently disabled based on a certification from a licensed physician, the Department of Veterans Affairs (or its predecessor), or the Social Security Administration. An applicant for this exemption may apply for the exemption before receiving the necessary documentation from the Department of Veterans Affairs or the Social Security Administration.¹⁰⁹ Upon receipt of the documentation, the exemption is granted retroactively to the date of the original application and any excess taxes paid are refunded.

Proposed Changes

The bill increases from \$500 to \$5,000 the value of property exempt from ad valorem taxation for residents who are widows, widowers, blind, or totally and permanently disabled. The bill specifies that the increase applies to tax years beginning on or after January 1, 2023.

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.¹¹⁰

Section 196.1978, F.S., authorizes a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must

¹⁰⁶ Article IX, s. 9, Fla. Const. (1885) (providing a \$200 exemption from property taxation for each “widow that has a family dependent on her for support, and to every person that has lost a limb or been disabled in war or by misfortune.”)

¹⁰⁷ Article VII, s. 3(b), Fla. Const.

¹⁰⁸ Section 196.202(1), F.S.

¹⁰⁹ Section 196.202(2), F.S.

¹¹⁰ Florida Constitution, art. VII, s. 3.

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.¹¹¹ 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 2017,¹¹² the Legislature provided that property used as affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount if the property:

- 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.

In 2021,¹¹³ the Legislature amended s. 196.1978(2), F.S., to increase the 50 percent property tax discount to a full exemption from ad valorem tax.

The property tax exemption 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 exemption terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement.

Proposed Changes

The bill amends s. 196.1978(2), F.S., to clarify how the start date is calculated related to the 15 years of use as an affordable housing property. The 15 years would be calculated based on the earliest of three dates:

- The effective date of the recorded agreement with the Florida Housing Finance Corporation,
- The first day of the first taxable year in which the property was placed in service as an affordable housing property, or
- The date such property received a certificate of occupancy, or certificate of substantial completion, as applicable, and could be used to provide affordable housing.

Aquaculture

Current Situation

Section 193.461, F.S., allows properties used for bona fide agricultural purposes to be taxed according to the use value of the agricultural operation, rather than the development value.¹¹⁴ “Agricultural purposes” includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, pisciculture, aquaculture,¹¹⁵ algaculture, sod farming, and all forms of farm products as defined in s. 823.14(3), F.S., and farm production.¹¹⁶ Generally, tax assessments for qualifying lands are lower than tax assessments for other uses.

When assessing land that has been granted the agricultural classification, the property appraiser shall consider only the following use factors:

¹¹¹ 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).

¹¹² Chapter 2017-36, s. 6, Laws of Fla.

¹¹³ Chapter 2021-31, s. 10, Laws of Fla.

¹¹⁴ Section 193.461, F.S.

¹¹⁵ As defined in s. 597.0015, F.S., “Aquaculture” means the cultivation of aquatic organisms.

¹¹⁶ Section 193.461(5), F.S.

- The quantity and size of the property;
- The condition of the property;
- The present market value of the property as agricultural land;
- The income produced by the property;
- The productivity of land in its present use;
- The economic merchantability of the agricultural product; and
- Such other agricultural factors as may from time to time become applicable which are reflective of the standard present practices of agricultural use and production.¹¹⁷

For purposes of the income methodology approach to assessment of property used for agricultural purposes, certain structures that are physically attached to the land are considered a part of the average yields per acre and have no separately assessable contributory (taxable) value. These structures include the following:

- Irrigation systems, including pumps and motors;
- Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms;
- Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the Department of Agriculture and Consumer Services; and
- Screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements.¹¹⁸

Proposed Changes

This bill creates s. 193.4613, F.S., to provide that land used in the production of aquaculture products shall be assessed based solely on its agricultural use, consistent with s. 193.461(6)(a), F.S., and that for purposes of the income methodology approach to assessment, structures and equipment on the property and used for producing aquaculture products be considered a part of the average yield per acre and carry no separately contributory (taxable) value. The bill also provides that when utilizing the income methodology approach, the property appraiser shall rely on five-year moving average data, notwithstanding any provision relating to annual assessment found in s. 192.042, F.S.

This bill further provides that once a request for assessment under s. 193.4613, F.S. is approved, the property must be assessed as provided in s. 193.4613, F.S., for ten years unless the ownership or use of the property changes. The property appraiser may require the property owner to submit audited financial statements, but may not require an annual application. The property shall be assessed pursuant to s. 193.011, F.S., if a proper application for agricultural assessment is not made.

Exemption for Deployed Servicemembers¹¹⁹

Current Situation

The Florida Constitution grants an exemption for military servicemembers that have Florida homesteads and are deployed on active duty outside the continental United States, Alaska or Hawaii in support of military operations designated by the Legislature.¹²⁰ The exemption is equal to the taxable value of the qualifying servicemember's homestead on January 1 of the year in which the exemption is

¹¹⁷ Section 193.461(6)(a), F.S.

¹¹⁸ Section 193.461(6)(c), F.S.

¹¹⁹ Section 196.173(7), F.S., defines the term "servicemember" for purposes of this exemption to mean a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

¹²⁰ Article VII, s. 3(g), Fla. Const. See also s. 196.173, F.S.

sought, multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year, and divided by the number of days in that year.¹²¹

Eligible Military Operations

The Legislature has designated the following military operations as eligible for the exemption:

- Operation Joint Task Force Bravo, which began in 1995;
- Operation Joint Guardian, which began on June 12, 1999;
- Operation Noble Eagle, which began on September 15, 2001;
- Operations in the Balkans, which began in 2004;
- Operation Nomad Shadow, which began in 2007;
- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Copper Dune, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation Spartan Shield, which began in June 2011;
- Operation Observant Compass, which began in October 2011;
- Operation Inherent Resolve, which began on August 8, 2014;
- Operation Atlantic Resolve, which began in April 2014;
- Operation Freedom's Sentinel, which began on January 1, 2015;
- Operation Resolute Support, which began in January 2015.
- Operation Juniper Shield, which began in February 2007.
- Operation Pacific Eagle, which began in September 2017.
- Operation Martillo, which began in January 2012.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs (DMA) must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.¹²²

Proposed Changes

Pursuant to communication from the DMA,¹²³ a number of changes to the list of active deployments are appropriate. The bill updates the statutory list of military operations eligible for the exemption by adding Operation Enduring Freedom – Horn of Africa, which began January 2015, and European Reassurance Initiative (ERI)/European Deterrence Initiative (EDI) which began in 2014. The bill also removes Operation Observant Compass, which ended in 2017.

Documentary Stamp Taxes

Current Situation

Florida levies a documentary stamp tax on certain documents, which is comprised of two taxes imposed on different bases at varying rates. The tax on deeds and other documents related to real property is 70 cents per \$100, and the tax on bonds, debentures, certificates of indebtedness, promissory notes, nonnegotiable notes, and other written obligations to pay money is 35 cents per \$100. Documentary stamp taxes levied on promissory notes, nonnegotiable notes, and written obligations may not exceed \$2,450.

¹²¹ Section 196.173(4), F.S.

¹²² Section 196.173(3), F.S.

¹²³ The DMA provided a letter dated January 7, 2022, to the Speaker of the House of Representatives providing the statutorily required report of ongoing military operations. A copy is on file with the staff of the Ways & Means Committee.

Chapter 201, F.S., provides that certain transactions are exempt from the documentary stamp tax; notably, s. 201.25, F.S., which exempts loans made by the Small Business Emergency Bridge Loan Program in response to a disaster for which the Governor declares a state of emergency and any loan made by the Agricultural Economic Development Program pursuant to s. 570.82, F.S.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020, in response to the COVID-19 pandemic. The CARES Act established, among other programs, the Paycheck Protection Program (PPP), which expanded the scope of both the businesses eligible for – and allowable uses of – loans made under section 7(a) of the Small Business Act.¹²⁴ In addition to businesses which had already been eligible for Small Business Administration (SBA) loans, eligibility was expanded to businesses, nonprofits, veterans' organizations, and tribal businesses with fewer than 500 employees or that meet the size standards based on the business's NAICS code.¹²⁵

On March 9, 2020, Governor DeSantis issued Executive Order 20-52, which declared that a state of emergency existed in Florida due to the COVID-19 pandemic.¹²⁶ On April 6, 2020, Governor DeSantis issued Executive Order 20-95, suspending the collection of Documentary Stamp Taxes levied on notes and other written obligations made under Title I of the federal CARES Act.¹²⁷ The suspension remained in effect until the expiration of Executive Order 20-52 on May 3, 2021, when the Governor issued Executive Orders 20-101 and 102 ending the state of emergency related to COVID-19.^{128,129}

Proposed Changes

The bill amends s. 201.25, F.S., to exempt from documentary stamp tax any loans relating to a state of emergency declared through either an executive order or a proclamation from the Governor pursuant to s. 252.36, F.S., from all taxes imposed under ch. 201, F.S.

Corporate Income Tax

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.¹³⁰ Florida utilizes the taxable income determined for federal income tax purposes as a starting point to determine the total amount of Florida corporate income tax due.¹³¹ This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed when determining taxable income for federal tax purposes as it does when determining taxable income for state taxation purposes, unless the state chooses not to adopt specific federal provisions.

Adoption of the Internal Revenue Code

Current Situation

Florida maintains its relationship with the federal Internal Revenue Code (IRC) by annually adopting the IRC as it exists on January 1.¹³² By doing this, Florida adopts any changes related to determining federal taxable income that were made during the previous year.

¹²⁴ Coronavirus Aid, Relief, and Economic Security Act, s. 1102, Pub. L. 116-136 (2020).

¹²⁵ Id.

¹²⁶ Governor Ron DeSantis, Fla. Exec. Order No. 20-52 (Mar. 9, 2020), available at https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf (last visited Jan. 28, 2022).

¹²⁷ Governor Ron DeSantis, Fla. Exec. Order No. 20-95 (Apr. 6, 2020), available at https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-95.pdf (last visited Jan. 28, 2022).

¹²⁸ Section 252.36(2), F.S., provides that states of emergency may not continue for more than 60 days unless renewed by the Governor.

¹²⁹ Governor Ron DeSantis, Fla. Exec. Orders No. 21-101 and 102 (May 3, 2021), available at <https://www.flgov.com/2021-executive-orders/> (last visited Jan. 28, 2022).

¹³⁰ Section. 220.11(2), F.S.

¹³¹ Section 220.12, F.S.

¹³² Sections 220.03(1)(n) and (2)(c), F.S.

On December 27, 2017, the federal government passed the Tax Cuts and Jobs Act,¹³³ which made significant changes to the federal corporate income tax structure. Most of the provisions of that law went into effect either retroactively or within the first few months of the bill's passage. One provision, however, had a delayed effective date. The existing deduction for Research and Experimental Expenditures found in section 174 of the IRC generally allowed companies to immediately deduct 100% of their non-depreciable expenses for research related to science or technology. Beginning January 1, 2022, those expenses instead are required to be deducted over five years (for domestic research expenses) or fifteen years (for foreign research expenses).

Proposed Changes

The bill updates the Florida corporate income tax code by adopting the IRC as in effect on January 1, 2022, including the federal change to the deduction for research and experimental expenditures.

This section is effective upon becoming law and applies retroactively to January 1, 2022.

Credit for Investment in Short-Line Rail

Current Situation

Freight rail is a primary component of Florida's transportation network, managing highway congestion and assisting with supply chain issues.¹³⁴ There are a number of freight railroads operating in Florida, all of which fall into three main classifications, based on their annual operating revenue, as follows¹³⁵:

- Class I - \$900,000,000 or more
- Class II - Less than \$900,000,000 but in excess of \$40,400,000
- Class III - \$40,400,000 or less

Class I railroads in Florida are CSX Transportation and Norfolk Southern Railway, which together own or operate more than half of the rail miles in Florida.¹³⁶

The Florida East Coast Railway, one of only two Class II railroads in Florida, operates 351 miles in the state.¹³⁷ The other Class II railroad is the Alabama Gulf Coast Railway, operating only a short rail piece from Pensacola to the state line.¹³⁸ The Florida Department of Transportation has identified approximately \$142 million of necessary short-range investments and another \$50 million in long-term investments needed for the continuing operation of the Florida East Coast Railroad.¹³⁹

Fewer than a dozen short line Class III railroads operate a cumulative 819 miles of rail in the state. Five of those railroads alone reported long-term improvement needs of \$77 million in 2018.¹⁴⁰

The federal government supports necessary investment in the refurbishment and extension of the railways through a federal credit found in section 45G of the IRC. That credit is calculated as 50% of qualified expenditures (40% on or after January 1, 2023), limited by the number of miles owned or leased by the railway, multiplied by \$3,500.

¹³³ Pub. L. 115-97.

¹³⁴ Florida Department of Transportation, Florida State Rail System Plan (2018 update), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/publications/plans/rail/2018/rail-plan_dec-2018.pdf?sfvrsn=40a652e2_2 (last visited February 12, 2022).

¹³⁵ The revenue thresholds are updated by the United States Surface Transportation Board periodically. The most recent revision was in 2021, and the notice of that update is available at <https://www.stb.gov/news-communications/latest-news/pr-21-16/> (last accessed February 12, 2022).

¹³⁶ Florida Department of Transportation, Florida State Rail System Plan, *supra* note 127, at page 1-7.

¹³⁷ *Id* at page 2-4.

¹³⁸ Alabama & Gulf Coast Railway service map available at https://www.gwrr.com/agr/wp-content/uploads/sites/4/2021/02/agr_railroad_detail_map.pdf (last accessed February 12, 2022).

¹³⁹ Florida Department of Transportation, Florida State Rail System Plan, *supra* note 127, at pages 4-2 and 4-8.

¹⁴⁰ *Id* at pages 4-8 to 4-9.

Proposed Changes

The bill creates a credit against corporate income tax for Class II and Class III railroads that invest in maintaining or improving railroad track in Florida. The credit is equal to 50 percent of the investment in Florida in the prior calendar year, and is limited to the total number of miles the railroad owns or leases in Florida multiplied by \$3.500. The credit is nontransferable but can be carried forward five years if not fully used in the first year. The bill provides guidelines to the Department of Revenue to administer the new credit.

Credits Available Against Multiple Taxes

Community Contribution Tax Credit

Current Situation

In 1980, the Legislature established the Community Contribution Tax Credit Program (“CCTCP”) to encourage private sector participation in community revitalization and housing projects.¹⁴¹ Broadly, the CCTCP offers tax credits to businesses or persons (“taxpayers”) anywhere in Florida that contribute¹⁴² to certain projects undertaken by approved CCTCP sponsors.¹⁴³

Eligible sponsors under the CCTCP include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.¹⁴⁴

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- To construct, improve, or substantially rehabilitate housing that is affordable to low-income households or very-low-income households as those terms are defined in s. 420.9071;
- To provide commercial, industrial, or public resources and facilities; or
- To improve entrepreneurial and job-development opportunities for low-income persons.¹⁴⁵

In addition, eligible projects must be located in an area that was designated as an enterprise zone as of May 1, 2015,¹⁴⁶ or a Front Porch Florida Community, with two exceptions. First, any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S., is exempt from the area requirement. Second, any project designed to provide increased access to high-speed broadband capabilities that includes coverage in a rural community that had an enterprise zone designation as of May 1, 2015, may locate the project’s infrastructure in any area of a rural county (inside or outside of the zone).

The Department of Economic Opportunity (DEO) administers the CCTCP, and its responsibilities include reviewing sponsor project proposals and tax credit applications, periodically monitoring projects, and marketing the CCTCP in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial intermediaries.¹⁴⁷ Once approved by the DEO, the taxpayer must claim the community contribution tax credit from the DOR.

The credit is calculated as 50 percent of the taxpayer’s annual contribution, but a taxpayer may not receive more than \$200,000 in credits in any one year.¹⁴⁸ The taxpayer may use the credit against

¹⁴¹ Chapter 80-249, L.O.F. The CCTCP is one of the state incentives available under the Florida Enterprise Zone Act, which was partially repealed on December 31, 2015.

¹⁴² Sections 212.08(5)(p)2.a., 220.183(2)(a), and 624.5105(5)(a), F.S., require community contributions to be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources.

¹⁴³ Sections 212.08(5)(p); 220.183; and 624.5105, F.S.

¹⁴⁴ Sections 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.

¹⁴⁵ Sections 212.08(5)(p)2.b.; 220.183(2)(d); 624.5105(2)(b); and 220.03(1)(t), F.S.

¹⁴⁶ The Florida Enterprise Zone Act was partially repealed as of December 31, 2015- see ch. 2015-221, L.O.F.; s. 290.016, F.S.

¹⁴⁷ Sections 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.

¹⁴⁸ Sections 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.

corporate income tax, insurance premiums tax, or as a refund against sales tax.¹⁴⁹ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.¹⁵⁰ Unused credits against sales taxes may be carried forward for three years.¹⁵¹

DOR may approve \$10.5 million in annual funding for projects that provide homeownership opportunities for low-income and very-low-income households or housing opportunities for persons with special needs and \$3.5 million for all other projects. “Persons with special needs” is defined in current statute to include adults requiring independent living services, young adults formerly in foster care, survivors of domestic violence, and people receiving Social Security Disability Insurance, Supplemental Security Income, or veterans’ disability benefits.¹⁵²

The Legislature extended the CCTCP in 1984, 1994, 2005, 2014, and 2015,¹⁵³ and made the program permanent in 2017.¹⁵⁴ It has also amended the annual tax credit allocation of the CCTCP on numerous occasions.¹⁵⁵ Each time the allocation has been increased, the number of projects has increased to match the larger allocation. The CCTCP cap, which started at \$3 million annually, is currently set at \$10.5 million.

Proposed Change

The bill provides an additional \$5 million in community contribution tax credits. For projects that provide homeownership opportunities for low-income and very-low-income households or housing opportunities for persons with special needs, the bill increases the cap for tax credits by \$4 million, from \$10.5 million to \$14.5 million. For all other projects, the bill increases the cap for tax credits by \$1 million, from \$3.5 million to \$4.5 million.

Strong Families Tax Credit

Current Situation

The Strong Families Tax Credit Program, established in s. 402.60, F.S., was created in 2021 to provide 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.

Businesses that wish to participate in the program by making a donation to an eligible charitable organization could 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. 220.1877 or 624.51057, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0253, 212.1834, or 561.1213, F.S., relating to oil and gas production, direct pay permit sales, and alcoholic beverage tax credits, respectively. The annual tax credit cap for all credits under this program is \$5 million per state fiscal year. The DOR is required to approve the tax credits on a first-come, first-

¹⁴⁹ Sections 212.08(5)(p); 220.183; and 624.5105, F.S.

¹⁵⁰ Sections 220.183(1)(e) and (g); and 624.5105, F.S.

¹⁵¹ Sections 212.08(5)(p)1.b. and f., F.S.

¹⁵² Section 420.0004(13), F.S.

¹⁵³ Chapters 84-356, 94-136, 2005-282, 2014-38, and 2015-221, L.O.F.

¹⁵⁴ Chapter 2017-36, L.O.F.

¹⁵⁵ Chapters. 94-136, 98-219, 99-265, 2005-282, 2006-78, 2008-153, 2015-221, and 2017-36, L.O.F.

served basis and must obtain the approval of the Division prior to approving an alcoholic beverage tax credit under s. 561.1213, F.S.

Proposed Changes

The bill adds flexibility to corporate income taxpayers and insurance premium taxpayers to allow them to make contributions and take credits for the 2021-22 state fiscal year, and also provides a refund option for insurance premium taxpayer who may have already submitted their tax payments for the 2021 tax year. The bill also increases the maximum award under the program from \$5 million per state fiscal year to \$10 million per state fiscal year, beginning in 2022-23.

New Worlds Reading Initiative Tax Credit

Current Situation

The New Worlds Reading Initiative, established in s. 1003.485, F.S., was created in 2021 to provide tax credits for businesses that make monetary donations to the administrator of the New Worlds Reading Initiative, a literacy program that provides books to elementary school students in Florida who read below grade level. 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.

Businesses that wish to participate in the program by making a donation to the program could 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 annual tax credit cap for all credits under this program is \$10 million for state fiscal year 2021-22, \$30 million for 2022-23, and \$50 million for all years thereafter. 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.

Proposed Changes

The bill adds flexibility to corporate income taxpayers and insurance premium taxpayers to allow them to make contributions and take credits for the 2021-22 state fiscal year, and also provides a refund option for insurance premium taxpayer who may have already submitted their tax payments for the 2021 tax year. The bill also provides flexibility to the administrator of the New Worlds Reading Initiative, so that donations received after January 1 of the state fiscal year can be carried forward to the next state fiscal year to be used to purchase books under the program.

B. SECTION DIRECTORY:

- Section 1: Creates s. 193.4613, F.S., providing for the assessment of land used in the production of aquaculture to be based solely on its agricultural use.
- Section 2: Provides that the changes made to s. 193.4613, F.S., first apply to the 2023 ad valorem tax roll and apply to assessments made on or after January 1, 2023.
- Section 3: Amends s. 194.032, F.S., providing timing provisions related to the meeting of a value adjustment board.

- Section 4: Amends s. 196.173, F.S., revising the military operations that qualify certain servicemembers for an additional ad valorem tax exemption.
- Section 5: Provides that the changes made to s. 196.173(2), F.S., first apply to the 2022 ad valorem tax roll.
- Section 6: Provides an exception to s.196.173, F.S., revising the deadlines for applying for additional ad valorem tax exemptions for certain servicemembers for a specified tax year.
- Section 7: Amends s. 196.1978, F.S., clarifying the start date for the time period required for a property tax exemption for certain multifamily projects that provide affordable housing to low-income families.
- Section 8: Provides that the changes made to s. 196.1978, F.S., first apply to the 2023 ad valorem tax roll.
- Section 9: Amends s.196.202, F.S., increasing the property tax exemption for residents who are widows, widowers, blind persons, or persons totally and permanently disabled.
- Section 10: Provides that the changes made to s. 196.202(1), F.S., first apply to the 2023 ad valorem tax roll.
- Section 11: Creates s. 197.319, F.S., specifying conditions under which persons whose residential dwellings are rendered uninhabitable may receive a refund of taxes originally levied.
- Section 12: Provides that the creation of s. 197.319, F.S., first apply to the 2023 ad valorem tax roll.
- Section 13: Creates s. 197.3195, F.S., providing for the eligibility for refund of ad valorem taxes and non-ad valorem assessments for residential improvements destroyed following certain events.
- Section 14: Provides that the creation of s. 197.3195, F.S., applies retroactively to January 1, 2021.
- Section 15: Amends s. 201.25, F.S., exempting certain federal loans from documentary stamp taxes.
- Section 16: Amends s. 212.04, F.S., exempting Formula One Grand Prix and World Cup admissions from the sales tax on admissions.
- Section 17: Amends s. 212.05, F.S., specifying the sales tax rate on new mobile homes and defining the term "new mobile home."
- Section 18: Amends s. 212.08, F.S., exempting from the sales and use tax the purchase of certain machinery and equipment that produce electric or steam energy from burning hydrogen and revising the total amount of community contribution tax credits which may be granted.
- Section 19: Amends s. 213.053, F.S., allowing the department to share certain information with the Department of Transportation.
- Section 20: Amends s. 220.02, F.S., updating the order in which corporate income tax credits are taken.
- Section 21: Amends s. 220.03, F.S., adopting the Internal Revenue Code.
- Section 22: Provides that changes made to section 220.03, F.S., take effect upon becoming law and operate retroactively to January 1, 2022.
- Section 23: Amends s. 220.13, F.S., providing an addition to taxable income for the amount of a credit taken under a new program.
- Section 24: Amends s. 220.183, F.S., revising the total amount of community contribution tax credits which may be granted.
- Section 25: Amends s. 220.1876, F.S., removing timing limitation on credit for contributions to the New Worlds Readings Initiative.
- Section 26: Amends s. 220.1877, F.S., removing timing limitation on credit for contributions to eligible charitable organizations.

- Section 27: Creates s. 220.1915, F.S., providing credit for qualified railroad reconstruction or replacement expenditures.
- Section 28: Amends s. 402.62, F.S., increasing the cap on the Strong Families tax credit.
- Section 29: Amends s. 624.5105, F.S., revising the total amount of community contribution tax credits which may be granted.
- Section 30: Amends s. 624.51056, F.S., removing timing limitation on credit for contributions to the New Worlds Readings Initiative.
- Section 31: Amends s. 624.51057, F.S., removing timing limitation on credit for contributions to eligible charitable organizations.
- Section 32: Amends s. 1003.485, F.S., allowing additional carryforward of contributions to the New World Reading Initiative.
- Section 33: Provides the intent of the Legislature regarding the New Worlds Reading Initiative and the Strong Families Tax Credit Program.
- Section 34: Provides for the treatment of specified contributions under the Strong Families Tax Credit Program and New Worlds Reading Initiative Tax Credit Program.
- Section 35: Provides emergency rulemaking authority to the Department of Revenue.
- Section 36: Provides an effective date for changes to the New Worlds Reading Initiative and the Strong Families Tax Credit Program.
- Section 37: Provides exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, learning aids, personal computers, and personal computer related accessories during a specified timeframe.
- Section 38: Provides exemptions from the sales and use tax for specified disaster preparedness supplies during specified timeframes.
- Section 39: Provides exemptions from the sales and use tax for admissions to music events, sporting events, cultural events, specified performances, movies, museums, state parks, and fitness facilities, during specified timeframes and for certain boating and water activity, camping, fishing, general outdoor supplies, pool supplies, and sports equipment, during specified timeframes.
- Section 40: Provides an exemption from sales and use tax on the retail sale of tools used by skilled trade workers for a specified period of time.
- Section 41: Provides an exemption from sales and use tax on the retail sale of children's books for a specified period of time.
- Section 42: Provides an exemption from sales and use tax on the retail sale of ENERGY STAR appliances for a specified period of time.
- Section 43: Provides an exemption from sales and use tax on the retail sale of diapers for a specified period of time.
- Section 44: Provides an exemption from sales and use tax on the retail sale of baby and toddler clothing for a specified period of time.
- Section 45: Provides an exemption from sales and use tax on the retail sale of impact-resistant windows, doors, and garage doors.
- Section 46: Provides emergency rulemaking authority to the Department of Revenue.
- Section 47: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides for a number of temporary sales tax benefits: two 14-day holidays, for back-to-school and disaster preparation supplies; two seven-day holidays, for recreation and tools; and several temporary exemptions, including a two-year exemption for residential impact-resistant doors, windows, and garage doors; a one-year exemption for children and toddler clothes, shoes, and diapers; a one-year exemption for certain energy-efficient appliances; and a three-month exemption for children's books.

The bill also provides a number of property tax benefits, including: agricultural properties used for the production of aquaculture products will realize a lower value assessment, and therefore ad valorem taxes, than would otherwise occur. Florida residents who are widows, widowers, blind, or totally and permanently disabled will pay less property tax. Property owners who apply for and receive the tax abatement for the sudden and unforeseen collapse of a residential building, or who apply for and receive a prorated refund of taxes for homestead property rendered uninhabitable by a catastrophic event, would benefit by a reduced tax burden.

D. FISCAL COMMENTS:

The Revenue Estimating Conference met on February 18, 2022, to consider the potential revenue impacts of the bill. The REC has not yet adopted official estimates for several provisions, which are identified in the following table in the rows highlighted in blue. The provisions for which the REC has estimated the potential revenue impacts are reflected in the non-highlighted rows. Staff estimates that the bill will have significant negative indeterminate impacts on General Revenue (positive indeterminate recurring), state trust (negative indeterminate recurring) and local government revenues (negative indeterminate recurring) in Fiscal Year 2022-23.

Fiscal Year 2022-23 Estimated Fiscal Impacts (Millions of \$)

2022-23

	General Revenue		Trust Fund		Local		Total	
	1st Year	Recur	1st Year	Recur	1st Year	Recur	1st Year	Recur
Sales Tax: BTS Holiday - 14 Days	(77.7)	-	(*)	-	(22.9)	-	(100.6)	-
Sales Tax: Tax Holiday/Disaster Preparedness - 14 days	(**)	-	(*)	-	(**)	-	(**)	-
Sales Tax: Freedom Week Holiday - 7 Days	(54.5)	-	(*)	-	(16.1)	-	(70.6)	-
Sales Tax: Skilled Worker Tool Holiday - 7 Days	(**)	-	(*)	-	(**)	-	(**)	-
Sales Tax: 2-yr exemption for impact-resistant doors and windows	(**)	-	(*)	-	(**)	-	(**)	-
Sales Tax: 1-yr exemption for babies and toddler clothes and shoes	(57.6)	-	(*)	-	(17.0)	-	(74.6)	-
Sales Tax: 1-yr exemption for baby diapers	(27.5)	-	(*)	-	(8.1)	-	(35.6)	-
Sales Tax: 1-yr exemption for ENERGY STAR appliances	(**)	-	(*)	-	(**)	-	(**)	-
Sales Tax: 3 mo exemption for children's books	(2.6)	-	(*)	-	(0.7)	-	(3.3)	-
Sales Tax: Reduction in mobile home tax rate	(14.0)	(15.2)	(*)	(*)	(1.8)	(2.0)	(15.8)	(17.2)
Sales Tax: Exemption for green hydrogen machinery and equipment	(0.2)	(0.2)	(*)	(*)	(0.1)	(0.1)	(0.3)	(0.3)
Sales Tax: Exemption for Formula One Grand Prix races	(4.5)	(4.5)	(*)	(*)	(1.3)	(1.3)	(5.8)	(5.8)
Sales Tax: Exemption for World Cup	-	0/(**)	-	0/(*)	-	0/(**)	-	0/(**)
Ad Valorem: Abatements for residential properties	-	-	-	-	(0.8)	(*)	(0.8)	(*)
Ad Valorem: Refunds for catastrophic damage	-	-	-	-	-	(4.9)	-	(4.9)
Ad Valorem: Affordable Housing	-	-	-	-	-	(2.4)	-	(2.4)
Ad Valorem: Deployed Servicemember	-	-	-	-	(*)	(*)	(*)	(*)
Ad Valorem: Increase widow, widower, blind, and disabled exemption	-	-	-	-	-	(46.7)	-	(46.7)
Ad Valorem: Aquaculture	-	-	-	-	-	(7.5)	-	(7.5)
Corporate Income Tax: Adoption of Internal Revenue Code	**	**	-	-	-	-	**	**
Corporate Income Tax: Credit for short line rail investment	(**)	(**)	-	-	-	-	(**)	(**)
Documentary Stamp Tax: Loans related to emergencies	0/(**)	(**)	0/(**)	(**)	-	-	0/(**)	(**)
Multiple taxes: Increase cap for Community Contribution Tax Credit	(5.0)	(5.0)	-	-	-	-	(5.0)	(5.0)
Multiple taxes: Increase cap for Strong Families Tax Credit	(**)	(5.0)	-	-	-	-	(**)	(5.0)
2022-23 Total	(**)	**	(**)	(**)	(**)	(**)	(**)	(**)

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b), art. VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate. The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because the provisions in the bill that relate to the assessment of land used in the production of aquaculture products; provide for the abatement of taxes and non-ad valorem assessments for residential property damaged from the sudden and unforeseen collapse of a building; provide for refunds for property owners whose property is rendered uninhabitable as the result of a catastrophic event, provide timing changes with respect to the existing exemption for affordable housing, and increase the exemption for widow, widowers, blind and permanently disabled persons may reduce the authority of counties or municipalities to raise revenue. The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides emergency rulemaking authority to the Department of Revenue to implement a number of changes made by the bill. The bill also provides rulemaking authority to the Department of Revenue to implement the provisions related to the corporate income tax credit for short-line railroads and the sales tax exemption for machinery and equipment primarily used in the production, storage, transportation, compression, or blending of green hydrogen created by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 22, 2022, the Appropriations Committee adopted four amendments and reported the bill favorably as a committee substitute.

The amendments:

- Revise s. 196.1978, F.S., to provide alternative dates which may be used to calculate the time period required for a property tax exemption on certain affordable housing projects.
- Revise s. 212.04, F.S., to exempt World Cup matches from the sales tax on admissions.
- Extend the ENERGY STAR appliance exemption from six months to one year.
- Provide timing flexibility for the use of contributions made to the New Worlds Reading Initiative.

This analysis is drafted to the bill as amended by the Appropriations Committee.