

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 830

INTRODUCER: Commerce and Tourism Committee and Senator Hooper

SUBJECT: Sales Tax

DATE: January 13, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Sachmorov</u>	<u>Babin</u>	<u>FT</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 830 decreases the applicable state sales tax on the sale of a new mobile home from 6 percent to 3 percent. A “new mobile home” is one that has never been transferred by a manufacturer or similar entity to a purchaser.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$14.4 million in Fiscal Year 2022-2023 with a recurring impact of \$15.2 million. The bill will reduce local revenues by \$1.8 million in Fiscal Year 2022-2023 with a recurring local impact of \$2 million.

The bill takes effect on October 1, 2022.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida’s sales and use tax, as well as

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁵ A surtax applies to “all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202.”⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁷

Generally, tangible personal property that is sold in an isolated or occasional sale is exempt from the state sales tax.⁸ A seller makes an isolated or occasional sale if the sale or series of sales occurs no more than twice during any 12-month period.⁹ A seller is required to register as a dealer if he or she completes more than three sales of the same type of item during a 12-month period.¹⁰ The sale of mobile homes, aircrafts, boats, and motor vehicles are expressly excluded from the isolated or occasional state sales and use tax exemption.¹¹

Florida Taxation of Mobile Homes

Mobile homes, aircrafts, boats, and certain motor vehicles are classified as tangible personal property¹² and are subject to a 6 percent sales tax at each sale, including an occasional or isolated sale.¹³ In addition, a Florida mobile home is taxed annually in one of the following three ways:¹⁴

- 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.¹⁵ 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

⁴ Section 212.07(2), F.S.

⁵ Section 212.055, F.S.

⁶ Section 212.054(2)(a), F.S.

⁷ Office of Economic and Demographic Research, *Florida Tax Handbook*, 227-228 (2021), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2021.pdf> (last visited Dec. 09, 2021).

⁸ Fla. Admin. Code R. 12A01.037(1). See also, s. 212.02(2), defining “business” as activity engaged in by a person with the object of private or public gain, benefit, or advantage.

⁹ Fla. Admin. Code R. 12A-1.037(3)(b).

¹⁰ *Id.*

¹¹ See, s. 212.05(1)(a)1.b., and Fla. Admin. Code R. 12A-1.037(2)(a)1.

¹² Section 212.02(19), F.S.

¹³ Section 212.05(1)(a)1.b., F.S.

¹⁴ See generally, Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Dec. 09, 2021).

¹⁵ Section 320.015, F.S.

county tax collector's office.¹⁶ 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.¹⁷

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.¹⁸ This license tax varies from \$20 to \$80, based on the mobile home's length.¹⁹

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.²⁰ 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.²¹

III. Effect of Proposed Changes:

The bill reduces state sales tax from 6 percent to 3 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.

The bill takes effect on October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the

¹⁶ 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).

¹⁷ Florida Department of Revenue, *SB 830 Agency Analysis* (Nov. 16, 2021) (on file with the Senate Committee on Commerce and Tourism).

¹⁸ Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Dec. 09, 2021).

¹⁹ Section 320.08(11), F.S.

²⁰ Florida Department of Revenue, Form 800047, *Taxation of Mobile Homes in Florida* (rev. Dec. 2017), available at https://floridarevenue.com/Forms_library/current/gt800047.pdf (last visited Dec. 09, 2021).

²¹ *Id.*

legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws that have an insignificant impact, which is \$2.3 million or less for Fiscal Year 2022-2023.

The mandates provision of Art. VII, Section 18, of the Florida Constitution will not apply. The bill only adjusts the state portion of the sales tax rate; it does not reduce the authority that counties have to raise revenue from the local option sales tax.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII, Florida Constitution requires increased taxes or fees to be passed in a separate bill and by two-thirds vote of the membership of each house of the Legislature. This bill does not increase any taxes or fees; therefore, the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$14.4 million in Fiscal Year 2022-2023 with a recurring impact of \$15.2 million. The bill will reduce local revenues by \$1.8 million in Fiscal Year 2022-2023 with a recurring local impact of \$2 million.

B. Private Sector Impact:

The purchaser of a new mobile home from a dealer will pay 3 percent state sales and use tax instead of a 6 percent state tax.

C. Government Sector Impact:

The Department of Revenue may be required to undergo rulemaking to update Rule 12A-1.007 of the Florida Administrative Code.

The Department of Revenue may incur expenses related to creating and issuing a Taxpayer Information Publication (TIP) to alert eligible taxpayers about the tax reduction and exemption.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.05 of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism on November 30, 2021:

- Removes the sale of used mobile homes from the sales tax reduction provided in the bill;
- Reduces the applicable state sales tax on the sale of new mobile homes from 6 percent to 3 percent, rather than limiting the tax to 50 percent of the sales price; and
- Delays the effective date to October 1, 2022, which provides the DOR time to notify affected parties and update their processes before the tax reduction goes into effect.

- B. **Amendments:**

None.