

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/HB 7073      PCB WMC 24-05      Taxation  
**SPONSOR(S):** Appropriations Committee and Ways & Means Committee, McClain and others  
**TIED BILLS:**                    **IDEN./SIM. BILLS:**

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**FINAL HOUSE FLOOR ACTION:** 110 Y's      0 N's      **GOVERNOR'S ACTION:** Pending

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### SUMMARY ANALYSIS

CS/HB 7073 passed the House on March 1, 2024. The bill was amended in the Senate on March 8, 2024, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on March 8, 2024.

The bill provides for the following tax-related provisions designed to benefit both families and businesses:

For sales taxes, the bill: creates a 14-day "back-to-school" tax holiday for certain clothing and school supplies; two 14-day "disaster preparedness" holidays for specified disaster preparedness supplies; a "Freedom Month" tax holiday for specified recreational items and activities; and a seven-day "Tool Time" tax holiday for certain tools; expands the ability of a leasing company to pay tax up front on certain motor vehicle purchases; allows Duval County to levy an indigent care sales surtax if approved by voters; and provides how a discretionary sales surtax may be temporarily suspended when it is found to be invalid.

For corporate income tax, the bill: adopts the Internal Revenue Code in effect on January 1, 2024, to conform with federal provisions; creates a temporary corporate income tax credit for businesses that hire persons with disabilities; and makes changes to the existing tax credit for certain railroad expenditures.

For property taxes, the bill: expands the ad valorem tax benefits for renewable energy source devices to include certain facilities; clarifies when a certain type of construction work in progress is deemed substantially completed; extends the time in which a homestead owner has to start the repair of a damaged homestead to keep the homestead exemption; provides when property owners must pay certain back taxes; provides an appropriation to offset ad valorem revenue losses experienced by fiscally constrained counties that refunded certain property taxes; and makes various revisions to relating to affordable housing property tax exemptions.

The bill also creates insurance premium deductions for residential and flood policies and creates a corresponding insurance premium tax credit for insurers; provides automatic filing extensions for sales tax dealers and corporate income taxpayers in certain emergencies; reduces various natural gas fuel tax rates by half for 2026; increases the annual cap of the Strong Families Tax Credit Program to \$40 million and revises criteria for a qualifying charitable organization; allows businesses to take a credit against various types of tax liabilities for expenses incurred relating to employee childcare; provides a \$30 million distribution from beverage tax collections to specified medical research facilities; limits documentary stamp tax assessments for reverse mortgages; temporarily exempts from the documentary stamp tax certain written obligations given by a customer to an alarm system contractor; increases the percentage of revenue collected from the Sales Tax Collection Enforcement Diversion Program that goes to the James Patrick Personal Attendant Services Program (JP-PAS); makes permanent a yearly distribution of \$27.5 million to promote the breeding and racing of horses in Florida; and makes technical, administrative, and clarifying updates.

The total state and local government impact of the bill in Fiscal Year 2024-25 is estimated to be -\$508.8 million (-\$86.9 million recurring). See Fiscal Comments section for details.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2024, except as otherwise provided.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Sales Tax**

Florida's sales and use tax is a 6 percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,<sup>1</sup> 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 (projected 75.2 percent for Fiscal Year 2023-24)<sup>2</sup> and is administered by 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.<sup>3</sup> 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.<sup>4</sup>

#### **Sales Tax Holidays**

Since 1998, the Legislature has enacted more than two dozen temporary periods (commonly called "sales tax holidays") during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

#### ***Back to School Sales Tax Holiday***

##### Current Situation

Florida has enacted a "back-to-school" sales tax holiday twenty-two times since 1998. The length of the exemption periods has varied from three to fourteen 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:

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<sup>1</sup> Commercial real estate rentals are subject to a 4.5 percent sales tax pursuant to s. 212.031(1)(c), F.S. The rate is expected to be reduced to 2.0 percent on June 1, 2024 as a result of legislation passed in 2021. See s. 14, ch. 2021-2, as amended by s. 46, ch. 2021-31, L.O.F.

<sup>2</sup> The Office of Economic and Demographic Research, *2023 Florida Tax Handbook*, p. 16, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited March 19, 2024).

<sup>3</sup> Office of Economic and Demographic Research, *Florida Local Government Financial Information Handbook 2023*, p. 51, available at <http://edr.state.fl.us/Content/local-government/reports/lghfih23.pdf> (last visited March 19, 2024).

<sup>4</sup> *Id.*

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books/ Learning Aids/ Puzzles	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 (Books)	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less (Books)	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less (Books)	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less (Books)	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less (Books)	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
July 25-August 7, 2022	14 days	\$100 or less	\$100 or less	\$30 (Learning Aids/Puzzles)	\$1,500 or less	\$50 or less
July 24-August 6, 2023; Jan 1-14, 2024	14 days each	\$100 or less	\$100 or less	\$30 (Learning Aids/Puzzles)	\$1,500 or less	\$50 or less

### Effect of Proposed Changes

The bill provides for a sales tax holiday from July 29, 2024, through August 11, 2024. 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, the bill exempts personal computers and related accessories with a sales price of \$1,500 or less which are purchased for noncommercial home or personal use. This includes tablets, laptops, monitors, calculators, 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 applies at the option of the dealer if less than 5 percent of the dealer’s gross sales of tangible personal property in the prior calendar year are comprised of items that are exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by July 15, 2024, the dealer must notify 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***

#### Current Situation

The Florida Office of Insurance Regulation (OIR) estimated insured losses of over \$309 million due to Hurricane Idalia in 2023,<sup>5</sup> \$19.6 billion due to Hurricanes Ian and Nicole in 2022,<sup>6</sup> \$9.1 billion due to Hurricane Michael in 2018,<sup>7</sup> \$20.7 billion due to Hurricane Irma in 2017,<sup>8</sup> and \$1.3 billion due to Hurricanes Hermine and Matthew in 2016.<sup>9</sup>

The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery-operated radio, flashlight, batteries, pet care items, and first-aid items.<sup>10</sup>

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<sup>5</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/home/idalia> (last visited March 19, 2024).

<sup>6</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/home/ian> (\$19.3 billion) and <https://www.floir.com/home/hurricane-nicole> (\$253 million) (last visited March 19, 2024).

<sup>7</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited March 19, 2024).

<sup>8</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited March 19, 2024).

<sup>9</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> and <https://floir.com/Office/HurricaneSeason/HurricaneHermineClaimsData.aspx> (last March 19, 2024).

<sup>10</sup> Florida Division of Emergency Management, *Disaster Supply Kit Checklist*, available at: <https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/> (last visited March 19, 2024).

Since 2006, the Legislature has enacted ten sales tax holidays related to disaster preparedness. During these holidays, the following items were exempted as indicated:

Dates	Length	TAX EXEMPTION THRESHOLDS							
		Reusable Ice	Light Source	Fuel Containers	Batteries	Coolers and Ice Chests	Radios	Tie down tools and sheeting	Generators
May 21-June 1, 2006 <sup>11</sup>	12 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$1000 or less
June 1-June 12, 2007 <sup>12</sup>	12 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$75 or less	\$50 or less	\$1000 or less
May 31-June 8, 2014 <sup>13</sup>	9 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
June 2 – June 4, 2017	3 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
June 1-7, 2018	7 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
May 31-June 6, 2019	7 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
May 29-June 4, 2020	7 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
May 28 – June 6, 2021 <sup>14</sup>	10 days	\$20 or less	\$40 or less	\$50 or less	\$50 or less	\$60 or less	\$50 or less	\$100 or less	\$1000 or less
May 28 – June 10, 2022 <sup>15</sup>	14 days	\$20 or less	\$40 or less	\$50 or less	\$50 or less	\$60 or less	\$50 or less	\$100 or less	\$1000 or less
May 27 – June 9, 2023; Aug. 26 – Sept. 8, 2023 <sup>16</sup>	14 days each	\$20 or less	\$40 or less	\$50 or less	\$50 or less	\$60 or less	\$50 or less	\$100 or less	\$3000 or less

### Effect of Proposed Changes

The bill provides for sales tax holidays from June 1, 2024, through June 14, 2024, and from August 24, 2024, through September 6, 2024, for specified items related to disaster preparedness. During the sales tax holidays, 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;

<sup>11</sup> This holiday also included cell phone batteries (\$60 or less), cell phone charger (\$40 or less), storm shutters (\$200 or less), carbon monoxide detectors (\$75 or less), and any combination of items exempt under the holiday or existing law which were sold together for \$75 or less.

<sup>12</sup> *Id.*

<sup>13</sup> This holiday included an exemption for first aid kits selling for \$30 or less; however, these items are always exempt under s. 212.08(2)(a), F.S.; see form DR-46NT, *Nontaxable Medical Items and General Grocery List*, available at: [http://floridarevenue.com/Forms\\_library/current/dr46nt.pdf](http://floridarevenue.com/Forms_library/current/dr46nt.pdf) (last visited March 19, 2024).

<sup>14</sup> This holiday also included portable power banks selling for \$60 or less.

<sup>15</sup> This holiday also included portable power banks selling for \$60 or less, smoke detectors, smoke alarms, fire extinguishers, or carbon monoxide detectors selling for \$70 or less; and specified items necessary for the evacuation of household pets, with item thresholds ranging from \$2 (wet pet food) to \$100 (portable kennels or carriers).

<sup>16</sup> This holiday also included portable power banks selling for \$60 or less, smoke detectors, smoke alarms, fire extinguishers, or carbon monoxide detectors selling for \$70 or less; specified items necessary for the evacuation of household pets, with item thresholds ranging from \$10 (wet pet food) to \$100 (portable kennels or carriers); and common household consumable items for \$30 or less, such as toilet paper, paper towels, and dish soap.

- 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 \$3,000 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; and
- Supplies necessary for the evacuation of household pets. For purposes of this exemption, necessary supplies are the non-commercial purchase of:
  - Bags of dry dog or cat food weighing 50 or fewer pounds with a sales price of \$100 or less per bag;
  - Cans or pouches of wet dog or cat food selling for \$10 or less per can or pouch or the equivalent if sold in a box or case;
  - Over-the-counter pet medications selling for \$100 or less;
  - Portable kennels or pet carriers selling for \$100 or less;
  - 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;
  - 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 Month Sales Tax Holiday***

#### Current Situation

In 2021 and 2022, the Legislature enacted a seven-day sales tax holiday during the week surrounding the Fourth of July on specified recreational items and activities. In 2023, the Legislature enacted a 3-month long summer sales tax holiday on similar specified recreational items and activities.

#### Effect of Proposed Changes

The bill provides for a one-month sales tax holiday from July 1, 2024, through July 31, 2024, for specified admissions and items related to recreational activities. During the sales tax holiday, the following admissions, if purchased during this month, are exempt from the state sales tax and county discretionary sales surtaxes:<sup>17</sup>

- A live music event scheduled to be held between July 1, 2024, and December 31, 2024;
- A live sporting event scheduled to be held between July 1, 2024, and December 31, 2024;
- A movie shown in a movie theater between July 1, 2024, and December 31, 2024;
- Entry to a museum, including annual passes;
- Entry to state parks, including annual passes;
- Entry to a ballet, play, or musical theatre performance scheduled to be held between July 1, 2024, and December 31, 2024;

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<sup>17</sup> 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.

- Season tickets to ballet, play, music events, or musical theatre performances;
- Entry to a fair, festival, or cultural event scheduled to be held between July 1, 2024, and December 31, 2024; and
- Use of or access to gyms and physical fitness facilities between July 1, 2024, and December 31, 2024.

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
  - Life jackets, coolers, paddles, and oars selling for \$75 or less;
  - Recreational pool tubes, pool floats, inflatable chairs, and pool toys selling for \$35 or less;
  - Safety flares selling for \$50 or less;
  - Water skis, wakeboards, kneeboards, and recreational inflatable tubes or floats capable of being towed selling for \$150 or less;
  - Paddleboards and surfboards selling for \$300 or less;
  - Canoes and kayaks selling for \$500 or less; and
  - Snorkels, goggles, and swimming masks selling for \$25 or less.
- Camping Supplies
  - Tents selling for \$200 or less;
  - Sleeping bags, portable hammocks, camping stoves, and collapsible camping chairs selling for \$50 or less; and
  - Camping lanterns or flashlights selling for \$30 or less.
- Fishing Supplies<sup>18</sup>
  - Rods and reels selling for \$75 or less, if sold individually, or selling for \$150 or less if sold as a set;
  - Tackle boxes or bags selling for \$30 or less; and
  - Bait or fishing tackle selling for \$5 or less, if sold per item, or selling for \$10 or less if multiple items are sold together.
- General Outdoor Supplies
  - Sunscreen or insect repellent selling for less than \$15 or less;
  - Sunglasses selling for \$100 or less;
  - Binoculars selling for \$200 or less;
  - Water bottles selling for \$30 or less;
  - Hydration packs selling for \$50 or less;
  - Outdoor gas or charcoal grills selling for \$250 or less;
  - Bicycle helmets selling for \$50 or less; and
  - Bicycles selling for \$500 or less.
- Residential Pool Supplies
  - Individual residential pool and spa replacement parts, nets, filters, lights, and covers selling for \$100 or less; and
  - Residential pool and spa chemicals purchased by an individual selling for \$150 or less.
- Electric scooters weighing less than 75 pounds, that are less than 2 feet wide and are designed for a maximum speed of less than 35 miles per hour, selling for \$500 or less.

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<sup>18</sup> The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.

## **Skilled Worker “Tool Time” Sales Tax Holiday**

### Current Situation

According to the Florida Department of Commerce, a number of skilled trade occupations are in high demand.<sup>19</sup> The cost of educational materials, tools, and other items can be a barrier to education, training, and employment for skilled trade workers.

In 2022 and 2023, the Legislature enacted a seven-day sales tax holiday that included exemptions on tools used by skilled trade workers, such as carpenters, electricians, plumbers, welders, pipefitters, masons, painters, heating and air conditioning technicians, and other service technicians.

### Effect of Proposed Changes

The bill provides a seven-day sales tax holiday from September 1, 2024, through September 7, 2024, for specified tools commonly used by skilled trade workers. During the sales tax 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 \$300 or less;
- Power tool batteries selling for \$150 or less;
- Work gloves selling for \$25 or less;
- Safety glasses selling for \$50 or less;
- Protective coveralls selling for \$50 or less;
- Work boots selling for \$175 or less;
- Tool belts selling for \$100 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 selling for \$50 or less;
- Shop lights selling for \$100 or less;
- Handheld pipe cutters, drain opening tools, and plumbing inspection equipment selling for \$150 or less;
- Shovels selling for \$50 or less;
- Rakes selling for \$50 or less;
- Hard hats and other head protection selling for \$100 or less;
- Hearing protection items selling for \$75 or less;
- Ladders selling for \$250 or less;
- Fuel cans selling for \$50 or less; and
- High visibility safety vest selling for \$30 or less.

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

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

### **Taxation on the Purchase of Certain Motor Vehicles**

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<sup>19</sup> Regional Demand Occupations List, available at: [https://lmsresources.labormarketinfo.com/library/rdol/rdol\\_all\\_2324.xlsx](https://lmsresources.labormarketinfo.com/library/rdol/rdol_all_2324.xlsx) (last visited March 19, 2024).



## Current Situation

### *Sales and Use Tax on Motor Vehicle Leases*

The lease or rental of tangible personal property, including vehicles, is subject to state and local sales and use tax.<sup>20</sup> When a motor vehicle is leased or rented in Florida, the entire amount of such rental is taxable at the rate of 6 percent<sup>21</sup> of the gross proceeds derived from the lease or rental, plus any local option sales surtaxes.<sup>22</sup> A “lease or rental” is defined as the leasing or renting of tangible personal property and the possession or use of property by the lessee or renter for a consideration, without transfer of title.<sup>23</sup> The lessor is required to be registered as a dealer and to collect tax on the total amount of the lease or rental charges from the lessee.<sup>24</sup> The lessor normally does not pay tax on the purchase of the vehicle, as that purchase is considered a sale for resale, and instead tax is normally collected and remitted on each lease payment.<sup>25</sup>

### *Long Term Leases of Commercial Motor Vehicles*

There is an exception to the general rule that sales tax is not paid on the purchase of the car and is instead due and collected on lease or rental payments. The exception is for commercial motor vehicles in certain long-term leases. For the exemption to apply, the lease or rental must be for a period of at least 12 months, and the lessor must have paid sales tax on the vehicle when it was purchased.<sup>26</sup> In addition, the lessor must be an established business, or part of or related to an established business, that leases or rents commercial motor vehicles. Commercial motor vehicles are defined as any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if the vehicle has a gross vehicle weight rating of 10,000 pounds or more.<sup>27</sup>

## Effect of Proposed Changes

The bill expands the existing ability for a leasing company to pay tax up front on the purchase of a motor vehicle, instead of collecting and remitting tax on the subsequent long-term lease or rental of the vehicle, to apply to any motor vehicle as long as it is leased for use in the lessee’s trade or business. “Motor vehicle” is defined as a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device swamp buggy, or moped.<sup>28</sup>

## **Affidavit for Non-Resident Purchaser of Boat or Aircraft**

### Current Situation

Under current law, nonresident purchasers of boats and aircrafts qualify for a sales tax exemption, provided that certain application requirements are met.<sup>29</sup> One of the requirements is that a nonresident purchaser of a boat or aircraft must provide DOR an original signed affidavit attesting that he or she read the provisions of s. 212.05, F.S. That statute provides for the exemption and includes the process to document the purchaser’s qualification for the exemption. The statutory affidavit requirement does not require that the purchaser understand the exemption or documentation requirements, or that they attest they will comply with the provisions.

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<sup>20</sup> S. 212.05(1), F.S.

<sup>21</sup> Discretionary county sales surtax, if any, is also owed if the 6 percent Florida state sales tax applies. See s. 212.054, F.S.

<sup>22</sup> S. 212.05(1)(c), F.S.

<sup>23</sup> S. 212.02(10)(g), F.S.

<sup>24</sup> Rule 12A-1.007(13)(a)1, F.A.C.

<sup>25</sup> Rule 12A-1.007(13)(a)2., F.A.C.

<sup>26</sup> S. 212.05(1)(c)3., F.S.

<sup>27</sup> S. 316.003(14)(a), F.S.

<sup>28</sup> S. 316.003(46), F.S.

<sup>29</sup> S. 212.05, F.S.

## Effect of Proposed Changes

The bill removes the requirement that nonresident purchasers attest to having read statutory provisions and replaces it with the requirement that nonresident purchasers complete an affidavit that affirms that the nonresident purchaser qualifies for the exemption from sales tax pursuant to s. 212.05(1)(a)2., F.S., and attests that the nonresident purchaser will provide the documentation necessary to substantiate the qualification for the exemption.

## Local Discretionary Sales Surtaxes

Counties have been granted limited authority to levy a discretionary sales surtaxes for specific purposes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>30</sup>

Approved purposes include:

- Funding transportation systems in a charter county;<sup>31</sup>
- Financing local government infrastructure projects;<sup>32</sup>
- Providing additional revenue for specified small counties;<sup>33</sup>
- Providing medical care for indigent persons;<sup>34</sup>
- Funding trauma centers;<sup>35</sup>
- Operating, maintaining, and administering a county public general hospital;<sup>36</sup>
- Constructing and renovating schools;<sup>37</sup>
- Providing emergency fire rescue services and facilities; and<sup>38</sup>
- Funding pension liability shortfalls.<sup>39</sup>

A discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to the portion of the sales price above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals. Rates range from 0.5 percent to 1.5 percent, and are levied by 65 of the 67 counties.<sup>40</sup>

These surtaxes are generally levied through an ordinance enacted by the governing board of the county,<sup>41</sup> and are generally subject to approval by the voters in the county.<sup>42</sup> The Small County Surtax is enacted by an extraordinary vote of the members of the county governing authority and is only subject to referendum if the surtax will be used to service bond indebtedness.<sup>43</sup> The Indigent Care and Trauma Center Surtax and the County Public Hospital Surtax can be levied either by an extraordinary vote of the governing body or by referendum.<sup>44</sup>

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<sup>30</sup> The tax rates, duration of the surtax, method of imposition, and proceeds uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

<sup>31</sup> S. 212.055(1), F.S.

<sup>32</sup> S. 212.055(2), F.S.

<sup>33</sup> S. 212.055(3), F.S. Note that the small county surtax may be levied by extraordinary vote of the county governing board if the proceeds are to be expended only for operating purposes.

<sup>34</sup> S. 212.055(4)(a), F.S. (for counties with more than 800,000 residents); s. 212.055(7), F.S. (for counties with less than 800,000 residents).

<sup>35</sup> S. 212.055(4)(b), F.S.

<sup>36</sup> S. 212.055(5), F.S.

<sup>37</sup> S. 212.055(6), F.S.

<sup>38</sup> S. 212.055(8), F.S.

<sup>39</sup> S. 212.055(9), F.S.

<sup>40</sup> Discretionary Sales Surtax Information for Calendar Year 2024, Form DR-15DSS, available at [https://floridarevenue.com/Forms\\_library/current/dr15dss.pdf](https://floridarevenue.com/Forms_library/current/dr15dss.pdf) (last visited March 19, 2024).

<sup>41</sup> S. 212.054(6), F.S.

<sup>42</sup> Ss. 212.055(1), (2), (6), (7), (8), and (9), F.S.

<sup>43</sup> S. 212.055(3)(a), F.S.

<sup>44</sup> Ss. 212.055(4) and (5), F.S.

The Charter County and Regional Transportation System Surtax can be levied through either a county ordinance or a charter amendment, either of which must be approved by a majority vote of the electorate of the county.<sup>45</sup>

## **Indigent Care and Trauma Center Surtax**

### Current Situation

Section 212.055(4)(a), F.S., authorizes certain counties with a total population of at least 800,000 to levy an Indigent Care and Trauma Center surtax not to exceed 0.5 percent. However, counties consolidated with one or more municipalities (Duval County) and counties authorized to levy a county public hospital surtax (Miami-Dade County) are not authorized to levy the Indigent Care and Trauma Center surtax. The proceeds of the surtax must be used to fund health care services, including but not limited to, primary care, preventative care, and hospital care for indigent and medically needy poor<sup>46</sup> persons, as well as Level I trauma center services.<sup>47</sup> This tax is imposed by ordinance approved by an extraordinary vote of the governing body or approved by referendum.<sup>48</sup>

### Effect of Proposed Changes

The bill removes current statutory language excluding counties consolidated with one or more municipalities<sup>49</sup> from the authority to levy the surtax. In addition, the bill removes the ability of a county to authorize levy of the surtax by an extraordinary vote of the governing body of the county and instead requires voters to approve such levy.

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<sup>45</sup> S. 212.055(1)(a), F.S.

<sup>46</sup> Medically needy poor are persons having “insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage.” S. 212.055(4)(a)4.b., F.S.

<sup>47</sup> S. 212.055(4)(a)3., F.S.

<sup>48</sup> S. 212.055(4)(a)1., F.S.

<sup>49</sup> Currently this is only Duval County.

## Unconstitutional Discretionary Sales Surtaxes

### Current Situation

There is no express mechanism in statute that provides a remedy for a discretionary sales surtax that has been collected but has later been adjudicated to be unconstitutional.

#### *Hillsborough County Regional Transportation Tax*

In 2018, Hillsborough County voters approved a one-cent sales tax in a charter amendment under section 212.055(1), F.S., to be levied for thirty years beginning January 1, 2019, and to be used for a variety of specific transportation projects. Collections began January 1, 2019.

In December 2018,<sup>50</sup> February 2019,<sup>51</sup> and March 2019,<sup>52</sup> lawsuits were filed questioning whether the surtax was valid. In June 2019, the first two cases were consolidated and a circuit court judge held that the restrictions on how the funding would be used were unconstitutional, but those restrictions could be severed and the surtax was otherwise valid.<sup>53</sup>

Further appeal was made to the Florida Supreme Court, which held in March 2021 that the surtax was unconstitutional, as the lower court had found, but that the unconstitutional provision could not be severed and “the whole...is invalid.”<sup>54</sup> The bond validation and declaratory judgment entered by the lower court were reversed.<sup>55</sup> The surtax was no longer collected beginning March 16, 2021.<sup>56</sup> No remedy was provided by the Florida Supreme Court for the disposition of the surtax that was collected for more than 26 months.

Hillsborough County filed a motion for supplemental relief in the circuit court of original jurisdiction (Hillsborough County Circuit Court), requesting “an order setting forth procedures and requirements for disposition of surtax revenues that were collected, but not yet expended, as of the time when DOR is able to implement the cessation of collection of the surtax after the Florida Supreme Court’s decision became final.”<sup>57</sup> The request was denied in March 2022, noting “avenues for distributing or using those funds is under consideration in the Legislature, who is likely in the best position to address the issue.”<sup>58</sup>

Section 155 of ch. 2022-156, L.O.F., provided that any funds associated with the lawsuit were to be transferred to DOR, to be deposited in a separate account in the Discretionary Sales Surtax Clearing Trust Fund, pursuant to s. 212.054, F.S. On July 7, 2022, the Hillsborough County Circuit Court issued a final judgement that ordered the Hillsborough County Clerk of the Court to collect and transfer all surtax revenues received under the invalid surtax to DOR.<sup>59</sup> Pursuant to that order, the Clerk of the Court for Hillsborough County filed notice that \$569,329,241.11 was transferred to DOR, comprising all

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<sup>50</sup> *Stacy White v. Hillsborough County*, Case No. 18-CA-011749 (13th Cir. 2018).

<sup>51</sup> *Hillsborough County, Florida v. State of Florida*, Case No. 19-CA-001382 (13th Cir. 2019).

<sup>52</sup> *Robert Emerson v. Hillsborough County*, Case No. 19-CA-002483 (13th Cir. 2019).

<sup>53</sup> *Stacy White v. Hillsborough County*, Case No. 18-CA-011749 (13th Cir. 2018); Order Granting, in Part, and Denying, In Part, Plaintiff’s Request For Summary Judgment; Order Granting, In Part, And Denying, In Part, Defendant’s Request For Summary Judgment, and Order To Amend The County Charter.

<sup>54</sup> *Robert Emerson, et al. vs. Hillsborough County, Florida, etc., et al.*, No. SC2019-1250 (Fla.) and *Stacy White vs. Hillsborough County, Florida, etc., et al.*, No. SC2019-1343 (Fla.).

<sup>55</sup> *Id.*

<sup>56</sup> Florida Department of Revenue, Taxpayer Information Publication #21A01-01, *Hillsborough County 1% Transportation Discretionary Sale Surtax Rules Unconstitutional by the Florida Supreme Court*, available at [https://floridarevenue.com/taxes/tips/Documents/TIP\\_21A01-01.pdf](https://floridarevenue.com/taxes/tips/Documents/TIP_21A01-01.pdf) (last visited March 19, 2024).

<sup>57</sup> *Stacy White v. Hillsborough County*, Case No. 18-CA-011749 (13th Cir. 2018); Government Defendants’ Post-Judgment Motion for Supplemental Relief Providing Procedure for Disposition of Surtax Revenue, filed April 29, 2021.

<sup>58</sup> *Stacy White v. Hillsborough County*, Case No. 18-CA-011749 (13th Cir. 2018); Final Order Denying Defendants’ Post-Judgment Motion for Supplemental Relief; March 25, 2022.

<sup>59</sup> *Stacy White v. Hillsborough County*, Case No. 18-CA-011749 (13th Cir. 2018); Final Judgment on Supplemental Relief Claim; July 7, 2022.

surtax revenues received by the relevant parties.<sup>60</sup> An additional transfer of \$453,602.83 was made in August 2022, comprising interest earned on the balance prior to transfer.<sup>61</sup>

The class action lawsuit in Hillsborough County is still pending, and an additional class action lawsuit was filed in Leon County shortly after the Supreme Court's decision in 2021.<sup>62</sup> The Hillsborough County suit has had no meaningful action since before the Supreme Court decision in 2021. The Court in the Leon County suit held a hearing January 4, 2023, in which the judge stated his intention to dismiss the case without prejudice as moot, in part because the "Legislature ... has passed a law resolving how these funds will be used..."<sup>63</sup>

During the 2023 Legislative Session, the Legislature considered legislation that would have provided for a temporary suspension of certain discretionary sales surtaxes levied in a county when a discretionary sales surtax has been collected, but later adjudicated to be unconstitutional, and the proceeds from the invalid surtax have not been expended.<sup>64</sup>

On August 4, 2023, the plaintiffs in the Leon County suit filed an amended class action complaint that named the Florida Legislature, the Senate President and the Speaker of the House of Representatives as defendants in the litigation.<sup>65</sup> On January 5, 2024, the Legislature, the Speaker of the House of Representatives, and the President of the Senate collectively filed a motion to dismiss the plaintiffs' amended class action complaint.<sup>66</sup>

### Effect of Proposed Changes

The bill amends s. 212.054, F.S., and specifies how discretionary sales surtax moneys are disposed of when there is a final adjudication finding that the discretionary sales surtax was enacted, levied, collected, or is otherwise contrary to the Constitution of the United States or the State Constitution.

The bill provides that if a discretionary sales surtax has been collected, but not expended, any county, municipality, school board, or other entity that received funds from such surtax must transfer the surtax proceeds, along with any interest earned upon such proceeds, to DOR within 60 days from the date of the final adjudication. DOR must deposit all amounts received in a separate account in the Discretionary Sales Surtax Clearing Trust Fund for that county for disposition as follows:

- If there is no valid discretionary sales surtax being levied within the same county for which a discretionary sales surtax was found to be invalid, one hundred percent of such funds must be held in reserve for appropriation in the General Appropriations Act that takes effect on the July 1 immediately following the transfer of such funds to DOR.
- If there is a valid discretionary sales surtax being levied within the same county for which a discretionary sales surtax was found to be invalid:
  - Seventy-five percent of such funds must be held in reserve for appropriation in the General Appropriations Act that takes effect on the July 1 preceding a suspension of the discretionary sales surtax.

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<sup>60</sup> *Stacy White v. Hillsborough County*, Case No. 18-CA-011749 (13th Cir. 2018); Clerk's Notice of Compliance with Final Judgment on Supplemental Relief Claim.

<sup>61</sup> *Stacy White v. Hillsborough County*, Case No. 18-CA-011749 (13th Cir. 2018); Clerk's Notice of Additional Transfer to Florida Department of Revenue.

<sup>62</sup> *Robert Emerson vs. Florida Department of Revenue and Hillsborough County* (2021 CA000487, 2nd Cir. 2021).

<sup>63</sup> *Robert Emerson vs. Florida Department of Revenue and Hillsborough County* (2021 CA000487, 2nd Cir. 2021); Hearing Transcript filed January 26, 2023.

<sup>64</sup> HB 7063 (2023), as passed the House on April 27, 2024.

<sup>65</sup> *Robert Emerson vs. Florida Department of Revenue and Hillsborough County* (2021 CA000487, 2nd Cir. 2021); First Amended Class Action Complaint filed August 4, 2023.

<sup>66</sup> *Robert Emerson vs. Florida Department of Revenue and Hillsborough County* (2021 CA000487, 2nd Cir. 2021); The Legislative Parties' Motion to Dismiss filed January 5, 2024.

- Twenty-five percent of such funds and all interest earned on all funds held in reserve must be held in reserve for appropriation in the General Appropriations Act to facilitate the temporary suspension of one or more discretionary sales surtaxes.

The bill provides that if there are multiple valid discretionary sales surtaxes being levied within the same county for which a discretionary sales surtax was found to be invalid, such surtaxes, other than the school capital outlay surtax, must be temporarily suspended beginning October 1 of the calendar year following the calendar year DOR receives such surtax proceeds, or January 1, 2025, whichever is later.

If there is only one valid discretionary sales surtax being levied within the same county for which a discretionary sales surtax was found to be invalid as described in this subsection, such surtax shall be temporarily suspended beginning October 1 of the calendar year following the calendar year DOR receives such surtax proceeds.

The bill provides that DOR must continue to distribute moneys in the separate account in the Discretionary Sales Surtax Clearing Trust Fund for that county to such county, municipality, or school board in an amount equal to that which would have been distributed pursuant to all legally levied surtaxes in such county but for the temporary suspension of one or all of such surtaxes.

A county, municipality, or school board that receives moneys from DOR must use the funds consistent with the use for which the tax that was temporarily suspended was levied. If there are multiple valid discretionary sales surtaxes being levied within the same county for which a discretionary sales surtax was found to be invalid, the county must apportion the funds among the uses of the temporarily suspended discretionary sales surtaxes in proportion to the discretionary sales surtax rates.

The temporary suspension of surtaxes must end on the last day of the month preceding the first month DOR estimates that the balance of the separate account within the Discretionary Sales Surtax Clearing Trust Fund for that county will be insufficient to fully make the necessary distributions. Any remaining undistributed surtax proceeds must be transferred to the General Revenue Fund.

The bill requires DOR to monitor the balance of proceeds transferred to DOR and shall estimate the month in which the temporary discretionary sales surtax suspension will end. At least two months prior to the expiration of the temporary surtax suspension, DOR must provide notice to affected dealers and the public of when the suspension will end.

The bill clarifies that the provisions relating to an unconstitutional sales surtax, its suspension, and how the funds are returned to the affected local governments are not subject to existing law that requires that a new or altered discretionary sales surtax can only take effect on January 1 and a discretionary sales surtax can only terminate on a December 31.

The bill provides that any person who would otherwise be entitled to a refund of a discretionary sales surtax that is found to be invalid may file a claim for a refund pursuant to the procedures provided in the applicable General Appropriations Act, to the extent such act provides for refunds. The refund claim must be filed between July 1 and December 31 of the state fiscal year for such General Appropriations Act.

## **Surtax Application to Boat and Boat Trailer Sales**

### Current Situation

The portion of the sales price that exceeds \$5,000 on one item of tangible personal property is not subject to the discretionary sales surtax.<sup>67</sup> However, two or more items of tangible personal property will be considered a single item for the purposes of the \$5,000 threshold if the items are sold to the same purchaser at the same time and are sold together under a generally accepted business practice, sold in bulk, or the items sold together make a working unit when assembled.<sup>68</sup>

### Effect of Proposed Changes

The bill amends s. 212.054(1)(b)1., F.S., to clarify that a boat and a corresponding boat trailer sold to the same purchaser at the same time and with both items located on the same invoice, are considered a single item for discretionary sales surtax purposes. The bill also amends s. 212.054(3)(a), F.S., to clarify that the sale of the boat and boat trailer is deemed to occur in the county where the purchaser resides, as shown on the title or registration documents, for discretionary sales surtax purposes.

### **Local Food and Beverage Tax - Votes Needed in Referendum**

#### Current Situation

In 1967, Florida authorized the municipal resort tax.<sup>69</sup> The law authorized cities and towns meeting certain population requirements located within counties also meeting certain population requirements to levy the tax.<sup>70</sup> The tax could be levied on rentals of hotel rooms and similar accommodations, and it could also be levied on sales of food and certain beverages.<sup>71</sup>

The municipal resort tax continues to be levied today in the cities of Bal Harbour, Surfside, and Miami Beach, all of which are located within Miami-Dade County.

Florida has since authorized Miami Dade County to levy the local option food and beverage tax.<sup>72</sup> The local option food and beverage tax consists of two taxes: a 2 percent tax on the sale of food, beverages, and alcoholic beverages sold in hotels and motels, and a 1 percent tax on the sale of food, beverages, and alcoholic beverages sold at an establishment licensed by the state to sell alcoholic beverages on site.<sup>73</sup>

In 2023, the Legislature authorized the imposition of the 1 percent local option food and beverage tax in a city or town that levies the municipal resort tax if the levy is approved by referendum in such city or town at a general election.<sup>74</sup>

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<sup>67</sup> S. 212.054(2)(b)1., F.S.

<sup>68</sup> *Id.*

<sup>69</sup> Ch. 67-930, L.O.F.

<sup>70</sup> Ch. 67-930, s. 1, L.O.F.

<sup>71</sup> Ch. 67-930, s. 1, L.O.F.

<sup>72</sup> S. 212.0306, F.S.

<sup>73</sup> S. 212.0306(1), F.S.

<sup>74</sup> Ch. 2023-157, s. 21, L.O.F.

## Effect of Proposed Changes

The bill makes a technical change to clarify that in a referendum to adopt a 1 percent local option food and beverage tax in a city or town that levies the municipal resort tax, the ordinance must pass by a majority vote of the voters voting in the election, rather than by a majority of the registered voters.

## Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums, a 1 percent tax on annuity premiums, and a 1.6 percent tax on self-insurers.<sup>75</sup> In addition, some insurers pay a retaliatory tax to the extent the insurer's state of domicile would impose a greater tax burden than Florida imposes.

Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to DOR. These revenues are distributed to the General Revenue Fund with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium taxes are forecast to be \$1.50 billion in Fiscal Year 2024-25 with distributions to General Revenue of \$1.10 billion.<sup>76</sup>

## Current Situation

### *Residential and Flood Insurance Policies*

Insurance policies providing residential coverage are subject to the insurance premium tax. Residential coverage includes personal lines residential coverage, such as for homeowner and condominium unit owner policies and also includes commercial lines residential coverage, such as for condominium association or apartment building policies.<sup>77</sup>

Also subject to the insurance premium tax are insurance policies, contracts, or endorsements providing personal or commercial lines coverage for the peril of flood or excess coverage for the peril of flood. Section 627.715(1)(b), F.S., defines a flood as “a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties, at least one of which is the policyholder’s property, from:

- overflow of inland or tidal waters;
- unusual and rapid accumulation or runoff of surface waters from any source;
- mudflow; or
- collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood.”

### *State Fire Marshal Regulatory Assessment*

In addition to the insurance premium tax, certain premiums are subject to the State Fire Marshal regulatory assessment. The assessment is an annual 1 percent rate on premiums collected by each insurer for policies or portions of policies that provide fire insurance. Section 624.515, F.S., defines fire insurance as “the insurance of structures or other property at fixed locations against loss or damage to such structures or other described properties from the risks of fire and lightning.” The revenue from the assessment is used by the State Fire Marshal to maintain offices and necessary supplies, purchase essential equipment and other materials, pay salaries and expenses of required personnel, and all

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<sup>75</sup> Ss. 624.509(1), F.S. and 624.4621(7), F.S.

<sup>76</sup> *General Revenue Consensus Estimating Conference Comparison Report dated January 16, 2024*, p. 26, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited March 19, 2024).

<sup>77</sup> S. 627.4025, F.S.



other legitimate expenses relating to the discharge of the administrative and regulatory powers and duties.<sup>78</sup>

### *Insurance Premium Tax Credits*

Current law allows for credits for payments of several taxes against the insurance premium tax, including payments of corporate income taxes<sup>79</sup> and adjustments for payments of the firefighter<sup>80</sup> and municipal police<sup>81</sup> trust funds excise taxes.<sup>82</sup>

Current law also provides a credit limitation.<sup>83</sup> The total of the credit granted for the corporate income taxes paid by the insurer and the credit granted to insurers for employee salaries<sup>84</sup> may not exceed 65 percent of the insurance premium tax<sup>85</sup> after deducting firefighter and municipal police trust funds excise tax payments and any assessments related to administration of workers' compensation.<sup>86</sup>

### Effect of Proposed Changes

The bill requires insurers to provide a deduction of 1.75 percent of the total premium charged on residential property policies and on personal or commercial flood policies. The bill also requires insurers to provide a deduction on the total premium charged on residential properties in an amount equal to the State Fire Marshal regulatory assessment charged for such policy under s. 624.515, F.S.

These deductions apply only to policies with coverage for a 12-month period and with an effective date between October 1, 2024, and September 30, 2025. The deduction amount must appear separately on the policy's declaration page.

The bill creates a tax credit that can be used by an insurer against the insurer's insurance premium tax liability under s. 624.509, F.S. For the taxable years beginning on January 1, 2024, and January 1, 2025, there is allowed a credit of 100 percent of the amount of the deductions that the insurer provides to policyholders pursuant to the provisions of the bill. If the insurer has insufficient tax liability in a given taxable year to use the entire credit, any unused credit under this program will be refunded by DOR to the insurer out of the General Revenue Fund. In the event an insurer issues a refund to a policyholder for a policy premium for which a deduction was provided to the policyholder and the insurer has received a corresponding credit or refund for such deduction, the bill requires the insurer to repay the state that portion of such refund that equals the deduction provided for under the bill.

The bill requires insurers to quarterly and annually report the number of policies receiving deductions and the total amount of deductions provided by the insurer, along with specific information about the impact on residential policies and flood policies.

The bill gives DOR the power to investigate and audit insurance companies providing the deductions created by the bill. DOR may request technical assistance from OIR with technical audits or

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<sup>78</sup> S. 624.516, F.S.

<sup>79</sup> S. 624.509(4), F.S., allows for a limited credit for payments made under ch. 220, F.S.

<sup>80</sup> S. 175.141, F.S. Additionally, s. 175.101, F.S., allows for a 1.85% excise tax on property insurance premiums if levied by a municipality or special fire control district for pension benefits to firefighters.

<sup>81</sup> S. 185.12, F.S. Additionally, s. 185.08, F.S., allows for a 0.85% excise tax on casualty insurance premiums if levied by a municipality for pension benefits to police officers.

<sup>82</sup> The Firefighter and Municipal Police Trust Funds Excise Tax provides funding for pension plans established for firefighters and police officers under Chapters 175 and 185, Florida Statutes. The Department of Revenue collects the tax from insurance companies and transfers funds to the Police and Firefighters' Premium Tax Trust Fund at the Division of Retirement. See Department of Management Services, *Overview*, available at [https://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/municipal\\_police\\_and\\_fire\\_plans/overview](https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview) (last visited March 19, 2024).

<sup>83</sup> S. 624.509(6), F.S.

<sup>84</sup> S. 624.509(5), F.S.

<sup>85</sup> Due under s. 624.509(1), F.S.

<sup>86</sup> S. 440.51, F.S.

examinations done to verify insurers compliance with the provisions of the bill. The bill also provides that in addition to its existing authority, OIR can examine the information reported by an insurer and take corrective measures if an insurer is not in compliance.

The bill authorizes DOR and OIR to adopt emergency rules to implement this legislation.

## **Corporate Income Tax**

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.<sup>87</sup> 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.<sup>88</sup> 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.<sup>89</sup> By doing this, Florida adopts any changes related to determining federal taxable income that were made during the previous year. However, the Legislature may choose to not adopt or to “decouple” from particular changes made to the IRC in the prior year, and instead specify its own treatment of the issue, or allow the previous IRC treatment to continue for Florida tax purposes. Congress did not enact any significant changes to the IRC in 2023 that would impact Florida as a result of adopting the IRC as amended and in effect on January 1, 2024.

### Effect of Proposed Changes

The bill updates the Florida corporate income tax code by adopting the IRC as amended and in effect on January 1, 2024.

This section of the bill is effective upon becoming law and applies retroactively to January 1, 2024.

## **Individuals with Unique Abilities Tax Credit**

### Current Situation

The Legislature adopted a number of provisions in 2016 aimed at improving the quality of life and integration of individuals with disabilities in the workforce.<sup>90</sup> These included modifying the state’s equal employment opportunity policy to provide enhanced executive agency employment opportunities for those with a disability; creating the Employment First Act, which requires certain state agencies and organizations to develop an agreement to improve employment outcomes for those with a disability;<sup>91</sup> and creating the Florida Unique Abilities Partner Program to recognize businesses that demonstrate commitment to the independence of individuals who have a disability through employment or support.<sup>92</sup>

### Effect of Proposed Changes

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<sup>87</sup> S. 220.11(2), F.S.

<sup>88</sup> S. 220.12, F.S.

<sup>89</sup> Ss. 220.03(1)(n) and (2)(c), F.S.

<sup>90</sup> Ch. 2016-3, L.O.F.

<sup>91</sup> The Employment First Florida website is available at <https://www.employmentfirstfl.org/> (last visited March 19, 2024).

<sup>92</sup> The Unique Abilities Partner Program is housed within the Department of Commerce; additional information is available at <https://floridajobs.org/unique-abilities-partner-program> (last visited March 19, 2024).

The bill creates s. 220.1992, F.S., providing for a corporate income tax credit for corporations that employ individuals with disabilities in this state. The credit is for \$1 per hour worked, up to \$1,000 per employee per year. The maximum amount of credit that can be earned by a corporation in any year is \$10,000, and unused credits may be carried forward for up to five taxable years. The maximum credit amount that can be awarded statewide is \$5 million per state fiscal year. The credit is available for three fiscal years, 2024-25, 2025-26, and 2026-27.

The bill amends s. 220.02(8), F.S., to include the new tax credit at the end of the Legislature's intended order of tax credit application.

## **Credit for Qualified Railroad Reconstruction or Replacement Expenditures**

### Current Situation

Freight rail is a primary component of Florida's transportation network, managing highway congestion and assisting with supply chain issues. 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 follows:

- Class I: \$943,898,958 or more
- Class II: less than \$943,898,958 but in excess of \$42,370,575
- Class III: \$42,370,575 or less.<sup>93</sup>

Class I railroads in Florida are CSX Transportation and Norfolk Southern Railway. The Florida East Coast Railway is the only Class II railroad in Florida and covers 351 miles. As of November 2023, there are about a dozen Class III railroad companies in Florida covering approximately 1,405 miles.<sup>94</sup>

Class II and Class III railroads that invest in maintaining or improving railroad track in Florida may apply for a credit against corporate income tax.<sup>95</sup> Qualified expenditures must be made on the track that is owned or leased by the railroad and include expenditures for the maintenance of railroad infrastructure or new construction. The credit is equal to 50 percent of such expenditures in Florida in the taxable year, and is limited to the total number of miles the railroad owns or leases in Florida on the last day of the taxable year in which the expenditures were incurred multiplied by \$3,500.

A railroad must submit an application in order to receive a credit. The application must include any documentation or information required by DOR to demonstrate eligibility for the credit, including an affidavit certifying that all information is true and correct. Supporting documentation must include a copy of a specified IRS form or its equivalent.

The railroad must submit the application with its tax return. If the qualifying railroad is not a corporate income taxpayer, the railroad must submit the application directly to DOR no later than May 1 of the calendar year following the year in which the qualified expenditures were made.

If the credit is not fully used in any one taxable year because of insufficient tax liability on the part of the railroad, or because the railroad is not subject to tax under ch. 220, F.S., the unused amount may be carried forward for a period not to exceed five taxable years or may be transferred under certain circumstances. The credit may be transferred at any time during the 5 taxable years following the taxable year in which the credit was originally earned, by written agreement between the railroad and the credit transferee. The credit transferee must be a taxpayer subject to corporate income tax that:

- Transports property using the rail facilities of the qualifying railroad;
- Furnishes railroad-related property or services to any railroad operating in this state; or

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<sup>93</sup> Florida Department of Transportation, *Florida Rail System Plan – Updated 2023*, available at <https://www.fdot.gov/rail/plans/railplan> (last visited March 19, 2024).

<sup>94</sup> Florida Department of Transportation, *Florida Rail System Plan Chapter 2*, available at [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/plans/rail/rail-system-plan-2023/rsp-october-version/fdot\\_rsp\\_ch-2\\_ada-\(oct\).pdf?sfvrsn=d4351c09\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/rail/plans/rail/rail-system-plan-2023/rsp-october-version/fdot_rsp_ch-2_ada-(oct).pdf?sfvrsn=d4351c09_2) (last visited March 19, 2024).

<sup>95</sup> S. 220.1915, F.S.

- Is a railroad.

DOR must issue a letter to the qualifying railroad within 30 days after receipt of the completed application indicating the amount of the approved credit available for carryover or transfer. The carryover or transferred credit may be used in any of the five subsequent taxable years, providing that the corporate income tax liability for that taxable year exceeds the credit for which the qualifying railroad or transferee is eligible, after applying other available credits and unused carryovers.<sup>96</sup>

### Effect of Proposed Changes

The bill makes the following changes to the application for this credit:

- Removes the requirement that an application be submitted with a tax return. The bill allows an application to be submitted during the taxable year once qualifying expenditures are incurred, but no later than May 1 following the year in which the expenditures are made.
- Specifies that only one application per taxable year may be submitted by each taxpayer.
- Changes the calculation of the maximum credit allowable to be based on the track miles owned or leased on the last day of the prior calendar year, to allow for the credit to be finalized and transferable more quickly.
- Removes the requirement that a railroad provide a copy of a specified IRS form or its equivalent with the application, and instead requires the form to be submitted to DOR if and when it is filed with the federal government.
- Specifies that the applicant must provide to DOR supporting documentation that includes any relevant information determined by DOR to verify eligibility of qualified expenditures made in this state for the credit. The supporting documentation must include, but is not limited to, the number of track miles owned or leased in this state by the qualifying railroad, the total amount and description of qualified expenditures, and financial records which are necessary to verify the accuracy of the information.

The bill allows for the credit to be transferred immediately upon approval by DOR, and/or in each of the five following years, but retains the restrictions on which entities the credit may be transferred to.

The bill requires the Department of Transportation (DOT) to provide to DOR by the last business day of each January a list of each Class II and Class III railroad in the state, along with the track miles owned or leased by each railroad on December 31 of the prior year. If the self-reported number of miles and the report from DOT conflict, DOR is to use the DOT report when calculating the maximum credit.

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<sup>96</sup> In the order provided by s. 220.02(8), F.S.

## Credits Available Against Multiple Taxes

### *Background*

Certain credit programs under Florida law can be taken against one of several types of taxes. These programs include the Florida Tax Credit Scholarship Program,<sup>97</sup> the New Worlds Reading Initiative Tax Credit,<sup>98</sup> and the Strong Families Tax Credit,<sup>99</sup> for example. These credits can generally be taken against any of the following taxes:

### *Corporate Income Tax*

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.<sup>100</sup> Corporate income tax is remitted to DOR and distributed to General Revenue.

### *Insurance Premium Tax*

Florida imposes a 1.75 percent tax on most Florida insurance premiums.<sup>101</sup> Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to DOR. These revenues are distributed to General Revenue with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund.

### *Severance Taxes on Oil and Gas Production*

Oil and gas production severance taxes are imposed on persons who sever oil or gas in Florida for sale, transport, storage, profit, or commercial use.<sup>102</sup> These taxes are remitted to DOR and distributed to General Revenue with additional distributions to the Minerals Trust Fund and to the counties where production occurred.

### *Alcoholic Beverage Taxes*

Florida imposes excise taxes on malt beverages, wines, and other beverages.<sup>103</sup> The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR).

The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.<sup>104</sup> Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund.

### *Sales Taxes Paid by Direct Pay Permit Holders*

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<sup>97</sup> S. 1002.395, F.S., along with s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, and s. 624.51055, F.S.

<sup>98</sup> S. 1003.485, F.S., along with s. 211.0252, s. 212.1833, s. 220.1876, s. 561.1212, and s. 624.51056, F.S.

<sup>99</sup> S. 402.62, F.S., along with s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, and s. 624.51057, F.S.

<sup>100</sup> Ss. 220.11(2) and 220.63(2), F.S.

<sup>101</sup> S. 624.509, F.S. (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums).

<sup>102</sup> Ss. 211.02(1) and 211.025, F.S.

<sup>103</sup> Ss. 563.05, 564.06, and 565.12, F.S.

<sup>104</sup> S. 561.02, F.S.

Section 212.183, F.S., authorizes DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to DOR.<sup>105</sup>

## **Strong Families Tax Credit Program**

### Current Situation

The Strong Families Tax Credit Program, established in s. 402.62, 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.<sup>106</sup> The organizations are certified by the Department of Children and Families (DCF).<sup>107</sup> The tax credits are a dollar-for-dollar credit against the business's liability for corporate income tax; insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine and spirits.<sup>108</sup> The credit is equal to 100 percent of the eligible contributions made to the charitable organization.

Businesses that wish to participate in the program by making a donation to an eligible charitable organization must apply to DOR for an allocation of tax credit available for a given fiscal year.<sup>109</sup> The application period is not specified in statute, but the application portal administered by DOR generally opens at midnight on January 1<sup>st</sup> each year.

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.<sup>110</sup> In 2023, the Legislature increased the annual tax credit cap for all credits under this program from \$10 million to \$20 million per state fiscal year.<sup>111</sup> DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of DBPR before approving an alcoholic beverage tax credit under s. 561.1213, F.S.<sup>112</sup>

### Effect of Proposed Changes

The bill increases the annual cap for the Strong Families Tax Credit Program from \$20 million per state fiscal year to \$40 million per state fiscal year, beginning in Fiscal Year 2024-25.

The bill also provides that the application period for the Strong Families tax credit begins at 9 a.m. on the first day of the calendar year preceding the fiscal year the credit is being applied for that is not a Saturday, Sunday, or legal holiday, beginning in Fiscal Year 2025-26. For Fiscal Year 2024-25, taxpayers may apply for the additional \$20 million credit beginning at 9 a.m. on July 1, 2024.

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<sup>105</sup> S. 212.183, F.S., and rule 12A-1.0911, F.A.C. Directpay permit holders include: dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

<sup>106</sup> Ch. 2021-31, L.O.F.

<sup>107</sup> See, <https://www.myflfamilies.com/about/strong-families-tax-credit> (last visited March 19, 2024).

<sup>108</sup> S. 402.62, F.S., along with ss. 211.0253, 212.1834, 220.1877, 561.1213, and 624.51057, F.S.

<sup>109</sup> S. 402.62(5)(b), F.S.

<sup>110</sup> S. 402.62(5)(b)1., F.S.

<sup>111</sup> Ch. 2023-157, s. 38, L.O.F.; S. 402.62(5)(a), F.S.

<sup>112</sup> S. 402.62(5)(b)1., F.S.

The bill adds to the criteria for an eligible charitable organization the requirement that the eligible charitable organization provides direct services for at-risk families that do not have an open dependency case.

The bill removes providing “books to the homes of children eligible for a federal free or reduced-price meals program or those testing below grade level in kindergarten through grade 5,” from the list of what services may be provided by an eligible charitable organization to qualify for the credit.

The bill instructs DCF to not designate a charitable organization as eligible for a contribution if the organization has received more than 50 percent of its total annual revenue from a federal, state, or local governmental agency.

### **Child Care Tax Credit**

In 1985, the Legislature adopted a deduction from net income for specified “child care facility start-up costs,” defined as expenditures for playground equipment, kitchen appliances and cooking equipment, and real property used to establish a child care facility located on the premises or within 5 miles of the employer’s location, for use exclusively by the employees of the taxpayer.<sup>113</sup>

In 1998, and effective for 1999 and thereafter, the Legislature replaced the deduction for child care facility start-up costs with a credit against corporate income tax or insurance premium tax for employers that opened or operated a child care facility for its employees, or which made child care payments directly to a child care facility on behalf of employees.<sup>114</sup> The credit, codified in ss. 220.19 and 624.5107, F.S., was for 50 percent of the startup costs, along with \$50 per month per child for employer-provided child care, or 50 percent of child care payments made to independent child care facilities.<sup>115</sup> The total benefit per corporation was limited to \$50,000 per year, and the total credits statewide were capped at \$2 million each year.<sup>116</sup> Any credit unused in one year due to insufficient liability could be carried forward and used in any of the following five years.<sup>117</sup>

If a facility for which a taxpayer received a credit for startup costs ceased operation within the first five years, a pro rata share of the credit was required to be repaid.<sup>118</sup> Eligible child care facilities had to fall within the statutory definition found in s. 402.302, F.S., and had to be licensed in accordance with s. 402.305, F.S., or had to be a facility providing daily care to children who were mildly ill.<sup>119</sup> The child care services must have been available to all employees, or allocated on a first-come, first-served basis.<sup>120</sup>

DOR was authorized to adopt rules for the credit program, and was required to approve or disapprove applications for the program in writing.<sup>121</sup> All approvals required verification by DCF or the local licensing agency that the facility qualified for the credit program.<sup>122</sup>

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<sup>113</sup> Ch. 85-118, L.O.F.

<sup>114</sup> Ch. 98-293, L.O.F.

<sup>115</sup> Ss. 220.19(2)(a) and 624.5107(2)(a), F.S. (1999).

<sup>116</sup> Ss. 220.19(2)(b)-(c) and 624.5107(2)(b)-(c), F.S. (1999).

<sup>117</sup> Ss. 220.19(2)(e) and 624.5107(2)(e), F.S. (1999).

<sup>118</sup> Ss. 220.19(2)(f) and 624.5107(2)(f), F.S. (1999).

<sup>119</sup> Ss. 220.19(3)(a) and 624.5107(3)(a), F.S. (1999).

<sup>120</sup> Ss. 220.19(3)(b) and 624.5107(3)(b), F.S. (1999).

<sup>121</sup> Ss. 220.19(5) and 624.5107(5), F.S. (1999).

<sup>122</sup> Ss. 220.19(5)(c) and 624.5107(5)(c), F.S. (1999).

The program expired June 30, 2008,<sup>123</sup> other than the section related to carryover of unused tax credits and the section requiring pro rata repayment if a facility ceased operations within five years, which remain in statute.<sup>124</sup>

### Current Situation

There is no current tax incentive in Florida law for the provision of childcare services, directly or indirectly, by an employer on behalf of its employee.

### Effect of Proposed Changes

The bill creates s. 402.261, F.S., creating a child care tax credit for:

- 50 percent of the startup costs of an eligible child care facility;
- Operating an eligible child care facility for the taxpayer's employees; or
- Making payments to an eligible child care facility on behalf of an employee.

A credit may be taken against tax liability due under the following taxes:

- 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.

A taxpayer who operates an eligible child care facility may receive a credit of 50 percent of the startup costs of the facility for the taxable year in which the facility begins operating. The maximum amount of credit that may be granted is based on the number of employees as follows:

- One to nineteen employees, the maximum credit is \$1 million.
- Twenty to two hundred fifty employees, the maximum credit is \$500,000.
- Two hundred fifty-one or more employees, the maximum credit is \$250,000.

A taxpayer who operates an eligible child care facility for the taxpayer's employees may receive a credit of \$300 per month for each eligible child enrolled in the facility. The maximum amount of credit that may be granted is based on the number of employees as follows:

- One to nineteen employees, the maximum credit is \$50,000.
- Twenty to two hundred fifty employees, the maximum credit is \$500,000.
- Two hundred fifty-one or more employees, the maximum credit is \$1 million.

A taxpayer who makes payment to an eligible child care facility in the name and for the benefit of an employee of the taxpayer is allowed a credit of 100 percent of the payment up to \$3,600 per child. The maximum amount of credit that may be granted is based on the number of employees as follows:

- One to nineteen employees, the maximum credit is \$50,000.
- Twenty to two hundred fifty employees, the maximum credit is \$500,000.
- Two hundred fifty-one or more employees, the maximum credit is \$1 million.

The tax credit is available for Fiscal Years 2024-25, 2025-26, and 2026-27. The maximum amount of tax credits that may be approved is \$5 million for each of these fiscal years.

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<sup>123</sup> Ss. 220.19(6) and 624.5107(6), F.S. (1999).

<sup>124</sup> Ss. 220.19 and 624.5107, F.S.



The bill allows taxpayers to apply for the tax credits beginning October 1, 2024. It outlines the requirements of the application process to be developed by DOR, priority of applications, timelines for review of applications with notices of approval or denial, and it provides DOR with rulemaking authority.

The bill creates s. 211.0254, F.S., to allow a child care tax credit granted under s. 402.261, F.S., to be taken against any tax due for oil and gas production under ss. 211.02 and 211.025, F.S. Together with a credit to scholarship funding organizations, the New Worlds Reading Initiative, and other charitable organizations, the maximum credit which may be taken is limited to 50 percent of the tax due on the return for which the credits are taken. In addition, the provision establishes the priority in which this credit may be taken.

The bill creates s. 212.1835, F.S., to allow a child care tax credit granted under s. 402.261, F.S., to be taken against any tax due from a direct pay permit holder and provides certain requirements including filing and paying taxes electronically.

The bill modifies s. 220.19, F.S., to allow a child care tax credit granted under s. 402.261, F.S., to be taken against any tax due from a corporate income tax taxpayer for its taxable years beginning on or after January 1, 2025, and provides requirements and limitations regarding those tax credits. The bill removes provisions in this section related to the carryforward of unused credits and repayment of child care facility start-up credits, as they are instead provided in s. 402.261, F.S., created by the bill.

The bill creates s. 561.1214, F.S., to allow a child care tax credit granted under s. 402.261, F.S., to be taken against any excise tax due for beer, liquor, and certain wine products, beginning January 1, 2025. The credit allowed may not exceed 90 percent of the tax due on the return.

The bill modifies s. 624.5107, F.S., to allow a child care tax credit granted under s. 402.261, F.S., to be taken against any tax due, for its taxable years beginning on or after January 1, 2025, on insurance premiums under s. 624.509, F.S. and provides restrictions of the credit. The bill removes provisions in this section related to the carryforward of unused credits and repayment of child care facility start-up credits, as they are instead provided in s. 402.261, F.S., created by the bill.

The bill modifies s. 624.509, F.S., to include the child care tax credit taken under s. 624.5107, F.S., in the list of order in which credits may be taken against the insurance premium tax.

Finally, the bill provides DOR with authority to adopt emergency rules to implement the tax credit program.

## Ad Valorem Taxation

The ad valorem tax, or “property tax,” is an annual tax levied by local government. The Florida Constitution prohibits the state from levying ad valorem taxes on real and tangible personal property,<sup>125</sup> and instead authorizes local governments, including counties, school districts, and municipalities to levy ad valorem taxes. Special districts may also be given this authority by law.<sup>126</sup>

The property appraiser annually determines the “just value”<sup>127</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>128</sup> Tax bills are mailed in November of each year, and payment is due by March 31.<sup>129</sup> The tax is based on the taxable value of property as of January 1 of each year.<sup>130</sup>

Ad valorem taxes are also levied on certain tangible personal property (TPP). “Tangible personal property” means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.<sup>131</sup> All tangible personal property is subject to ad valorem taxation unless expressly exempted.<sup>132</sup> Household goods and personal effects,<sup>133</sup> items of inventory,<sup>134</sup> and up to \$25,000 of assessed value for each tangible personal property tax return<sup>135</sup> are exempt from ad valorem taxation.

## **Tax Benefits for Property and Equipment Used in Renewable Natural Gas Production**

### Current Situation

#### *Limitations on Assessment of Real Property*

Current law prohibits a property appraiser who is determining the assessed value of real property from considering any increase in the just value of residential property or 80 percent of the just value of non-residential property attributable to the installation of a renewable energy source device.<sup>136</sup> This law applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property, and to a renewable energy source device installed on or after January 1, 2018, to all other real property.<sup>137</sup> The statute defines the term “renewable energy source device” to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;

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<sup>125</sup> Art. VII, s. 1(a), Fla. Const.

<sup>126</sup> Art. VII, s. 9., Fla. Const.

<sup>127</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. (Art. VII, s. 4, Fla. Const.). 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).

<sup>128</sup> Ss. 192.001(2) and (16), F.S.

<sup>129</sup> Ss. 197.322 and 197.333, F.S.

<sup>130</sup> S. 192.042, F.S.

<sup>131</sup> S. 192.001(11)(d), F.S.

<sup>132</sup> S. 196.001(1), F.S.

<sup>133</sup> S. 196.181, F.S.

<sup>134</sup> S. 196.185, F.S.

<sup>135</sup> S. 196.183, F.S.

<sup>136</sup> S. 193.624(2), F.S.

<sup>137</sup> S. 193.624(3), F.S.; However, s. 193.624(3), F.S., does not allow a limitation on a device installed in a fiscally constrained county if there was an application for a comprehensive plan amendment or planned unit development zoning filed with the county on or before December 31, 2017. In addition, pursuant to s. 7, ch. 2017-118, L.O.F., the benefit for nonresidential property is scheduled to sunset December 31, 2037, at which time only the residential provision will remain.

- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.<sup>138</sup>

### *Partial Exemption of Tangible Personal Property*

Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.<sup>139</sup> Property owners who lease, lend, or rent property must also file. Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value.<sup>140</sup>

Current law provides an ad valorem tax exemption of 80 percent of the assessed value of a renewable energy source device that is considered TPP, so long as the renewable energy source device<sup>141</sup>:

- Is installed on real property on or after January 1, 2018;
- Was installed before January 1, 2018, to supply a municipal electric utility located within a consolidated government; or
- Was installed after August 30, 2016, on municipal land as part of a project incorporating other renewable energy source devices under common ownership on municipal land for the sole purpose of supplying a municipal electric utility with specified megawatts of power.

### *Biogas and Renewable Natural Gas*

Renewable Natural Gas (RNG) is biogas<sup>142</sup> that has been upgraded or refined for use in place of fossil natural gas. RNG is defined in s. 366.91(f), F.S., as “anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline.”

Sources of biogas that are later refined to produce RNG include solid waste landfills, water resource recovery facilities, livestock farms, and facilities that process food waste.<sup>143</sup> In order to complete the process of converting biogas into RNG, facilities capture the biogas, “clean” it to pipeline standards,

<sup>138</sup> S. 193.624(1), F.S.

<sup>139</sup> S. 193.062, F.S.; see also *Department of Revenue, Tangible Personal Property*, available at [https://floridarevenue.com/property/Pages/Taxpayers\\_TangiblePersonalProperty.aspx](https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx) (last visited March 19, 2024).

<sup>140</sup> Art. VII, s. 3., Fla. Const.

<sup>141</sup> S. 196.182(1), F.S.; However, s. 196.182(2), F.S., does not allow an exemption on a device installed in a fiscally constrained county if there was an application for a comprehensive plan amendment or planned unit development zoning filed with the county on or before December 31, 2017. This exemption is scheduled to sunset on December 31, 2037, pursuant to s. 196.182(4), F.S.

<sup>142</sup> S. 366.91(2)(a), F.S., defines biogas as “a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas.”

<sup>143</sup> U.S. Environmental Protection Agency, *An Overview of Renewable Natural Gas from Biogas*, available at [https://www.epa.gov/sites/default/files/2020-07/documents/lmop\\_rng\\_document.pdf](https://www.epa.gov/sites/default/files/2020-07/documents/lmop_rng_document.pdf) (last visited March 19, 2024).

and then inject it into the pipeline for customer use.<sup>144</sup> At least three facilities in Florida are converting biogas into RNG,<sup>145</sup> with more in development.<sup>146</sup>

### Effect of Proposed Changes

The bill expands the ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to RNG. Specifically, it expands the definition of “renewable energy source device” used by both ss. 193.624 and 196.182, F.S., to include equipment that collects, transmits, stores or uses energy derived from biogas, as defined in s. 366.91, F.S. Under the bill, such equipment includes pipes, equipment, structural facilities, structural support, and any other machinery integral to the interconnection, production, storage, compression, transportation, processing, collection, and conversion of biogas from landfill waste; livestock farm waste, including manure; food waste; or treated wastewater into renewable natural gas as defined in s. 366.91, F.S.

The bill clarifies that equipment on the distribution or transmission side of the point at which a renewable energy source device is interconnected to a natural gas pipeline or distribution system is not a renewable energy source device.

The expanded benefits affect existing facilities that otherwise meet the timing requirements of current law and facilities under construction, along with future facilities, and first apply to the 2025 property tax roll.

### **Construction Work in Progress**

#### Current Situation

Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.<sup>147</sup> All tangible personal property is subject to ad valorem taxation unless expressly exempted.<sup>148</sup> Household goods and personal effects,<sup>149</sup> items of inventory,<sup>150</sup> and up to \$25,000 of assessed value for each tangible personal property tax return<sup>151</sup> are exempt from ad valorem taxation. Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.<sup>152</sup>

Section 192.001(11)(d), F.S., also defines “construction work in progress” as items consisting of tangible personal property commonly known as fixtures, machinery, and equipment when in the process of being installed in new or expanded improvements to real property and whose value is materially enhanced upon connection or use with a preexisting, taxable, operational system or facility. Construction work in progress is subject to ad valorem taxation when it is deemed to be substantially completed, meaning when it is connected with the preexisting, taxable, operational system or facility.

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<sup>144</sup> Presentation on Florida’s Energy Future (Liquefied Natural Gas, Renewable Natural Gas, and Small Modular Reactors), Tampa Electric Company (Dec. 6, 2023), slide 5, available at <https://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3226&Session=2024&DocumentType=Meeting+Packets&FileName=ecc+12-6-23.pdf> (last visited March 19, 2024).

<sup>145</sup> *Id.* at slide 10, 12-16.

<sup>146</sup> Nasdaq, *Chesapeake Utilities Corporation to Develop its First RNG Facility in Florida* (Feb. 21, 2023), available at <https://www.nasdaq.com/press-release/chesapeake-utilities-corporation-to-develop-its-first-rng-facility-in-florida-2023-02> (last visited March 19, 2024) (Chesapeake Utilities Corporation is installing a dairy manure renewable natural gas facility in Madison County, Florida).

<sup>147</sup> S. 192.001(11)(d), F.S.

<sup>148</sup> S. 196.001(1), F.S.

<sup>149</sup> S. 196.181, F.S.

<sup>150</sup> S. 196.185, F.S.

<sup>151</sup> S. 196.183, F.S.

<sup>152</sup> S. 193.062, F.S.; see also Department of Revenue, *Tangible Personal Property*, available at [https://floridarevenue.com/property/Pages/Taxpayers\\_TangiblePersonalProperty.aspx](https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx) (last visited March 19, 2024).

## Effect of Proposed Changes

The bill amends s. 192.001(11)(d), F.S., to clarify that for the purpose of taxing tangible personal property constructed or installed by an electric utility, construction work in progress is deemed substantially completed upon the earlier of when all permits or approvals have been received or approved, or 1 year after the construction work in progress has been connected with the preexisting, taxable, operational system or facility.

This provision applies retroactively, beginning with the 2024 property tax roll.

## **Homestead Exemptions on Damaged Property**

### Current Situation

When homestead property is damaged or destroyed by misfortune or calamity and the property is uninhabitable on January 1 after the damage or destruction occurs, a property may continue to receive a homestead exemption if:

- The property owner notifies the property appraiser that he or she intends to repair or rebuild the property and live in the property as his or her primary residence after the property is repaired or rebuilt.
- The property owner does not claim a homestead exemption on any other property or otherwise violate the requirements for the homestead exemption.
- The property owner begins repairing or rebuilding the homestead property within 3 years after January 1 following the damage or destruction.<sup>153</sup>

Under current law, changes, additions, or improvements to homestead property are assessed at just value on January 1 after the changes, additions, or improvements are substantially completed.

However, changes, additions, or improvements that replace all or a portion of homestead property damaged or destroyed by misfortune or calamity, including ancillary improvements, shall be assessed upon substantial completion using the homestead property's assessed value as of the January 1 immediately before the date on which the damage or destruction was sustained.<sup>154</sup> Homestead property is eligible for such assessment if:

- The square footage of the homestead property as changed or improved does not exceed 110 percent of the square footage of the homestead property before the damage or destruction; or
- The total square footage of the homestead property as changed or improved does not exceed 1,500 square feet.<sup>155</sup>

Property changed or improved in excess of these thresholds must be assessed at just value.

The changes, additions, or improvements must be commenced within 3 years after the January 1 following the damage or destruction of the homestead.<sup>156</sup>

## Effect of Proposed Changes

The bill extends the time, from 3 years to 5 years, for a homestead owner to start the repair of a homestead property damaged by misfortune or calamity, in order for the homestead owner to continue to claim the homestead exemption and maintain a pre-damage assessment.

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<sup>153</sup> S. 196.031(7), F.S.

<sup>154</sup> S. 193.155(4), F.S.

<sup>155</sup> S. 193.155(4), F.S.

<sup>156</sup> S. 193.155(4), F.S.

## Improper Receipt of Property Tax Exemptions and Assessment Limitations

### Current Situation

Under current law, there are various instances where a property owner improperly receiving a property assessment limitation can result in liability for the unpaid taxes as well as penalties and interest.

One such instance is with the improper receipt of the homestead assessment limitation under s. 193.155, F.S. A person improperly receiving a homestead property assessment limitation for any year within the prior 10 years is subject to payment of the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per year.<sup>157</sup> Penalty and interest are not imposed on a property owner when an assessment limitation is granted by the property appraiser as a result of a clerical mistake or an omission.<sup>158</sup>

When an assessment limitation was improperly applied, the person receiving the limitation will receive a notice of intent to record a tax lien against any property in the county where the property owned by the person is located. The notice must identify the property.<sup>159</sup> The property appraiser must give the property owner 30 days to pay taxes and applicable penalties and interest before the property appraiser may file a lien.<sup>160</sup>

Similarly, under s. 196.011, F.S., a property owner who is not required to file an annual application to maintain an exemption, but who fails to notify the property appraiser when the exempt status of the property changes, is subject to the taxes exempted as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted for any year within the prior 10 years that the owner was not entitled to receive such exemption.<sup>161</sup> The property appraiser must record a notice of tax lien against any property owned by that person or entity in the county, and the property must be identified in the notice of tax lien.<sup>162</sup>

The payment of unpaid taxes, a penalty of 50 percent of the unpaid taxes for each year, and 15 percent interest per year are also imposed on a person improperly receiving a property assessment limitation for any year within the prior 10 years when there is:

- An improper reduction in assessment for living quarters of parents or grandparents under s. 193.703, F.S.;
- An improper receipt of the additional homestead exemption for persons 65 and older under s. 196.075, F.S.; or
- An improper receipt of a homestead exemption, under ch. 196, F.S.

Under ss. 193.703, 196.075, and 196.161, F.S., no penalty or interest is charged if the assessment limitation was improperly granted as a result of a clerical error or omission made by the property appraiser. Under these provisions, the person will receive a notice of intent to record a tax lien against any property in the county owned by the person.<sup>163</sup> The notice must identify the property.<sup>164</sup> The property appraiser must give the property owner 30 days to pay taxes and applicable penalties and interest before the property appraiser may file a lien.<sup>165</sup>

### Effect of Proposed Changes

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<sup>157</sup> S. 193.155(10), F.S.

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> 196.011(9)(a), F.S.

<sup>162</sup> *Id.*

<sup>163</sup> Ss. 193.703(7), 196.075(9), and 196.161(1)(b), F.S.

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

The bill amends ss. 193.155, 193.703, 196.011, 196.075, and 196.161, F.S., to provide that a property owner is not required to pay the unpaid taxes, penalties, or interest when a property tax exemption or assessment limitation has been improperly granted due to a clerical mistake or an omission made by the property appraiser if the property owner notifies the property appraiser of such mistake or omission. If the property owner has not notified the property appraiser of such mistake or omission and the property appraiser discovers it, unpaid taxes can be imposed for years within the previous 5 years in which the property owner improperly received the exemption or assessment limitation.

Under all of the above provisions, the bill provides that additional information must be given to the property owner by the property appraiser when the property owner has been improperly receiving an exemption or assessment limitation. The additional information must explain why the owner is not entitled to the exemption or assessment limitation, for which years unpaid taxes, penalties, and interest are due, and the manner in which unpaid taxes, penalties, and interest have been calculated. The requirement that property appraiser give the property owner 30 days to pay taxes and applicable penalties and interest before the property appraiser may file a lien is unchanged.

## **Fiscally Constrained Counties – Property Tax Refund Reimbursement**

### Current Situation

#### *Fiscally Constrained Counties*

Fiscally constrained counties are counties entirely within a rural area of opportunity or where a 1 mill levy would raise no more than \$5 million in annual tax revenue.<sup>166</sup> A “rural area of opportunity” is a rural community or a region, as designated by the Governor, that has been adversely affected by an extraordinary economic event, a severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.<sup>167</sup>

Florida’s fiscally constrained counties are Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla, and Washington.<sup>168</sup>

#### *Refunds for Properties Rendered Inhabitable*

During the 2022 Legislative Session, the Legislature created s. 197.319, F.S., to provide for the prorated refund of property taxes on residential properties rendered uninhabitable by a catastrophic event.<sup>169</sup> Section 197.319, F.S., defines “catastrophic event” as an event of misfortune or calamity that renders one or more residential improvements uninhabitable, the term does not include an event caused, directly or indirectly, by the property owner with the intent to damage or destroy the residential improvement.<sup>170</sup>

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.<sup>171</sup>

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<sup>166</sup> S. 218.67(1), F.S.

<sup>167</sup> S. 288.0656(2)(d), F.S.

<sup>168</sup> Florida Department of Revenue, *Fiscally Constrained Counties*, available at: [https://www.floridarevenue.com/property/Documents/fcc\\_map.pdf](https://www.floridarevenue.com/property/Documents/fcc_map.pdf) (last visited March 19, 2024).

<sup>169</sup> Ch. 2022-97, s. 14, L.O.F.

<sup>170</sup> S. 197.319(1)(a), F.S.

<sup>171</sup> S. 197.319(2), F.S.

If the property owner fails to file the application by the statutory 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.<sup>172</sup>

### *Hurricane Idalia*

On August 30, 2023, Hurricane Idalia made landfall in Florida as a Category 3 Hurricane. Hurricane Idalia traveled across North Florida and into Georgia.<sup>173</sup> Many of the counties affected were fiscally constrained counties. Estimated insured losses were over \$309 million in 2023 due to Hurricane Idalia.<sup>174</sup>

### Effect of Proposed Changes

The bill authorizes DOR to issue reimbursements to fiscally constrained counties that were required to refund property taxes to taxpayers whose residential property was rendered uninhabitable for 30 days or more by a catastrophic event. The bill appropriates \$200,000, from which DOR will issue the reimbursements. DOR is authorized to adopt emergency rules to implement this section of the bill.

### **Affordable Housing Property Tax Exemptions**

#### ***Ad Valorem Tax Exemption for Newly Constructed Affordable Housing***

#### Current Situation

##### *Section 196.1978, F.S.*

The Live Local Act, which became law in 2023, established a new ad valorem tax exemption for owners of newly constructed multifamily rental developments who use a portion of the development to provide affordable housing.<sup>175</sup> Eligible property includes units in a newly constructed multifamily development containing more than 70 units dedicated to housing natural persons or families below certain income thresholds.<sup>176</sup> However, units subject to an agreement with Florida Housing Finance Corporation (FHFC) are not eligible for the exemption.<sup>177</sup>

“Newly constructed” is defined as an improvement substantially completed within five years before the property owner’s first application for the exemption.<sup>178</sup> The units must be occupied by such individuals or families and rent limited so as to provide affordable housing at either the 80 or 120 percent AMI threshold.<sup>179</sup> Rent for such units may not exceed 90 percent of the fair market value of rent as determined by a rental market study.<sup>180</sup>

Qualified property used to provide affordable housing at the 80 to 120 percent AMI threshold receives an exemption of 75 percent of the assessed value of the affordable units, while such property providing affordable housing up to the 80 percent AMI threshold receives a complete ad valorem tax exemption for the affordable units.<sup>181</sup>

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<sup>172</sup> S. 197.319(4), F.S.

<sup>173</sup> Executive Order Number 23-212, Extension of Executive Order 23-171 - Hurricane Idalia, available at <https://www.flgov.com/wp-content/uploads/2023/10/EO-23-212.pdf> (last visited March 19, 2024).

<sup>174</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/home/idalia> (last visited March 19, 2024).

<sup>175</sup> Ch. 2023-17, s. 8, L.O.F., codified as s. 196.1978(3), F.S.

<sup>176</sup> S. 196.1978(3)(b), F.S.

<sup>177</sup> S. 196.1978(3)(k), F.S.

<sup>178</sup> S. 196.1978(3)(a)2., F.S.

<sup>179</sup> S. 196.1978(3)(b)1., F.S.

<sup>180</sup> S. 196.1978(3)(b)3., F.S.

<sup>181</sup> S. 196.1978(3)(d), F.S.



To receive this exemption, a property owner must apply by March 1 to the property appraiser, accompanied by a certification notice from FHFC.<sup>182</sup> To receive FHFC certification, a property owner must submit a request on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years, a list of units for which the exemption is sought, the rent amount received for each unit, and a sworn statement restricting the property for a period of not less than three years to provide affordable housing.<sup>183</sup>

The certification process is administered within FHFC. FHFC is responsible for publishing the deadline for submission, reviewing each request, sending certification notices to both the successful property owner and the appropriate property appraiser, and notifying unsuccessful property owners with reasons for denial.<sup>184</sup>

### *Shimberg Center for Housing Studies*

The Shimberg Center for Housing Studies was established at the University of Florida in 1988 to promote safe, decent and affordable housing and related community development throughout the state of Florida.<sup>185</sup> The Shimberg Center produces an annual housing report, pursuant to s. 420.6075, F.S., which details the surplus or deficit of affordable and available rental housing units in various regions in Florida.<sup>186</sup> The report uses the area median income in a specific area in Florida to determine the amount of affordable and available housing units exist in that particular area.<sup>187</sup>

### *Areas of State Concern*

The Areas of Critical State Concern Program (Program) was created in the Florida Environmental Land and Water Management Act of 1972.<sup>188</sup> The Program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.<sup>189</sup> An area of critical state concern may be designated for:

- An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, the uncontrolled private or public development of which would cause substantial deterioration of such resources;
- An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts; or
- An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment.<sup>190</sup>

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<sup>182</sup> S. 196.1978(3)(e), F.S.

<sup>183</sup> S. 196.1978(3)(f), F.S.

<sup>184</sup> S. 196.1978(3)(g), F.S.

<sup>185</sup> Shimberg Center for Housing Studies, University of Florida, available at <http://shimberg.ufl.edu/> (last visited March 19, 2024).

<sup>186</sup> Shimberg Center for Housing Studies, *2023 Annual Report*, available at [http://shimberg.ufl.edu/publications/Shimberg\\_annual\\_report\\_Dec\\_2023.pdf](http://shimberg.ufl.edu/publications/Shimberg_annual_report_Dec_2023.pdf) (last visited March 19, 2024).

<sup>187</sup> *Id.*

<sup>188</sup> Ch. 72-317, L.O.F.; Department of Commerce, *Areas of Critical State Concern Program*, available at <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited March 19, 2024).

<sup>189</sup> *Id.*

<sup>190</sup> S. 380.05(2), F.S.

Areas of critical state concern currently designated in the state include the Big Cypress,<sup>191</sup> Green Swamp,<sup>192</sup> Florida Keys,<sup>193</sup> the Brevard Barrier Island,<sup>194</sup> and Apalachicola Bay<sup>195</sup> areas of critical state concern.

### Effect of Proposed Changes

Upon becoming a law, the bill makes the following changes to the Live Local Ad Valorem Tax Exemption for Newly Constructed Affordable Housing program found in s. 196.1978, F.S.:

- Modifies the definition of “newly constructed” to remove the requirement that substantial completion be the earlier of either within 5 years before the date of an applicant's first submission of a request for a certification notice or an application for an exemption.
- Requires fewer units in developments located in Key West or the Florida Keys Area of Critical State Concern to be set aside for income-limited persons and families (10 instead of 70).
- Clarifies that Florida Housing Finance Corporation’s duties are ministerial while property appraisers maintain the ultimate authority to grant exemptions.
- Outlines the method for property appraisers to determine values of exempted units in a manner that is similar to other exemptions in statute. The bill also clarifies the duties of the property appraiser in determining when a property is eligible for the exemption.
- Clarifies that units used as a transient public lodging establishment as defined in s. 509.013, F.S,<sup>196</sup> are is not eligible for certain affordable housing exemptions.

Effective beginning with the 2025 tax roll, the bill:

- Allows a taxing authority to elect, upon adoption of an ordinance or resolution approved by a two-thirds vote of the governing body, to opt out of the state law that exempts certain affordable housing properties, if certain conditions are met.
- Requires that the taxing authority wishing to opt out must make a finding in the ordinance or resolution that the most recently published Shimberg Center for Housing Studies Annual Report identifies that a county that is part of the jurisdiction of the taxing authority is within a metropolitan statistical area or region where the number of affordable and available units is greater than the number of renter households in the metropolitan statistical area or region for the category entitled "0-120 percent AMI."
- Prescribes the effective time period for ordinances, how an ordinance can be renewed, and how an ordinance must be advertised.
- Provides a grandfathering provision for projects that were granted an exemption prior to any ordinance that opts-out of the statutory exemption.

Effective beginning with the 2026 tax roll, the bill:

- Provides for an affordable housing tax exemption on certain new, low-income housing projects for the first 15 years of the project. The property is exempt from ad valorem tax beginning with the January 1 assessment immediately succeeding the date the property was placed in service.
- Requires a multifamily project meet the following conditions to receive the exemption:
  - Be composed of an improvement to land where an improvement did not previously exist or the construction of a new improvement where an old improvement was removed, which was substantially completed within 2 years before the first submission of an application for exemption.

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<sup>191</sup> S. 380.055, F.S.

<sup>192</sup> S. 380.0551, F.S.

<sup>193</sup> S. 380.0552, F.S.

<sup>194</sup> S. 380.0553, F.S.

<sup>195</sup> S. 380.0555, F.S.

<sup>196</sup> “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. S. 509.013(4)(a), F.S.

- Contain more than 70 units that are used to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits.
- Be subject to a land use restriction agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located that requires that the property be used for 99 years to provide affordable housing to natural persons or families meeting the certain low-income limitations. The agreement must include a provision for a penalty for ceasing to provide affordable housing under the agreement before the end of the agreement term.
- Provides how a property owner applies for the affordable housing tax exemption on certain new, low-income housing projects and how the application is approved.
- Provides how a property appraiser determines the value of the portion of property used to provide affordable housing for purposes of applying an exemption.
- Provides a penalty of the taxes exempted by the improper exemption, plus a penalty of 50 percent of the unpaid taxes for each year and interest at a rate of 15 percent per annum, if the above exemption was improperly claimed.

### ***Local Option Affordable Housing Ad Valorem Exemption***

#### Current Situation

The Live Local Act authorizes counties and municipalities to enact a local option ad valorem tax exemption for certain property used for providing affordable housing.<sup>197</sup>

Portions of property eligible for the exemption must be utilized to house persons or families meeting the extremely-low limit<sup>198</sup> or with incomes between 30 to 60 percent of AMI, be contained in a multifamily project of at least 50 units where at least 20 percent are reserved for affordable housing, and have rent set such that it provides affordable housing to people in the target income bracket, or no higher than 90 percent of the fair market rent value as determined by a rental market study, whichever is less.<sup>199</sup> Additionally, the property must not have been cited for code violations on three or more occasions in the preceding 24 months and must not have outstanding code violations or related fines.<sup>200</sup>

In adopting this exemption, a local government may choose to offer either or both an exemption for extremely-low-income (up to 30 percent AMI) and for incomes between 30 to 60 percent AMI targets. The value of the exemption is up to 75 percent of the assessed value of each unit if less than 100 percent of the multifamily project's units are used to provide affordable housing, or up to 100 percent of the assessed value if all of the project's units are used to provide affordable housing.<sup>201</sup>

#### Effect of Proposed Changes

The bill provides that the local option ad valorem exemption applies to 100 percent of the assessed value of each residential unit used to provide affordable housing and requires the property appraiser to include the proportionate share of residential common areas, including land, to each unit when determining the value of the exemption. The bill also makes administrative and technical updates to facilitate administration and clarify the role of the property appraiser.

### **Documentary Stamp Tax**

<sup>197</sup> Ch. 2023-17, s. 9, L.O.F., codified as s. 196.1979, F.S.

<sup>198</sup> S. 420.0004(9), F.S.

<sup>199</sup> S. 196.1979(1)(a)1.-3., F.S.

<sup>200</sup> S. 196.1979(1)(a)4., F.S.

<sup>201</sup> S. 196.1979(1)(b), F.S.

Florida levies a documentary stamp tax on certain documents executed, delivered, or recorded in Florida. The most common examples are documents that transfer an interest in Florida real property, such as deeds; and mortgages and written obligations to pay money, such as promissory notes.<sup>202</sup>

The tax on deeds and other documents related to real property is 70 cents per \$100,<sup>203</sup> 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.<sup>204</sup> Documentary stamp taxes levied on promissory notes, nonnegotiable notes, and written obligations may not exceed \$2,450.<sup>205</sup>

## Reverse Mortgages

### Current Situation

Equity conversion mortgages (reverse mortgages) give older homeowners the option to borrow money in an amount based on their home's equity.<sup>206</sup> When the homeowner moves or dies, the proceeds from the sale of the home are used to pay off the reverse mortgage loan.<sup>207</sup> Reverse mortgages are regulated by the U.S. Department of Housing and Urban Development (HUD), and the only federally insured reverse mortgage product is the Home Equity Conversion Mortgage.<sup>208</sup>

The principal limit amount is the maximum amount that a homeowner can borrow under the loan.<sup>209</sup> In calculating the principal limit amount, lenders look to the "maximum claim amount," which is the lesser of the appraised value of the home, the sale price of the home being purchased, or the maximum limit that HUD will insure (\$1,089,300).<sup>210</sup> HUD requires certain reverse mortgage lenders to state the maximum mortgage amount as 150 percent of the maximum claim amount in the mortgage documents.<sup>211</sup> This amount is required because the loan payments are secured not only by the current value of the house but also by any possible appreciation in value.<sup>212</sup>

In Florida, if a mortgage is recorded in the state, it is subject to the documentary stamp tax on the full amount of the obligation secured by the mortgage, regardless of whether the indebtedness is contingent.<sup>213</sup> Currently, the documentary stamp tax is applied to the entire mortgage obligation amount rather than being applied to the principal limit amount.

### Effect of Proposed Changes

For reverse mortgages, the bill requires the documentary stamp tax to be applied to the principal limit amount and not the entire mortgage obligation amount. The bill defines "principal limit," and requires the documentary stamp tax be calculated on the principal limit at the time of closing. The bill clarifies that the changes to the act apply retroactively, but do not create a right to a refund or credit of any tax paid before the effective date of the act.

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<sup>202</sup> Florida Department of Revenue, *Florida Documentary Stamp Tax*, available at [https://floridarevenue.com/taxes/taxesfees/pages/doc\\_stamp.aspx](https://floridarevenue.com/taxes/taxesfees/pages/doc_stamp.aspx) (last visited March 19, 2024).

<sup>203</sup> S. 201.02(1)(a), F.S.

<sup>204</sup> Ss. 201.07 and 201.08(1)(b), F.S.

<sup>205</sup> S. 201.08(1)(a), F.S.

<sup>206</sup> Federal Trade Commission, *Reverse Mortgages*, available at <https://consumer.ftc.gov/articles/reverse-mortgages> (last visited March 19, 2024).

<sup>207</sup> *Id.*

<sup>208</sup> *Id.*

<sup>209</sup> Consumer Financial Protection Bureau, *Reverse Mortgages Key Terms*, available at <https://www.consumerfinance.gov/consumer-tools/reverse-mortgages/answers/key-terms/> (last visited March 19, 2024).

<sup>210</sup> *Id.*

<sup>211</sup> U.S. Department of Housing and Urban Development, *Home Equity Conversion Mortgages Handbook*, ch. 6.6, available at <https://www.hud.gov/sites/documents/42351C6HSGH.PDF> (last visited March 19, 2024).

<sup>212</sup> *Id.*

<sup>213</sup> Rule 12B-4.052(1)(b), F.A.C.

## Written Obligations for Alarm Systems

### Current Situation

Customers and alarm system contractors may execute promissory notes for the installation of alarm systems into real property. Such promissory notes are subject to documentary stamp tax.<sup>214</sup>

### Effect of Proposed Changes

The bill amends s. 201.21, F.S., to exempt from documentary stamp tax non-interest-bearing written obligations to pay money, or assignments of salaries, wages, or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, of \$3,500 or less, when given by a customer to an alarm system contractor,<sup>215</sup> in connection with the sale of an alarm system.<sup>216</sup> The bill provides that this exemption expires on June 30, 2027.

## Fuel Taxes

### **Pollutant Tax Registration Fee**

#### Current Situation

Under current law, any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use, or otherwise and who is not registered or licensed is required to register and become licensed.<sup>217</sup> Such person must register as either a producer or importer of pollutants and is subject to all applicable registration and licensing provisions of ch. 206, F.S. Registrations must be made prior to the first production or importation of pollutants for businesses created after July 1, 1986.<sup>218</sup> Failure to timely register is a misdemeanor of the first degree.<sup>219</sup> A registration fee of \$30 was repealed in 2017.<sup>220</sup>

#### Effect of Proposed Changes

The bill amends s. 206.9931(1), F.S., to remove obsolete language relating to the pollutant tax registration fee repealed in 2017.

### **Natural Gas Fuel Taxes**

#### Current Situation

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<sup>214</sup> S. 201.08, F.S.

<sup>215</sup> "Alarm system contractor" means a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems for compensation, including, but not limited to, all types of alarm systems for all purposes. This term also means any person, firm, or corporation that engages in the business of alarm contracting under an expressed or implied contract; that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of alarm contracting; or that by itself or by or through others engages in the business of alarm contracting. S. 489.505(2), F.S.

<sup>216</sup> "Alarm system" means any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency. S. 489.505(1), F.S.

<sup>217</sup> S. 206.9931(1), F.S.

<sup>218</sup> *Id.*

<sup>219</sup> *Id.*

<sup>220</sup> S. 206.9931(1), F.S.

In 2013, the Legislature established a fuel tax for natural gas when sold as a fuel for a motor vehicle and simultaneously repealed the fee imposed on “alternative fuel” vehicles.<sup>221</sup>

At that time, the bill delayed the imposition of the tax until December 31, 2018, and exempted from the sales and use tax natural gas and natural gas fuel when placed into the fuel system of a motor vehicle.<sup>222</sup> Thereafter, a person operating as a natural gas fuel retailer was required to pay a tax on all natural gas fuel purchases and report monthly to DOR beginning January 1, 2019.<sup>223</sup>

Beginning January 1, 2019, the following taxes were to be imposed on natural gas fuel:

- An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon<sup>224</sup> of natural gas fuel, which is designated as the “ninth-cent fuel tax.”
- An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the “local option fuel tax.”
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the “State Comprehensive Enhanced Transportation System (SCETS) Tax,” at a rate determined by statute.<sup>225</sup>
- An additional tax on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel” at a rate determined by statute.<sup>226</sup>

In 2018, the Legislature delayed the imposition of the tax and its operative provisions until January 1, 2024.

In 2023, the Legislature delayed the imposition of the tax and its operative provisions until January 1, 2026.<sup>227</sup>

### Effect of Proposed Changes

The bill amends s. 206.9955, F.S., reducing the scheduled natural gas fuel tax rates for a one-year period beginning on January 1, 2026, to half of the rates currently scheduled to take effect on that date. Beginning on January 1, 2027, all the tax rates will revert to the scheduled rates currently in statute.

The reduced rates for calendar year 2026 are as follows:

- The excise tax on each motor fuel equivalent gallon of natural gas fuel will be 2 cents.
- The additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel, which is designated as the “ninth-cent fuel tax,” will be 0.5 cents.
- The additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the “local option fuel tax,” will be 0.5 cents.

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<sup>221</sup> Ch. 2013-198, L.O.F. Codified in Part V of ch. 206, F.S.

<sup>222</sup> *Id.*

<sup>223</sup> S. 206.9952(8), F.S. (2013).

<sup>224</sup> “Motor fuel equivalent gallon” is defined in s. 206.9951(1), F.S., to mean the volume of natural gas fuel it takes to equal the energy content of one gallon of motor fuel. Section 206.9955, F.S., currently defines the motor fuel equivalent gallon for compressed natural gas, liquefied natural gas, and liquefied petroleum gas.

<sup>225</sup> Each calendar year, DOR shall determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established tax rate of 5.8 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30. S. 206.9955(2)(d), F.S. (2013).

<sup>226</sup> Each calendar year, DOR shall determine the tax rate applicable to the sale of natural gas fuel, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The tax rate is calculated by adjusting the initially established tax rate of 9.2 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30. S. 206.9955(2)(e)1., F.S. (2013).

<sup>227</sup> Ch. 2023-157, L.O.F.

- The additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the “State Comprehensive Enhanced Transportation System (SCETS) Tax,” will be 2.9 cents per gallon, as adjusted by DOR.
- The additional tax on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel” will be 4.6 cents per gallon, as adjusted by DOR.

## **Tax Administration**

### **Extension of Filing Times Related to Certain Emergencies**

#### **Current Situation**

##### *Florida Sales and Use Tax Filings*

Dealers are businesses and entities that collect state sales tax on items and services the dealer sells. Dealers estimate their tax liability and remit the sales tax to DOR, usually on a monthly basis.<sup>228</sup> Dealers are required to file a return and remit the taxes owed to the state by the 20<sup>th</sup> day of each month.<sup>229</sup> Failure by a dealer to timely file a return or remit the tax owed results in a penalty in the amount of 10 percent of the tax shown on the return.<sup>230</sup> However, the Executive Director of DOR has the authority to extend the stipulated due date for tax returns and accompanying tax payments if there is a declared state of emergency.<sup>231</sup>

##### *Corporate Income Tax Return Filings*

A corporate income taxpayer is required to file a Florida income tax return in every year that it is liable for Florida corporate income tax or is required to file a federal income tax return.<sup>232</sup> The due dates to file corporate income tax returns are tied to the federal law. When a Florida corporation is granted an extension of time to file its federal return, the taxpayer may file for an extension of time to file its Florida return. If granted, the extended Florida due date will be the 15th day after the expiration of the 6-month federal extension.<sup>233</sup> The Executive Director of DOR has the authority to extend the stipulated due date for tax returns and accompanying tax payments if there is a declared state of emergency.<sup>234</sup> In addition, DOR can grant an extension or extensions of time for the filing of any return for good cause upon request.<sup>235</sup>

#### **Effect of Proposed Changes**

The bill requires DOR to grant an automatic 10-day extension from the due date for filing a return and remitting sales tax if a declaration of a state of emergency is issued by the Governor within 5 business days before the 20<sup>th</sup> day of the month. The extension only applies to taxpayers within the counties affected by the state of emergency.

The bill requires DOR to grant a 15-day automatic extension for Florida corporate income tax returns beyond the due date of a federal corporate income tax return that has been extended by the IRS due to a federally-declared disaster.

### **Challenges of Final Assessments or Refund Denials**

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<sup>228</sup> S. 212.11 (1), F.S.

<sup>229</sup> S. 212.11(1)(b), F.S.

<sup>230</sup> S. 212.12(2)(a), F.S.

<sup>231</sup> S. 213.055(2)(a), F.S.

<sup>232</sup> S. 220.22, F.S.

<sup>233</sup> For corporate taxpayers with a taxable year ending on June 30<sup>th</sup>, the extension is 15 days 7 months from the original due date. S. 220.222(2)(d), F.S.

<sup>234</sup> S. 213.055(2)(a), F.S.

<sup>235</sup> S. 220.222(1)(b), F.S.

## Current Situation

DOR does not have the authority to reopen a final assessment or refund denial following the expiration of all taxpayer appeal rights under the law for purposes of adjusting or compromising the liability of a taxpayer.

## Effect of Proposed Changes

The bill creates s. 213.21(11), F.S., authorizing DOR to reopen a final assessment or refund denial for purposes of settling or compromising a liability if the failure to initiate a timely challenge was the result of a specified qualifying event which was beyond the control of the taxpayer. The bill requires that a request to reopen an assessment or refund denial for a qualifying event occur no later than 180 days after the time for filing a contest has expired. The bill also clarifies that any decision by DOR regarding a taxpayer's request to compromise or settle a liability is not a final order subject to review under ch. 120, F.S.

A qualifying event includes:

- The death or life-threatening injury or illness of:
  - The taxpayer;
  - An immediate family member of the taxpayer; or
  - An individual with substantial responsibility for the management or control of the taxpayer;
- An act of war or terrorism; or
- A natural disaster, fire, or other catastrophic loss.



## Garnishment Notice

### Current Situation

Section 213.67, F.S., provides the statutory framework for DOR's garnishment authority. This includes the authority to issue a levy upon credits, other personal property, or debts belonging to a delinquent taxpayer for any taxes, penalties, and interest owed. Under current law, the levy does not include additional daily interest accrued after the date of the levy, or the authority to issue notice to levy notices by electronic means.

### Effect of Proposed Changes

The bill amends s. 213.67, F.S., to authorize DOR to include all additional daily accrued interests, costs, and fees authorized by law to be included in garnishment levy. The bill allows DOR to deliver its notices of levy by electronic means.

## Sales Tax Collection Enforcement Diversion Program

### Current Situation

In 2002, DOR, in cooperation with the Florida Association of Centers for Independent Living (FACIL) and the Florida Prosecuting Attorneys Association, was required to select judicial circuits to participate in the tax collection enforcement diversion program.<sup>236</sup> That program required state attorney's offices to collect revenue due from persons who have not remitted their collected sales tax. Seventy-five percent of the funding collected through this program is deposited into a special account to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program (JP-PAS Program).<sup>237</sup>

The tax collection enforcement diversion program is currently operated in state attorney's offices in the following eight Florida circuits:<sup>238</sup>

- The Fourth Judicial Circuit (Clay, Duval, Nassau).
- The Sixth Judicial Circuit (Pasco, Pinellas).
- The Ninth Judicial Circuit (Orange, Osceola).
- The Eleventh Judicial Circuit (Miami-Dade).
- The Thirteenth Judicial Circuit (Hillsborough).
- The Fifteenth Judicial Circuit (Palm Beach).
- The Seventeenth Judicial Circuit (Broward).
- The Twentieth Judicial Circuit (Charlotte, Collier, Glades, Hendry, Lee).

The JP-PAS Program assists individuals employed in Florida, or in counties adjacent to Florida, with Personal Care Attendant (PCA) services that assist them with activities of daily living, such as dressing, grooming, or eating.<sup>239</sup> The JP-PAS Program is administered by FACIL and provides participants with reimbursement for expenses for PCA services, up to \$2,160 a month.<sup>240</sup>

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<sup>236</sup> S. 413.4021, F.S.; see also ch. 2002-286, L.O.F.

<sup>237</sup> S. 413.4021(1), F.S.

<sup>238</sup> Florida Association of Centers for Independent Living, *The James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program Policies and Procedures for Program Participants*, available at: <https://floridacils.org/pca-services-program/> (last visited March 19, 2024).

<sup>239</sup> S. 413.402, F.S.

<sup>240</sup> *Id.*

Prior to 2021, 50 percent of the revenue from the tax collection enforcement diversion program was given to FACIL for the administration of the JP-PAS Program.<sup>241</sup> In 2021, the Legislature increased the amount to 75 percent of the revenue going to FACIL.<sup>242</sup>

The Revenue Estimating Conference (REC) estimated<sup>243</sup> that the sales tax collection enforcement diversion program will generate approximately \$3.6 million in revenue in Fiscal Year 2023-24. The REC projects that the revenue from the sales tax collection enforcement diversion program will remain flat for the next five years.<sup>244</sup>

### Effect of Proposed Changes

The bill increases the percentage of revenue from the sales tax collection enforcement diversion program that is provided to FACIL for the administration of the JP-PAS Program from 75 percent to 100 percent.

## **Distribution for Horse Breeding and Racing Promotion**

### Current Situation

#### *Sales Tax Distributions*

The disposition of sales and use taxes, certain communications services taxes, and certain gross receipts taxes<sup>245</sup> is provided for in s. 212.20, F.S. That statute provides the reallocation of tax revenue to a series of trust funds,<sup>246</sup> distributions to the General Revenue Fund,<sup>247</sup> and other distributions in accordance with other sections of law (e.g., to the Revenue Sharing Trust Funds for Counties and Municipalities).<sup>248</sup>

In 2023, the Legislature enacted a provision to distribute \$27.5 million of General Revenue to the Florida Agricultural Promotional Campaign Trust Fund for the promotion of Florida thoroughbred breeding and racing in Florida for two years.<sup>249</sup>

The Legislature required funds be distributed for purposes specified in law, to the following entities:

- \$5 million to the Florida Thoroughbred Breeders' Association, Inc.
- \$5.5 million to Tampa Bay Downs, Inc.
- \$17 million to Gulfstream Park Racing Association, Inc.

The provision requiring these distributions will be repealed in 2025 unless reviewed and saved from repeal by the Legislature.<sup>250</sup>

### Effect of Proposed Changes

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<sup>241</sup> S. 413.4021, F.S.

<sup>242</sup> The remaining 25 percent of the revenue from the tax collection enforcement diversion program is distributed as sales tax collections via 212.20, F.S. See Revenue Estimating Conference, *Tax Collection Enforcement Diversion Program*, available at <http://edr.state.fl.us/Content/conferences/generalrevenue/taxcollectiondivprog.pdf> (last visited March 19, 2024).

<sup>243</sup> The Revenue Estimating Conference is required to annually project the amount of funds expected to be generated from the tax collection enforcement diversion program pursuant to s. 413.4021(3), F.S.

<sup>244</sup> Revenue Estimating Conference, *Tax Collection Enforcement Diversion Program*, available at <http://edr.state.fl.us/Content/conferences/generalrevenue/taxcollectiondivprog.pdf> (last visited March 19, 2024).

<sup>245</sup> S. 212.20(6), F.S., provides distribution requirements for chapter 212, communications services tax under ss. 202.18(1)(b) and d (2)(b), and gross receipts taxes under s. 203.01(1)(a)3., 4., and 6., F.S.

<sup>246</sup> E.g., s. 212.20(6)(a) and (b), F.S.

<sup>247</sup> E.g., s. 212.20(6)(c)1., F.S.

<sup>248</sup> E.g., ss. 212.20(6)(c)2., (d)3., 4., and 6., F.S.

<sup>249</sup> Ch. 2023-157, s. 39, L.O.F.

<sup>250</sup> S. 212.20(5)(d)6.f., F.S.

The bill repeals the sunset of the distribution provision and related sections of law, to provide for a permanent, yearly distribution of \$27.5 million to the Florida Agricultural Promotional Campaign Trust Fund in order to promote horse breeding and racing in the state.

## Distribution for Medical Research Facilities

### Current Situation

#### *Cancer and other Medical Research*

The National Cancer Institute (NCI) Cancer Centers Program supports cancer research by recognizing centers that meet certain standards for finding new ways to prevent, diagnose, and treat cancer. There are 72 NCI-designated cancer centers across 36 states and the District of Columbia. Florida has four NCI-designated cancer centers: the Sylvester Comprehensive Cancer Center, the University of Florida Shands Cancer Center, the Mayo Clinic Cancer Center, and the Moffitt Cancer Center.<sup>251</sup>

The Sylvester Comprehensive Cancer Center in Miami is part of the University of Miami Health System and the University of Miami Miller School of Medicine. Sylvester has a team of over 2,500 physicians and staff and is currently conducting more than 430 cancer-focused clinical trials.<sup>252</sup> The center has multidisciplinary research programs such as cancer epigenetics, cancer control, and tumor biology.<sup>253</sup>

The Mayo Clinic Cancer Center is the only NCI-designated cancer center that has three geographic sites. It was one of the first centers to receive NCI designation in 1973. Florida's Mayo Clinic Cancer Center is in Jacksonville and the other two locations are in Arizona and Minnesota. Research covers many topics such as cancer immunology and immunotherapy, experimental therapeutics, gastrointestinal cancer, and women's cancer.<sup>254</sup>

Within the University of Florida Shands Cancer Center there is the Brain Tumor Immunotherapy Program, which studies and develop several approaches to the immunologic treatment of pediatric and adult malignant brain tumors.<sup>255</sup> Immunotherapy, also called biologic therapy, is a type of cancer treatment designed to boost the body's natural defenses to fight the cancer.<sup>256</sup>

Additionally, at the University of Florida, there is the Norman Fixel Institute for Neurological Diseases.<sup>257</sup> The Institute provides multi-disciplinary, patient-centered care and treatment to people living with complex neurological disorders and treats diseases such as Parkinson's disease, multiple sclerosis, Alzheimer's disease, and essential tremor.<sup>258</sup>

#### *Taxes on Alcohol Beverage Sales*

Florida imposes excise taxes on beer and malt beverages, wines, and other beverages.<sup>259</sup> The taxes are due from manufacturers, distributors and vendors of beer and malt beverages, and from

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<sup>251</sup> National Cancer Institute, *NCI-Designated Cancer Centers*, available at <https://www.cancer.gov/research/infrastructure/cancer-centers> (last visited March 19, 2024); National Cancer Institute, *Find a Cancer Center*, available at <https://www.cancer.gov/research/infrastructure/cancer-centers/find> (last visited March 19, 2024).

<sup>252</sup> Sylvester Comprehensive Cancer Center, *About Sylvester*, available at <https://umiamihealth.org/en/sylvester-comprehensive-cancer-center/about-sylvester> (last visited March 19, 2024).

<sup>253</sup> National Cancer Institute, *Sylvester Comprehensive Cancer Center*, available at <https://www.cancer.gov/research/infrastructure/cancer-centers/find/sylvester-miami> (last visited March 19, 2024).

<sup>254</sup> National Cancer Institute, *Mayo Clinic Cancer Center*, available at <https://www.cancer.gov/research/infrastructure/cancer-centers/find/mayoclinic> (last visited March 19, 2024).

<sup>255</sup> University of Florida, UF Brain Tumor Immunotherapy Program, available at <https://braintumors.ufhealth.org/science/uf-brain-tumor-immunotherapy-program/> (last visited March 19, 2024).

<sup>256</sup> *Id.*

<sup>257</sup> University of Florida, Norman Fixel Institute for Neurological Diseases, available at <https://fixel.ufhealth.org/> (last visited March 19, 2024).

<sup>258</sup> University of Florida, About the Fixel Institute, available at <https://fixel.ufhealth.org/about/> (last visited March 19, 2024).

<sup>259</sup> Ss. 563.05, 564.06, and 565.12, F.S.

manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) in DBPR.

The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.<sup>260</sup> Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Collections of alcoholic beverage taxes are forecasted to be \$297.6 million in Fiscal Year 2024-2025 with distributions to General Revenue of \$292 million.<sup>261</sup>

### Effect of Proposed Changes

The bill provides a monthly distribution from the Alcoholic Beverage and Tobacco Trust Fund to certain medical research centers and programs. A total annual distribution of \$30 million is allocated as follows:

- \$10 million to the University of Miami Sylvester Comprehensive Cancer Center;
- \$10 million to the Mayo Clinic Comprehensive Cancer Center in Jacksonville;
- \$5 million to the Brain Tumor Immunotherapy Program at the University of Florida Health Shands Cancer Center; and
- \$5 million to the Norman Fixel Institute for Neurological Diseases at the University of Florida.

These funds may be used for constructing, furnishing, equipping, financing, operating, and maintaining research and clinical and related facilities; and furnishing, equipping, operating, and maintaining other properties owned or leased by these medical research centers and programs. Funds may not be used to secure bonds or other forms of indebtedness, and cannot be pledged for debt service.

This distribution is repealed June 30, 2054.

### Technical Updates

#### Current Situation

The antiquated term “tax assessor” is used in several places in statute.

#### Effect of Proposed Changes

The bill makes technical changes to update antiquated language in statute. References to the “tax assessor” are updated with the terms “property appraiser” or “tax collector,” as appropriate.

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<sup>260</sup> S. 561.02, F.S.

<sup>261</sup> *General Revenue Consensus Estimating Conference Comparison Report dated January 16, 2024*, p. 24, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited March 19, 2024).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See FISCAL COMMENTS section.

#### 2. Expenditures:

See FISCAL COMMENTS section.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See FISCAL COMMENTS section.

#### 2. Expenditures:

See FISCAL COMMENTS section.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides for a number of temporary sales tax benefits: a 14-day sales tax holidays for back-to-school; two 14-day sales tax holidays for disaster preparation supplies; a one-month holiday for recreational items and activities; and a 7-day sales tax holiday for skilled worker tools. The bill also extends the sales tax filing and remittance deadlines for certain states of emergency.

The bill also benefits corporate income taxpayers in Florida by creating a corporate income tax credit for businesses that hire persons with disabilities; extending filing deadlines when a federal disaster has been declared; and updating the railroad expenditure tax credit.

The bill expands the ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to renewable energy source devices; clarifies how back taxes are charged when certain property assessment limitations are improperly received, and provides for the creation of and updates to affordable housing property tax exemptions.

The bill also creates insurance premium deductions on certain residential and flood policy premiums, and creates a temporary tax credit for certain employee childcare expenses.

#### FISCAL COMMENTS:

The total state and local government impact of the bill in Fiscal Year 2024-25 is estimated to be -\$439.6 million (-\$86.9 million recurring), of which -\$404.2 million (-\$81.6 million recurring) is on General Revenue, -\$4.1 million (-\$3.2 million recurring) is on state trust funds, and -\$31.3 million (-\$2.1 million recurring) is on local government (see following table). Total tax reductions embodied in the language are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$913.8 million in tax reductions in the bill is the sum of -\$86.9 million (recurring), -\$421.5 million (pure nonrecurring in Fiscal Year 2024-25), and -\$405.4 million (pure nonrecurring after Fiscal Year 2024-25).

## Fiscal Year 2024-25 Estimated Fiscal Impacts (Millions of \$)

Tax Package	FY 2024-25							
	General Revenue		Trust Fund		Local		Total	
	Cash	Recur	1st Year	Recur	1st Year	Recur	1st Year	Recur
Sales Tax: Prepayment of Sales Tax on Motor Vehicle Leases	9.1	(1.1)	*	(*)	2.4	(0.2)	11.5	(1.3)
Sales Tax: Freedom Sales Tax Holiday	(72.5)	-	(*)	-	(19.3)	-	(91.8)	-
Sales Tax: Back-to-School Sales Tax Holiday	(76.7)	-	(*)	-	(20.5)	-	(97.2)	-
Sales Tax: Disaster Preparedness Sales Tax Holidays	(63.3)	-	(*)	-	(16.9)	-	(80.2)	-
Sales Tax: Tool Time Sales Tax Holiday	(15.7)	-	(*)	-	(4.1)	-	(19.8)	-
Sales Tax: Distribution for Horse Breeding and Racing Promotion	-	(27.5)	-	-	-	-	-	(27.5)
Sales Tax: Distribution to JP-PAS from Tax Collection Diversion Program	(0.7)	(0.7)	-	-	(0.2)	(0.2)	(0.9)	(0.9)
Ad Valorem: Renewable Energy Source Device Assessment Limitation	-	-	-	-	-	(1.3)	-	(1.3)
Ad Valorem: Construction Work in Progress	-	-	-	-	(2.9)	(2.9)	(2.9)	(2.9)
Ad Valorem: Extend Homestead rebuild time	-	-	-	-	-	(0.9)	-	(0.9)
Ad Valorem: Removes back taxes in certain circumstances	-	-	-	-	-	-	-	-
Ad Valorem: Requires additional information with notices of tax liens	-	-	-	-	-	-	-	-
Ad Valorem: Affordable Housing - Taxing authority "opt out"	-	-	-	-	0/**	0/**	0/**	0/**
Ad Valorem: "Missing Middle" Flexibility	-	-	-	-	(**)	(**)	(**)	(**)
Ad Valorem: Affordable Housing - First 15 Year Exemption	-	-	-	-	-	(26.6)	-	(26.6)
Corp. Inc. Tax: Adoption of the Internal Revenue Code	-	-	-	-	-	-	-	-
Corp. Inc. Tax: Persons with Unique Abilities Tax Credit - Three Years	(5.0)	-	-	-	-	-	(5.0)	-
Corp. Inc. Tax: Short line RR Tax Credit Timing	(**)	-	-	-	-	-	(**)	-
Insurance Tax: Policy Premium Deductions and Credit	(100.5)	-	-	-	-	-	(100.5)	-
Insurance Tax: Flood Insurance Deductions and Credit	(7.2)	-	-	-	-	-	(7.2)	-
Insurance Tax: Fire Marshal Deductions and Credit	(13.1)	-	-	-	-	-	(13.1)	-
Doc. Stamp Tax: Reverse Mortgages - Limitation	(2.3)	(2.3)	(3.1)	(3.2)	-	-	(5.4)	(5.5)
Doc Stamp Tax: Alarm Systems - Exemption - Three Years	(0.7)	-	(1.0)	-	-	-	(1.7)	-
Local Sales Taxes: Allow Duval to Levy Indigent Care Sales Surtax	-	-	-	-	-	0/**	-	0/**
Local Option Tax: Local Food & Beverage Tax - Voter Clarification	-	-	-	-	-	-	-	-
Beverage Tax: Distribution to Medical Centers	(30.0)	(30.0)	-	-	30.0	30.0	-	-
Multiple Taxes: Strong Families - Increase Cap	(20.0)	(20.0)	-	-	-	-	(20.0)	(20.0)
Multiple Taxes: Strong Families - Designation Criterion/Services	-	-	-	-	-	-	-	-
Multiple Taxes: Childcare Tax Credits - Three Years	(5.0)	-	-	-	-	-	(5.0)	-
Multiple Taxes: Automatic Extension of Time for Returns	-	-	-	-	-	-	-	-
Tax Administration: Event Impacting Timely Challenge	(**)	(**)	(**)	(**)	(**)	(**)	(**)	(**)
Tax Administration: Garnishment/Levy Bundling	0/**	0/**	0/**	0/**	0/**	0/**	0/**	0/**
Tax Administration: Imposition of Surtax Limitation: Boats and Trailers	-	-	-	-	(**)	(**)	(**)	(**)
Tax Administration: Boats and airplanes removed from the state	-	-	-	-	-	-	-	-
Tax Administration: Remove obsolete language - pollutants tax registration	-	-	-	-	-	-	-	-
Misc.: Updates antiquated language- 'property assessor'	-	-	-	-	-	-	-	-
DOR Administrative Appropriation	(0.4)	-	-	-	-	-	(0.4)	-
Property Tax Reimbursement to Fiscally Constrained Counties - Idalia	(0.2)	-	-	-	0.2	-	-	-
<b>FY 2024-25 Total</b>	<b>(404.2)</b>	<b>(81.6)</b>	<b>(4.1)</b>	<b>(3.2)</b>	<b>(31.3)</b>	<b>(2.1)</b>	<b>(439.6)</b>	<b>(86.9)</b>
<b>Non-recurring Impacts After FY 2024-25</b>								
	General Revenue		Trust Fund		Local		Total	
	Cash		Cash		Cash		Cash	
Insurance Tax: Policy Premium Deductions and Credit	(317.0)	-	-	-	-	-	(317.0)	-
Insurance Tax: Flood Insurance Deductions and Credit	(22.7)	-	-	-	-	-	(22.7)	-
Insurance Tax: Fire Marshal Deductions and Credit	(41.3)	-	-	-	-	-	(41.3)	-
Fuel Tax: Natural Gas Fuel Tax 1-year Rate Reduction	(0.1)	-	(0.4)	-	(0.2)	-	(0.7)	-
Corp. Inc. Tax: Persons with Unique Abilities Tax Credit - Three Years	(10.0)	-	-	-	-	-	(10.0)	-
Multiple Taxes: Childcare Tax Credits - Three Years	(10.0)	-	-	-	-	-	(10.0)	-
Doc Stamp Tax: Alarm Systems - Exemption - Three Years	(2.0)	-	(1.7)	-	-	-	(3.7)	-
Subtotal for Out Years	(403.1)	-	(2.1)	-	(0.2)	-	(405.4)	-
<b>Bill Total</b>	<b>(807.3)</b>	<b>(81.6)</b>	<b>(6.2)</b>	<b>(3.2)</b>	<b>(31.5)</b>	<b>(2.1)</b>	<b>(845.0)</b>	<b>(86.9)</b>
							Pure Nonrecurring=	<b>(826.9)</b>
							Recurring + Nonrecurring=	<b>(913.8)</b>
(*) Impact less than \$100,000; (**) Impact is indeterminate; (+/-) impact could be positive or negative. (1) Recurring tax cut total (excl. appropriations) = \$ 86.9 million Pure nonrecurring tax cuts in FY 2024-25= \$421.5 million Pure nonrecurring tax cuts after FY 2024-25= \$405.4 million \$913.8 million								