# Ways & Means Committee

**Wednesday, February 14, 2024**
**2:00 PM – 6:00 PM**
**Sumner Hall (404 HOB)**

## MEETING PACKET

**Paul Renner**
**Speaker**

**Stan McClain**
**Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Ways & Means Committee

**Start Date and Time:** Wednesday, February 14, 2024 02:00 pm

**End Date and Time:** Wednesday, February 14, 2024 06:00 pm

**Location:** Sumner Hall (404 HOB)

**Duration:** 4.00 hrs

**Consideration of the following proposed committee bill(s):**

PCB WMC 24-05 -- Taxation
PCB WMC 24-06 -- Tangible Personal Property Tax Exemption
PCB WMC 24-07 -- Tangible Personal Property Tax Exemption Implementing Bill

**Consideration of the following bill(s):**

HB 295 Disclosure of Estimated Ad Valorem Taxes by Anderson
HB 503 Limitation on Local Fees for Virtual Offices by Fabricio
CS/HB 1177 Land Development by Local Administration, Federal Affairs & Special Districts Subcommittee, Duggan

**Consideration of the following proposed committee substitute(s):**

PCS for HB 141 -- Regional Rural Development Grants Program
PCS for CS/HB 927 -- Improvements to Real Property

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

**NOTICE FINALIZED on 02/12/2024 3:41PM by RSD**

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB WMC 24-05 Taxation
**SPONSOR(S):** Ways & Means Committee
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| Orig. Comm.: Ways & Means Committee | | Rexford | Aldridge |

**SUMMARY ANALYSIS**


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, in July and August 2024, for certain clothing, school supplies, learning aids and puzzles, and personal computers; two 14-day "disaster preparedness" holidays in June and parts of August and September of 2024 for specified disaster preparedness supplies for families and their pets; a "Freedom Month" tax holiday for July 2024 for specified recreational items and activities; and a seven-day "Tool Time" tax holiday in September for tools and equipment needed in skilled trades;
- Decreases the business rent tax rate to 1.25% for one year;
- Expands the 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;
- Requires all new local discretionary sales surtax ordinances to be approved by referendum at least every 10 years; and
- Allows Duval County to levy an indigent care sales surtax if approved by voters.

For corporate income tax, the bill:

- Adopts the Internal Revenue Code in effect on January 1, 2024, to conform with federal provisions; and
- Creates a corporate income tax credit for businesses that hire persons with disabilities.

For property taxes, the bill:

- Expands the ad valorem tax assessment limitations for renewable energy source devices to include facilities used to capture and convert biogas to renewable natural gas; and
- Clarifies that for tangible personal property constructed by an electric utility, construction work in progress is not deemed substantially completed unless all permits/approvals required for commercial operation have been received or approved.

The bill also limits all new tourist development taxes (TDTs) to 6 years, requires existing TDTs to be approved by voters by July 1, 2029 to continue (with exceptions), allows certain counties designated as an area of critical state concern to use specified local tax surpluses to provide affordable housing for workers; provides automatic filing extensions for sales tax dealers and corporate income taxpayers in certain emergencies; increases the annual cap of the Strong Families Tax Credit Program to $40 million; limits documentary stamp tax assessments for reverse mortgages; increases the percentage of revenue collected from the Sales Tax Collection Enforcement Diversion Program that goes to the JP-PAS Program; distributes $27.5 million for 2 additional fiscal years to promote the breeding and racing of horses in Florida; and makes technical and clarifying updates.

Staff estimates the total state and local government impact of the bill in fiscal year 2024-25 is -$647.3 million (-$28.6 million recurring). See Fiscal Comments section for details.

The bill is effective July 1, 2024, except as otherwise provided.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Sales Tax**

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,[1] unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's General Revenue (projected 75.2 percent for FY 2023-24)[2] and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

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

**Sales Tax Holidays**

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.

[1] Commercial real estate rentals are subject to a 4.5% sales tax pursuant to s. 212.031(1)(c), F.S.
[2] 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 Feb. 10, 2024).
[3] 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/lgfih23.pdf (last visited Feb. 10, 2024).
[4] *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, exempted are 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 five 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 the Department of Revenue 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 estimated insured losses of over $309 million due to Hurricane Idalia in 2023,[5] $19.6 billion due to Hurricanes Ian and Nicole in 2022,[6] $9.1 billion due to Hurricane Michael in 2018,[7] $20.7 billion due to Hurricane Irma in 2017, [8] and $1.3 billion due to hurricanes Hermine and Mathew in 2016.[9]

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 kit.[10]

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

[5] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://floir.com/home/idalia (last visited Feb. 4, 2024).
[6] 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 Feb. 4, 2024).
[7] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx (last visited Feb. 4, 2024).
[8] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx (last visited Feb. 4, 2024).
[9] 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 visited Feb. 4, 2024).
[10] Florida Division of Emergency Management, *Disaster Supply Kit Checklist*, available at: https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/ (last visited Feb. 4, 2024).

| Dates | Length | TAX EXEMPTION THRESHOLDS | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | Reusable Ice | Light Source | Fuel Containe-rs | Batteries | Coolers and Ice Chests | Radios | Tie down tools and sheeting | Generato-rs |
| May 21-June 1, 2006[11] | 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[12] | 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[13] | 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[14] | 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[15] | 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[16] | 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 holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for $40 or less;
- A portable self-powered radio, two-way radio, or weather-band radio selling for $50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for $100 or less;
- An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for $100 or less;
- A gas or diesel fuel tank selling for $50 or less;

[11] 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.
[12] *Id.*
[13] 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 (last visited Feb. 4, 2024).
[14] This holiday also included portable power banks selling for $60 or less.
[15] 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).
[16] 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 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:[17]

- 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;
- Season tickets to ballet, play, music events, or musical theatre performances;

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

- Entry to a 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[18]
  - 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 repellant 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.

***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.[19] The cost of educational materials, tools, and other items can be a barrier to education, training, and employment for skilled trade workers.

[18] The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.
[19] Regional Demand Occupations List, available at: https://lmsresources.labormarketinfo.com/library/rdol/rdol_all_2324.xlsx (last visited Feb. 11, 2024).

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.

**Sales Tax Exemption on Certain Motor Vehicles**

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.[20] When a motor vehicle is leased or rented in Florida, the entire amount of such rental is taxable at the rate of 6 percent[21] of the gross proceeds derived from the lease or rental.[22] A "lease or

[20] S. 212.05(1), F.S.
[21] Discretionary county sales surtax, if any, is also owed if the 6 percent Florida state sales tax applies. *See* s. 212.054, F.S.
[22] S. 212.05(1)(c), F.S.

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.[23] 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.[24] 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.[25]

*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.[26] 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.[27]

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.[28]

**Business Rent Tax Rate Reduction**

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.[29] Sales tax is due at the rate of 4.5 percent on the total rent paid for the right to use or occupy commercial real property. Local option sales surtaxes can also apply.[30] If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also include licenses granting the use of real property for the placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and

[23] S. 212.02(10)(g), F.S.
[24] Rule 12A-1.007(13)(a)1, F.A.C.
[25] Rule 12A-1.007(13)(a)2., F.A.C.
[26] S. 212.05(1)(c)3., F.S.
[27] S. 316.003(14)(a), F.S.
[28] S. 316.003(46), F.S.
[29] Ch. 1969-222, L.O.F.
[30] S. 212.031, F.S., and Rule 12A-1.070, F.A.C.

- Public streets or roads used for transportation purposes.

In 2021, the Legislature approved a reduction to the business rent tax from 5.5% to 2%, effective the first day of the second month after the Office of Economic and Demographic Research notifies the Department of Revenue that the Unemployment Compensation Trust Fund has reached its pre-pandemic balance[31]. This notification is expected to happen in April 2024, resulting in the business rent tax rate lowering to 2% beginning June 1, 2024.[32]

Florida is the only state to charge sales tax on commercial rentals of real property.

Effect of Proposed Changes

The bill reduces the business rent tax rate for one year to 1.25%, from July 1, 2024, through June 30, 2025.

**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.[33] 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 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% to 1.5%, and are levied by 65 of the 67 counties.[34] Approved purposes include:

a. Operating a transportation system in a charter county;[35]
b. Financing local government infrastructure projects;[36]
c. Providing additional revenue for specified small counties;[37]
d. Providing medical care for indigent persons;[38]
e. Funding trauma centers;[39]
f. Operating, maintaining, and administering a county public general hospital;[40]
g. Constructing and renovating schools;[41]
h. Providing emergency fire rescue services and facilities; and[42]
i. Funding pension liability shortfalls.[43]

[31] See s. 14, ch. 2021-2, as amended by s. 46, ch. 2021-31, L.O.F.
[32] The Office of Economic & Demographic Research, *Unemployment Compensation Trust Fund Forecast*, available at http://edr.state.fl.us/Content/conferences/unemployment-compensation-trust-fund/January2024ForecastSummary.pdf (last visited Feb. 10, 2024).
[33] The tax rates, duration of the surtax, method of imposition, and proceed 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.
[34] Discretionary Sales Surtax Information for Calendar Year 2024, Form DR-15DSS, available at https://floridarevenue.com/Forms_library/current/dr15dss.pdf (last visited January 25, 2024).
[35] S. 212.055(1), F.S.
[36] S. 212.055(2), F.S.
[37] 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.
[38] 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).
[39] S. 212.055(4)(b), F.S.
[40] S. 212.055(5), F.S.
[41] S. 212.055(6), F.S.
[42] S. 212.055(8), F.S.
[43] S. 212.055(9), F.S.

## Discretionary Sales Surtax Referendums

### Current Situation

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by a vote of the county commission.[44] Some of the surtaxes have set periods of time that they can be enacted for before requiring reenactment, others have no such specified time limit.

The Florida Election Code provides the general requirements for a referendum.[45] The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a "yes" or "no" vote on the measure indicates approval or rejection, respectively.[46] The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.[47] The ballot summary and title must be included in the resolution or ordinance calling for the referendum.[48] For some discretionary sales surtaxes, the form of the ballot question is specified by statute.[49]

Five types of elections exist under the Florida Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.[50] Historically, voter turnout during a general election is higher than during other elections.[51] A referendum to adopt, amend, or reenact a local government discretionary sales surtax under must be held at a general election. A referendum to reenact an expiring surtax must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted surtax Such a referendum may appear on the ballot only once within the 48-month period.[52]

### Effect of Proposed Changes

The bill requires that a referendum be held in order to enact, reenact, extend, or amend any discretionary sales surtax. The bill also establishes a 10-year maximum time limit for all new surtax ordinances, except for the .25% trauma center surtax that may be levied for counties with a population of less than 800,000 residents.[53] The bill retains the existing four-year limitation for that surtax.

## 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[54]

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[44] *See generally* s. 212.055, F.S.; *but see* s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4), F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).
[45] S. 101.161, F.S.
[46] S. 101.161(1), F.S.
[47] *Id*.
[48] *Id*.
[49] *See* s. 212.055(4)(b)1., F.S.
[50] S. 97.021(13), F.S.
[51] Department of State, Division of Elections, Data and Statistics, Election Data, Voter Turnout, available at: http://dos.myflorida.com/elections/data-statistics/elections-data/voter-turnout/ (last viewed Feb. 7, 2024).
[52] S. 212.055(10), F.S.
[53] S. 212.055(4)(b)4., F.S.
[54] 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

persons, as well as Level I trauma center services.[55] This tax is imposed by ordinance approved by an extraordinary vote of the governing body or conditioned upon approval by referendum.[56]

Effect of Proposed Changes

The bill removes current statutory language excluding counties consolidated with one or more municipalities[57] 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.

**Tourist Development Taxes**

The Local Option Tourist Development Act[58] authorizes counties to levy five separate taxes on transient rental[59] transactions (tourist development taxes or TDTs).

***TDT Referenda***

Current Situation

Prior to the authorization of any TDTs, the levy must be approved by a countywide referendum held at a general election[60] and approved by a majority of the electors voting in the county.[61] A referendum to reenact an expiring TDT must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted tax and the referendum may only appear on the ballot once with the 48-month period.

Each county proposing to levy the original one or two percent tax must adopt an ordinance for the levy and imposition of the tax,[62] which must include a plan for tourist development prepared by the tourist development council.[63] The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use.[64] The plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.[65]

Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.[66]
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least three years.[67]

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or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage." Section 212.055(4)(a)4.b., F.S.

[55] S. 212.055(4)(a)3., F.S.

[56] S. 212.055(4)(a)1., F.S.

[57] Currently this is only Duval County.

[58] S. 125.0104, F.S.

[59] S. 125.0104(3)(a)(1), F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

[60] See generally s. 125.0104, F.S.

[61] *Id.*

[62] S. 125.0104(4)(a), F.S.

[63] S. 125.0104(4), F.S.

[64] *See* s. 125.0104(4), F.S.

[65] *See* s. 125.0104(4), F.S. The provisions found in s. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

[66] S. 125.0104(3)(c), F.S. All sixty-seven of Florida's counties are eligible to levy this tax, but only sixty-two counties have done so, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), *County Tax Rates: CY 2007-2024*, available at http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm (last visited February 10, 2024). These counties are estimated to realize $709 million in revenue from these taxes in the 2023-24 fiscal year. EDR, *2023 Local Government Financial Information Handbook* (January 2024), p. 259, http://edr.state.fl.us/Content/local-government/reports/lgfih23.pdf (last visited February 10, 2024).

- A high tourism impact tax may be levied at an additional 1 percent.[68]
- A professional sports franchise facility tax may be levied up to an additional 1 percent.[69]
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[70]

Effect of Proposed Changes

The bill provides that ordinances that levy and impose a TDT expire six years after the date the ordinance is approved in a referendum, but may be may renewed for a subsequent period of up to six years if approved in a referendum. Further, any TDT in effect on June 30, 2024, must be renewed by an ordinance approved in a referendum on or before July 1, 2029, to remain in effect. In order to avoid impairment of existing local debt obligations, the bill provides exceptions for current levies if such levies have been pledged for debt service.

***TDT Transfer in Areas of Critical State Concern***

Current Situation

*Tourist Development Tax Uses*

Current law authorizes counties to levy and spend TDTs as a mechanism for funding a variety of tourist-related uses, including tourism promotion, financing and constructing of public facilities needed to increase tourist-related business activities in the county, beach restoration and maintenance projects, convention centers, and professional sports franchise facilities.[71] Such uses are tied to the specific TDT being levied.

*Tourist Impact Tax*

In addition to tourist development tax, any county that has created a land authority may levy a tourist impact tax of 1 percent on all transient rental facilities within the county located in areas designated as an area of critical state concern.[72] If more than 50 percent of the land area of the county is located in an area of critical state concern, the tax may be levied countywide. The proceeds of the tax are used to purchase property in the area of critical state concern and to offset the loss of ad valorem taxes due to those land acquisitions.[73] Currently, Monroe County is the only county eligible to levy this tax.[74]

Effect of Proposed Changes

The bill provides for a county that has been designated as an area of critical state concern that levies a tourist development tax and a tourist impact tax to use its accumulated surplus from those taxes collected through September 30, 2024, for the purpose of providing affordable housing for employees

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[67] S. 125.0104(3)(d), F.S. Fifty-six of the eligible fifty-nine counties levy this tax, with an estimated 2023-24 state fiscal year collection of $291 million in revenue. EDR, *2023 Local Government Financial Information Handbook* (January 2024), p. 263, http://edr.state.fl.us/Content/local-government/reports/lgfih23.pdf (last visited February 10, 2024).
[68] S. 125.0104(3)(m), F.S. Ten of the fourteen eligible counties levy this tax, with an estimated 2023-24 state fiscal year collection of $201 million in revenue. *Id*. at p. 269.
[69] S. 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-six of the sixty-seven eligible counties levy this additional tax, with an estimated 2023-24 state fiscal year collection of $330 million in revenue. *Id*. at p. 267.
[70] S. 125.0104(3)(n), F.S. Thirty-six of sixty-five eligible counties levy the additional professional sports franchise facility tax, with an estimated 2023-24 state fiscal year collection of $252 million in revenue. *Id*. at p.273.
[71] S. 125.0104, F.S.
[72] S. 125.0108, F.S.
[73] S. 125.0108(3), F.S.
[74] Office of Economic and Demographic Research, *2023 Florida Tax Handbook*, 306 http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf (last visited Feb. 10, 2024).

of tourism-related businesses in the county. Any housing financed with funds from this surplus must be used as affordable housing for a minimum of 99 years.

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

Current Situation

In 1967, Florida authorized the municipal resort tax.[75] The law authorized cities and towns meeting certain population requirements located within counties also meeting certain population requirements to levy the tax.[76] 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.[77]

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.[78] 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.[79]

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 the city or town at a general election.[80]

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.

**Corporate Income Tax**

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.[81] 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.[82] 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.[83] By doing this, Florida adopts any changes related to determining federal taxable income that were made during the previous year. However, a state may choose to not

[75] Ch. 67-930, L.O.F.
[76] S. 1, ch. 67-930, L.O.F.
[77] S. 1, ch. 67-930, L.O.F.
[78] S. 212.0306, F.S.
[79] S. 212.0306(1), F.S.
[80] S. 21, ch. 2023-157, L.O.F.
[81] S. 220.11(2), F.S.
[82] S. 220.12, F.S.
[83] Ss. 220.03(1)(n) and (2)(c), F.S.

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.

Effect of Proposed Changes

The bill updates the Florida corporate income tax code by adopting the IRC as 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.[84] 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;[85] 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.[86]

Effect of Proposed Changes

The bill creates s. 220.19912, 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.

**Credits Available Against Multiple Taxes**

***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.[87] The organizations are certified by the Department of Children and Families (DCF).[88] 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

[84] Ch. 2016-3, L.O.F.
[85] The Employment First Florida website is available at https://www.employmentfirstfl.org/ (last visited February 7, 2024).
[86] 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 February 7, 2024).
[87] Ch. 2021-31., L.O.F.
[88] *See,* https://www.myflfamilies.com/about/strong-families-tax-credit (last visited Feb. 4, 2024).

beer, wine and spirits.[89] 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.[90] The application period begins at 12:01am on January 1st 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.[91] 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.[92] DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of DBPR to approving an alcoholic beverage tax credit under s. 561.1213, F.S.[93]

Effect of Proposed Changes

The bill increases the annual cap for the Strong Families program from $20 million per state fiscal year to $40 million per state fiscal year, beginning in FY 2024-25.

The bill also provides that the application window for the Strong Families tax credit begins at 9 a.m. on the first day of the calendar year preceding the fiscal year that is not a Saturday, Sunday, or legal holiday, beginning in FY 2025-26. For FY 2024-25, taxpayers may apply for the additional $20 million credit beginning at 9:00 a.m. on July 1, 2024.

**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 property,[94] 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.[95]

The property appraiser annually determines the "just value"[96] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[97] Tax bills are mailed in November of each year, and payment is due by March 31.[98] The tax is based on the taxable value of property as of January 1 of each year.[99]

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.[100] All tangible personal

[89] S. 402.62, F.S., along with ss. 211.0253, 212.1834, 220.1877, 561.1213, and 624.51057, F.S.
[90] S. 402.62(5)(b), F.S.
[91] S. 402.62(5)(b)1., F.S.
[92] Ch. 2023-157, s. 38, L.O.F.; S. 402.62(5)(a), F.S.
[93] S. 402.62(5)(b)1., F.S.
[94] Art. VII, s. 1(a), Fla. Const.
[95] Art. VII, s. 9., Fla. Const.
[96] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. (Art. VII, s. 4, Fla. Const.). 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. See Walter v. Shuler, 176 So. 2d 81 (Fla. 1965); Deltona Corp. v. Bailey, 336 So. 2d 1163 (Fla. 1976); Southern Bell Tel. & Tel. Co. v. Dade County, 275 So. 2d 4 (Fla. 1973).
[97] Ss. 192.001(2) and (16), F.S.
[98] Ss. 197.322 and 197.333, F.S.
[99] S. 192.042, F.S.
[100] S. 192.001(11)(d), F.S.

property is subject to ad valorem taxation unless expressly exempted.[101] Household goods and personal effects,[102] items of inventory,[103] and up to $25,000 of assessed value for each tangible personal property tax return[104] are exempt from ad valorem taxation.

TPP taxes apply to persons conducting business operations. Anyone who owns TPP and has a proprietorship, partnership, corporation, who leases, lends, or rents property, or who is a self-employed agent or contractor, must file a TPP return to the property appraiser by April 1 each year.[105]

***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.[106] 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.[107] 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;
- 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.[108]

*Partial Exemption of Tangible Personal Property*

Tangible personal property (TPP) taxes apply to persons conducting business operations. Anyone who owns TPP and has a proprietorship, partnership, corporation, who leases, lends, or rents property, or who is a self-employed agent or contractor, must file a TPP return to the property appraiser by April 1

[101] S. 196.001(1), F.S.
[102] S. 196.181, F.S.
[103] S. 196.185, F.S.
[104] S. 196.183, F.S.
[105] S. 193.062, F.S.; *see also* FLA. DEP'T OF REVENUE, *Tangible Personal Property*, https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited Feb. 10, 2024).
[106] S. 193.624(2), F.S.
[107] S. 193.624(3), F.S.
[108] S. 193.624(1), F.S.

each year.[109] Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to $25,000 of assessed value.[110] A single return must be filed for each site in the county where the owner of tangible personal property transacts business.[111]

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[112]:

- 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[113] that has been upgraded or refined for use in place of fossil natural gas. Under Florida Law, 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."[114]

Sources of biogas that are later refined to produce RNG include organic waste from food, agriculture, wastewater treatment and landfills.[115] In order to complete the process of converting biogas into RNG, facilities capture the biogas, "clean" it to pipeline standards, and then inject it into the pipeline for customer use.[116] At least three facilities in Florida are converting biogas into RNG,[117] with more in development.[118]

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, and

[109] S. 193.062, F.S.; *see also* FLA. DEP'T OF REVENUE, *Tangible Personal Property*, https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited February 4, 2024).
[110] S. 196.183(1), F.S.
[111] S. 196.183(1), F.S.
[112] 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.
[113] Section 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."
[114] *See also* s. 212.08(5)(v)1., F.S.
[115] 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 (last visited February 4, 2024).
[116] 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/loaddoc.aspx?PublicationType=Committees&CommitteeId=3226&Session=2024&DocumentType=Meeting+Packets&FileName=ecc+12-6-23.pdf (last visited February 4, 2024).
[117] *Id*. at slide 10, 12-16.
[118] Nasdaq, *Chesapeake Utilities Corporation to Develop its First RNG Facility in Florida* (Feb. 21, 2023), https://www.nasdaq.com/press-release/chesapeake-utilities-corporation-to-develop-its-first-rng-facility-in-florida-2023-02 (last visited February 4, 2024) (Chesapeake Utilities Corporation is installing a dairy manure renewable natural gas facility in Madison County, Florida).

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.

***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.[119] All tangible personal property is subject to ad valorem taxation unless expressly exempted.[120] Household goods and personal effects,[121] items of inventory,[122] and up to $25,000 of assessed value for each tangible personal property tax return[123] 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.[124]

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.

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 not deemed substantially completed unless all permits or approvals required for commercial operation have been received or approved.

**Documentary Stamp Tax**

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.[125]

The tax on deeds and other documents related to real property is 70 cents per $100,[126] and the tax on bonds, debentures, certificates of indebtedness, promissory notes, nonnegotiable notes, and other

[119] S. 192.001(11)(d), F.S.
[120] S. 196.001(1), F.S.
[121] S. 196.181, F.S.
[122] S. 196.185, F.S.
[123] S. 196.183, F.S.
[124] S. 193.062, F.S.; *see also* DOR, Tangible Personal Property, https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited Feb. 10, 2024).
[125] Florida Department of Revenue, *Florida Documentary Stamp Tax, available at* https://floridarevenue.com/taxes/taxesfees/pages/doc_stamp.aspx (last visited Feb. 9, 2024).
[126] S. 201.02(1)(a), F.S.

written obligations to pay money is 35 cents per $100.[127] Documentary stamp taxes levied on promissory notes, nonnegotiable notes, and written obligations may not exceed $2,450.[128]

***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.[129] When the homeowner moves or dies, the proceeds from the sale of the home are used to pay off the reverse mortgage loan.[130] 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.[131]

The principal limit amount is the maximum amount that a homeowner can borrow under the loan.[132] 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).[133] HUD requires certain reverse mortgage lenders to state the maximum mortgage amount as 150% of the maximum claim amount in the mortgage documents.[134] 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.[135]

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.[136] 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.

[127] Ss. 201.07 and 201.08(1)(b), F.S.
[128] S. 201.08(1)(a), F.S.
[129] Federal Trade Commission, *Reverse Mortgages*, https://consumer.ftc.gov/articles/reverse-mortgages (last visited Feb. 9, 2024).
[130] *Id*.
[131] *Id*.
[132] Consumer Financial Protection Bureau, *Reverse Mortgages Key Terms*, https://www.consumerfinance.gov/consumer-tools/reverse-mortgages/answers/key-terms/ (last visited Feb. 9, 2024).
[133] *Id*.
[134] 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 Feb. 10, 2024).
[135] *Id*.
[136] Rule 12B-4.052(1)(b), F.A.C.

## Tax Administration

### *Extension of Filing Times*

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 the Department of Revenue, usually on a monthly basis.[137] Dealers are required to file a return and remit the taxes owed to the state by the 20th day of each month.[138] 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.[139] However, the Executive Director of the Department of Revenue has the authority to extend the stipulated due date for tax returns and accompanying tax payments if there is a declared state of emergency.[140]

*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.[141] The due dates to file several tax returns related to corporate income tax 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 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.[142] the Executive Director of the Department of Revenue has the authority to extend the stipulated due date for tax returns and accompanying tax payments if there is a declared state of emergency.[143] In addition, the Department of Revenue can grant an extension or extensions of time for the filing of any return for good cause upon request.[144]

Effect of the Proposed Changes

The bill requires the Department of Revenue 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 20th day of the month. The extension only applies to taxpayers within the counties affected by the state of emergency.

The bill requires the Department of Revenue 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.

### *Sales Tax Collection Enforcement Diversion Program*

Current Situation

The Department of Revenue, in cooperation with the Florida Association of Centers for Independent Living and the Florida Prosecuting Attorneys Association, was required to select judicial circuits to participate in the tax collection enforcement diversion program.[145] That program required state

[137] S. 212.11 (1), F.S.
[138] S. 212.11(1)(b), F.S.
[139] S. 212.12(2)(a), F.S.
[140] S. 213.055(2)(a), F.S.
[141] S. 220.22, F.S.
[142] For corporate taxpayers with a taxable year ending on June 30th, the extension is 15 days 7 months from the original due date. S. 220.222(2)(d), F.S.
[143] S. 213.055(2)(a), F.S.
[144] S. 220.222(1)(b), F.S.
[145] S. 413.4021, F.S.

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).[146]

The tax collection enforcement diversion program is operated in state attorney's offices in the following eight Florida circuits: [147]

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 James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program (JP-PAS Program) provides assistance to 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.[148] The JP-PAS Program is administered by the Florida Association of Centers for Independent Living (FACIL) and provides participants with reimbursement for expenses for PCA services, up to $2,160.00 a month.[149]

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.[150] In 2021, the Legislature increased the amount to 75 percent of the revenue going to FACIL.[151]

The Revenue Estimating Conference (REC) estimated[152] 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 5 years.[153]

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.

[146] S. 413.4021(1), F.S.
[147] 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 Feb. 3, 2024).
[148] S. 413.402, F.S
[149] *Id*.
[150] S. 413.4021, F.S.
[151] The remaining 25 percent of the revenue from the tax collection enforcement diversion program is placed into General Revenue for the state.
[152] 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.
[153] Revenue Estimating Conference, *Tax Collection Enforcement Diversion Program*, available at: http://edr.state.fl.us/Content/conferences/generalrevenue/taxcollectiondivprog.pdf (last visited Feb. 3, 2024).

***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[154] is provided for in s. 212.20, F.S. That statute provides the reallocation of tax revenue to a series of trust funds,[155] distributions to the General Revenue Fund,[156] and other distributions in accordance with other sections of law (e.g., to the Revenue Sharing Trust Funds for Counties and Municipalities).[157]

*Horse Breeding and Racing in Florida*

The Florida horse industry generates an annual $6.8 billion impact on the gross domestic product of Florida, along with providing nearly 250,000 jobs. The Florida Thoroughbred industry has, in addition to the economic impact, produced one Triple Crown winner, six Kentucky Derby winners, seven Preakness winners, six Belmont Stakes winners, and 52 national champions.

The Florida Thoroughbred Breeders' and Owners' Association (sometimes styled as the "Florida Thoroughbred Breeders' Association, Inc.") is a not-for-profit that represents more than 1.300 Thoroughbred breeders and owners in Florida. The Association works with the Florida Department of Agriculture and Consumer Services to promote and market the industry both nationally and internationally, as well as providing awards to promote Florida Thoroughbreds in the industry.

The Florida Horseman's Benevolent & Protective Association (sometimes styled as the "Florida Thoroughbred Horsemen's Association), is a not-for profit representing more than 5,000 Thoroughbred horse owners and trainers who do business in Florida. The organization promotes relationships with racetracks, community, and government.

The horseman's association representing the majority of the thoroughbred racehorse owners and trainers at any particular facility received a 1% distribution from the purses at that facility for authorized uses. The awards for breeders, trainers, and owners are generally provided for in statute, although the specific awards, procedures, and payments may vary according to adopted plans.

Tampa Bay Downs is one of America's oldest and most well-maintained tracks, and is the only Thoroughbred race track on the west coast of Florida. It opened in 1926, and has been used for Thoroughbred racing for most of the intervening years, subject to economic downturns, wars, and natural disasters.

Gulfstream Park Racing, located between Fort Lauderdale and Miami, has been in operation since the 1940s, and is probably most well known as the host of the G1 Florida Derby, a race that has produced the Kentucky Derby winner 24 times in 65 years.

*Florida Agricultural Promotional Campaign*

In 1990, the legislature created the Florida Agricultural Promotional Campaign Trust Fund to support the Florida Agricultural Promotional Campaign.[158] The goal of the campaign was to "increase

[154] S. 212.20(6), F.S., provides distribution requirements for chapter 212, communications services tax under ss. 202.18(1)(b) and (2)(b), and gross receipts taxes under s. 203.01(1)(a)3., F.S.
[155] E.g., s. 212.20(6)(a) and (b), F.S.
[156] E.g., s. 212.20(6)(c)1., F.S.
[157] E.g., ss. 212.20(6)(c)2., (d)3., 4., and 6., F.S.
[158] Ch. 90-323, L.O.F., s. 16

consumer awareness and expand the market for Florida's agricultural products."[159] The Trust Fund, within the Department of Agriculture and Consumer Services, holds funding for implementing the Florida Agricultural Promotional Campaign.[160] The campaign is probably best well known for the "Fresh From Florida" marketing campaign and related logos.[161]

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.[162] The Legislature required funds be distributed as follows:

- $5 million to the Florida Thoroughbred Breeders' Association, Inc., to be used for:
  - Purses or purse supplements for Florida-bred or Florida-sired horses that participate in Florida thoroughbred races.
  - Awards to breeders of Florida-bred horses that win, place, or show in Florida thoroughbred races.
  - Awards to owners of stallions who sired Florida-bred horses that win Florida thoroughbred stakes races, if the stallions are registered with the association as Florida stallions.
  - Other racing incentives connected to Florida-bred or Florida-sired horses registered with the association that participate in thoroughbred races in Florida.
  - Awards administration.
  - Promotion of the Florida thoroughbred breeding industry.
- $5 million to Tampa Bay Downs, Inc., to be used as purses in thoroughbred races conducted at its pari-mutuel facilities and for the maintenance and operation of that facility, pursuant to an agreement with its local majority horsemen's group.
- $15 million to Gulfstream Park Racing Association, Inc., to be used as purses in thoroughbred races conducted at its pari-mutuel facility and for the maintenance and operation of its facilities, pursuant to an agreement with the Florida Horsemen's Benevolent and Protective Association, Inc.
- $2.5 million dollars to be distributed as follows:
  - $2 million dollars to Gulfstream Park Racing Association, Inc., to be used as purses and purse supplements for Florida-bred or Florida-sired horses registered with the association that participate in thoroughbred races at the permitholder's pari-mutuel facility, pursuant to a written agreement filed with the department establishing the rates, procedures, and eligibility requirements entered into by the permitholder, the association, and the Florida Horsemen's Benevolent and Protective Association, Inc.
  - $500,000 to Tampa Bay Downs, Inc., to be used as purses and purse supplements for Florida-bred or Florida-sired horses registered with the association that participate in thoroughbred races at the permitholder's pari-mutuel facility, pursuant to a written agreement filed with the department establishing the rates, procedures, and eligibility requirements entered into by the permitholder, the association, and the local majority horsemen's group at the permitholder's pari-mutuel facility.

The provision requiring these distributions will be repealed in 2025 unless reviewed and saved from repeal by the Legislature.[163]

Effect of Proposed Changes

The bill extends for two years the current distributions of $27.5 million in General Revenue in the same manner in which the funding is distributed now. The distributions will be repealed in 2027 unless reviewed and saved from repeal by the Legislature.

[159] S. 571.22, F.S.
[160] S. 571.26, F.S.
[161] More information about "Fresh From Florida" is available on the Department of Agriculture and Consumer Services website at https://www.fdacs.gov/Agriculture-Industry/Fresh-From-Florida-Industry-Membership (last visited Feb. 10, 2024).
[162] S. 39, ch. 2023-157, L.O.F.
[163] S. 212.20(5)(d)6.f., F.S.

***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” and “tax collector” as appropriate.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.0104, F.S., revising the referendum requirements for levying tourist development taxes.
Section 2: Amends s. 192.001, F.S. clarifying when a construction work in progress project is deemed substantially completed if owned by an electric utility.
Section 3: Provides that the changes made under 192.001, F.S., first apply to the 2025 ad valorem tax roll.
Section 4: Amends s. 193.624, F.S., expanding a definition to include facilities used to convert biogas to renewable natural gas.
Section 5: Provides that the changes made under s. 193.624, F.S., first apply to the 2025 ad valorem tax roll.
Section 6: Amends s. 194.037, F.S., updating antiquated statutory language.
Section 7: Amends s. 201.08, F.S., requiring the documentary stamp tax be applied only to the principal limit amount of a home equity conversion mortgage.
Section 8: Provides that changes made under s. 201.08, F.S., apply retroactively, but no right is created to a refund or credit of tax paid before the effective date of the act.
Section 9: Amends s. 212.0306, F.S., clarifying that an ordinance to adopt a local option food and beverage tax in certain municipalities must pass by a majority vote of the voters voting in the election.
Section 10: Amending s. 212.031, F.S., reducing the business rent tax rate for one year.
Section 11: Amends s. 212.05, F.S., allowing for alternative taxation of motor vehicles when such vehicles will be used under certain long-term leases.
Section 12: Amending s. 212.055, F.S., revising referendum requirements for the levy of discretionary sales surtaxes. Removing language to allow consolidated counties to levy the indigent care and trauma center surtax.
Section 13: Amending s. 212.11, F.S., allowing sales tax return filing and remittance extensions if a disaster declaration occurs at a specified time.
Section 14: Amends s. 212.20, F.S., extending certain funding for the promotion of horse racing and breeding in the state.
Section 15: Amends s. 220.02, F.S., revising the order of tax credits to conform with other provisions of the bill.
Section 16: Amends s. 220.03, F.S., adopting the Internal Revenue Code in effect on January 1, 2024.
Section 17: Provides that changes made to s. 220.03, F.S., take effect upon becoming law and operate retroactively to January 1, 2024.
Section 18: Creates s. 220.1992, F.S., establishing a corporate income tax credit for employing individuals with disabilities in this state.
Section 19: Amends s. 220.222, F.S., allowing the filing deadline for corporate income returns to be extended during federally declared disasters.
Section 20: Amends s. 374.986, F.S., updating antiquated language.
Section 21: Amends s. 402.62, F.S., modifying the application timing under the Strong Families tax credit program and increasing the Strong Families tax credit cap.
Section 22: Clarifies duties of the Department of Revenue regarding the Strong Families tax credit application.

Section 23: Amends s. 413.4021, F.S., increasing the amount of revenue to be deposited from the Tax Collection Diversion Program.

Section 24: Amends s. 571.265, F.S., relating to distributions of General Revenue to promote horse racing and breeding and extending the repeal date.

Section 25: Provides exemptions from the sales and use tax for specified disaster preparedness supplies during specified timeframes.

Section 26: Provides exemptions from the sales and use tax for certain admissions to music events, sporting events, cultural events, specified performances, movies, museums, state parks, and fitness facilities, during specified timeframes and for certain boating and water activity, camping, fishing, general outdoor supplies, and pool supplies during a specified timeframe.

Section 27: Provides exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, learning aids, personal computers, and personal computer related accessories during a specified timeframe.

Section 28: Provides an exemption from sales and use tax on the retail sale of certain tools used by skilled trade workers during a specified timeframe.

Section 29: Provides for a county designated as an area of critical state concern to use surplus tourist development and impact taxes to provide affordable housing for certain individuals.

Section 30: Authorizes the Department of Revenue to adopt emergency rules to implement several provisions of the act.

Section 31: Provides effective dates.

## 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; a 7-day sales tax holiday for skilled worker tools; and a reduction in the sales tax on commercial rent to 1.25% for one year. The bill also extends the sales tax filing and remittance deadlines if a state of emergency is declared within a certain period of time.

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

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.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not yet estimated the potential revenue impacts of many of the provisions of the bill. Those provisions are identified in the table below in the rows highlighted in blue and include staff estimates of the revenue impacts of these provisions. The provisions for which the REC has estimated the potential revenue impacts are reflected in the non-highlighted rows.

Staff estimates the total state and local impact of the bill in FY 2024-25 is -$647.3 million (-$28.6 million recurring), of which -$514.5 million (-$24.2 million) is on General Revenue, -$3.1 million (-$3.2 million recurring) is on state trust funds, and -$132.8 million (-$4.4 million recurring) is on local government (see table below). Nonrecurring General Revenue, and local government revenue impacts in years beyond FY 2024-25 total -$70.7 million and -$1.5 million, respectively. 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 -$728.1 million in tax reductions in the bill is the sum of -$28.6 million (recurring), -$627.3 million (pure nonrecurring in FY 2024-25), and -$72.2 million (pure nonrecurring after FY 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: Business Rent Tax - One Year Reduction to 1.25% | (268.3) | - | (*) | - | (71.3) | - | (339.6) | - |
| Sales Tax: Freedom Month Sales Tax Holiday | (71.4) | - | (*) | - | (19.0) | - | (90.4) | - |
| Sales Tax: Back-to-School Sales Tax Holiday | (76.8) | - | (*) | - | (20.5) | - | (97.3) | - |
| 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 JP-PAS from recovered sales tax from Tax Collection Diversion Program | (0.8) | (0.8) | - | - | - | - | (0.8) | (0.8) |
| Ad Valorem: Renewable Energy Source Device Assessment Limitation | - | - | - | - | (0.5) | (1.3) | (0.5) | (1.3) |
| Ad Valorem: Construction Work in Progress | - | - | - | - | (2.9) | (2.9) | (2.9) | (2.9) |
| Corp. Inc. Tax: Adoption of the Internal Revenue Code | - | - | - | - | - | - | - | - |
| Corp. Inc. Tax: Persons with Unique Abilities Tax Credit - Three Years | (5.0) | - | - | - | - | - | (5.0) | - |
| Doc. Stamp Tax: Reverse Mortgages | (2.3) | (2.3) | (3.1) | (3.2) | - | - | (2.3) | (2.3) |
| Tourist Development Tax: Voter Approval of New and Existing TDT; Limited to 6 Years | - | - | - | - | - | - | - | - |
| Tourist Development Tax: One Time Use of Existing TDT Funds for Affordable Housing in Monroe County | - | - | - | - | - | - | - | - |
| Local Sales Taxes: Voter Approval of New Discretionary Sales Surtaxes; Limited to 10 Years | - | - | - | - | - | - | - | - |
| Local Sales Taxes: Allow Duval to Levy Indigent Care Sales Surtax | - | - | - | - | - | 0/** | - | 0/** |
| Local Option Tax: Local Food & Beverage Tax - Voter Clarification | - | - | - | - | - | - | - | - |
| Multiple Taxes: Strong Families - Increase Cap | (20.0) | (20.0) | - | - | - | - | (20.0) | (20.0) |
| Multiple Taxes: Automatic Extension of Time for Returns | - | - | - | - | - | - | - | - |
| **FY 2024-25 Total** | **(514.5)** | **(24.2)** | **(3.1)** | **(3.2)** | **(132.8)** | **(4.4)** | **(647.3)** | **(28.6)** |

| Non-recurring Impacts After FY 2024-25 | General Revenue | | Trust Fund | | Local | | Total | |
|---|---|---|---|---|---|---|---|---|
| | Cash | | Cash | | Cash | | Cash | |
| Sales Tax: Business Rent Tax - One Year Reduction to 1.25% | (5.7) | - | - | - | (1.5) | - | (7.2) | - |
| Sales Tax: Distribution for Horse Breeding and Racing Promotion - 2 years extension | (55.0) | - | - | - | - | - | (55.0) | - |
| Corp. Inc. Tax: Persons with Unique Abilities Tax Credit - Three Years | (10.0) | - | - | - | - | - | (10.0) | - |
| Subtotal for Out Years | (70.7) | - | - | - | (1.5) | - | (72.2) | - |
| **Bill Total** | **(585.2)** | **(24.2)** | **(3.1)** | **(3.2)** | **(134.3)** | **(4.4)** | **(719.5)** | **(28.6)** |
| | | | | | | | **Pure Nonrecurring=** | **(699.5)** |
| | | | | | | | **Recurring + Nonrecurring=** | **(728.1)** |

**(*) Impact less than $100,000; (**) Impact is indeterminate; (+/-) impact could be positive or negative.**

**(1) Recurring tax cut total (excl. appropriations) = $ 28.6 million**
**Pure nonrecurring tax cuts in FY 2024-25= $627.3 million**
**Pure nonrecurring tax cuts after FY 2024-25= $ 72.2 million**
**$728.1 million**

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill expands ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to renewable energy source devices, and the bill clarifies when a construction work in progress is deemed substantially completed for property owned by an electric utility; however, an exemption may apply if those provisions have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Revenue rulemaking authority to implement the creation of the Individuals with Unique Abilities corporate income tax credit. The bill also provides the Department of Revenue emergency rulemaking authority to implement several provisions of the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

B. SECTION DIRECTORY:

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

E. FISCAL IMPACT ON STATE GOVERNMENT:

3. Revenues:

4. Expenditures:

F. FISCAL IMPACT ON LOCAL GOVERNMENTS:

3. Revenues:

4. Expenditures:

G. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

H. FISCAL COMMENTS:

## III. COMMENTS

D. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

E. RULE-MAKING AUTHORITY:

F. DRAFTING ISSUES OR OTHER COMMENTS:

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to taxation; amending s. 125.0104, F.S.; requiring specified ordinances to expire after a certain amount of time; authorizing the adoption of a new ordinance; requiring certain taxes to be renewed by a certain date to remain in effect; providing applicability; providing an exception; amending s. 192.001, F.S.; revising the definition of the term "tangible personal property" to specify the conditions under which certain work is deemed substantially completed; providing applicability; providing for retroactive operation; amending s. 193.624, F.S.; revising the definition of the term "renewable energy source device"; providing applicability; amending s. 194.037, F.S.; revising obsolete provisions; amending s. 201.08, F.S.; providing applicability to certain mortgages; defining term; providing retroactive operation; amending s. 212.0306, F.S.; clarifying the necessary vote for the levy of a tax; amending s. 212.031, F.S.; providing a temporary reduction in a specified tax rate; amending s. 212.05, F.S.; providing a sales tax exemption for certain leases and rentals; amending s. 212.055, F.S.; revising the number of years that certain taxes may be levied; requiring approval of certain taxes in a referendum;

removing a restriction on counties that may levy a specified tax; revising the date when a certain tax may expire; amending s. 212.11, F.S.; authorizing an automatic extension for filing returns and remitting sales and use tax when specified states of emergency are declared; amending s. 212.20, F.S.; extending the date a certain distribution will be repealed; amending s. 220.02, F.S.; revising the order in which credits may be taken to include a specified credit; amending s. 220.03, F.S.; revising the date of adoption of the Internal Revenue Code and other federal income tax statutes for purposes of the state corporate income tax; providing retroactive operation; creating s. 220.1992, F.S.; defining the terms "qualified employee" and "qualified taxpayer"; establishing a credit against specified taxes for taxpayers that employ specified individuals; providing the maximum amount of such credit; providing how such credit is determined; providing application requirements; requiring credits to be approved prior to being used; requiring credits to be approved in a specified manner; providing the maximum credit that may be claimed by a single taxpayer; authorizing carryforward of credits in a specified manner; providing the maximum amount of credit that may be granted during

specified fiscal years; authorizing the Department of Revenue to consult with specified entities for a certain purpose; authorizing rulemaking; amending s. 220.222, F.S.; providing an automatic extension of the due date for a specified tax return in certain circumstances; amending s. 374.986, F.S.; revising obsolete provisions; amending s. 402.62, F.S.; increasing the Strong Families Tax Credit cap; providing when applications may be submitted to the Department of Revenue; amending s. 413.4021, F.S.; increasing the distribution for a specified program; amending s. 571.265, F.S.; extending the date of a future repeal; exempting from sales and use tax specified disaster preparedness supplies during specified timeframes; defining terms; specifying locations where the tax exemptions do not apply; exempting from sales and use tax admissions to certain events, performances, and facilities, certain season tickets, and the retail sale of certain boating and water activity, camping, fishing, general outdoor, and residential pool supplies and sporting equipment during specified timeframes; providing definitions; specifying locations where the tax exemptions do not apply; authorizing the Department of Revenue to adopt emergency rules; exempting from sales and use tax the

retail sale of certain clothing, wallets, bags, school supplies, learning aids and jigsaw puzzles, and personal computers and personal computer-related accessories during specified timeframes; providing definitions; specifying locations where the tax exemptions do not apply; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements; authorizing the Department of Revenue to adopt emergency rules; exempting from the sales and use tax the retail sale of certain tools during a specified timeframe; specifying locations where the tax exemptions do not apply; authorizing the Department of Revenue to adopt emergency rules; requiring certain counties to use specified tax revenue for affordable housing; providing requirements for housing financed with such revenue; providing for distribution of such funds; authorizing the Department of Revenue to adopt emergency rules for specified provisions; providing for future repeal; providing effective dates.

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

Section 1. Paragraphs (f), (g), and (h) are added to subsection (4) of section 125.0104, Florida Statutes, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(4) ORDINANCE LEVY TAX; PROCEDURE.—

(f) An ordinance that levies and imposes a tax pursuant to this section expires 6 years after the date the ordinance is approved in a referendum, but may be renewed for subsequent 6-year periods if each 6-year period is approved in a referendum held pursuant to subsection (6).

(g) Any tax imposed pursuant to this section and in effect on June 30, 2024, must be renewed by an ordinance approved in a referendum held pursuant to subsection (6) on or before July 1, 2029, in order to remain in effect after July 1, 2029.

(h) The state covenants with holders of bonds or other instruments of indebtedness issued by counties before July 1, 2024, that it will not impair or materially alter the rights of those holders or relieve counties of the duty to meet their obligations as a result of previous pledges or assignments entered into under this section as it existed before July 1, 2024. Therefore, paragraph (g) does not apply in any case in which the proceeds of a tax levied pursuant to this section on or before June 30, 2024, have been pledged to secure and liquidate revenue bonds or revenue refunding bonds as authorized by this section, unless such bonds are retired before July 1, 2029. If the bonds are not retired on July 1, 2029, paragraph (g) shall apply as though July 1, 2029, was instead replaced

with July 1 of the year following the retirement of such bonds.

Section 2. Paragraph (d) of subsection (11) of section 192.001, Florida Statutes, is amended to read:

192.001 Definitions.—All definitions set out in chapters 1 and 200 that are applicable to this chapter are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(11) "Personal property," for the purposes of ad valorem taxation, shall be divided into four categories as follows:

(d) "Tangible personal property" means all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself. "Construction work in progress" consists of those items 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 shall be deemed substantially completed when connected with the preexisting, taxable, operational system or facility. For the purpose of tangible personal property constructed or installed by an electric utility, construction work in progress shall not be deemed

substantially completed unless all permits or approvals required for commercial operation have been received or approved. Inventory and household goods are expressly excluded from this definition.

Section 3. The amendment made by this act to s. 192.001, Florida Statutes, first applies to the 2024 property tax roll, and operates retroactively to January 1, 2024.

Section 4. Subsection (1) of section 193.624, Florida Statutes, is amended to read:

193.624 Assessment of renewable energy source devices.—

(1) As used in this section, the term "renewable energy source device" means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits or biogas, as defined in s. 366.91:

(a) Solar energy collectors, photovoltaic modules, and inverters.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, wiring, structural supports, refrigerant handling systems, and other components used as integral parts of such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structure that would be required in the absence of the renewable energy source device.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(n) Pipes, equipment, structural facilities, structural support, and any other machinery integral to the interconnection, production, storage, compression, transportation, processing, 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.

The term does not include equipment that is on the distribution or transmission side of the point at which a renewable energy source device is interconnected to an electric utility's

distribution grid or transmission lines or a natural gas pipeline or distribution system.

Section 5. The amendments made by this act to s. 193.624, Florida Statutes, first apply to the 2025 property tax roll.

Section 6. Paragraph (f) of subsection (1) of section 194.037, Florida Statutes, is amended to read:

194.037 Disclosure of tax impact.—

(1) After hearing all petitions, complaints, appeals, and disputes, the clerk shall make public notice of the findings and results of the board as provided in chapter 50. If published in the print edition of a newspaper, the notice must be in at least a quarter-page size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper in the county. The newspaper selected shall be one of general interest and readership in the community pursuant to chapter 50. For all advertisements published pursuant to this section, the headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(f) In the sixth column, the net change in taxable value from the property appraiser's ~~assessor's~~ initial roll which results from board decisions.

Section 7. Subsections (6), (7), and (8) of section 201.08, Florida Statutes, are renumbered as subsections (7), (8), and (9), respectively, and subsection (6) is added to that section, and paragraph (b) of subsection (1) of that section is republished to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.—

(1)

(b) On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, the tax shall be 35 cents on each $100 or fraction thereof of the indebtedness or obligation evidenced thereby. Mortgages, including, but not limited to, mortgages executed without the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate. When there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recordation. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid on the mortgage, trust

deed, or security agreement. If a mortgage, trust deed, security agreement, or other evidence of indebtedness is subsequently filed or recorded in this state to evidence an indebtedness or obligation upon which tax was paid under paragraph (a) or subsection (2), tax shall be paid on the mortgage, trust deed, security agreement, or other evidence of indebtedness on the amount of the indebtedness or obligation evidenced which exceeds the aggregate amount upon which tax was previously paid under this paragraph and under paragraph (a) or subsection (2). If the mortgage, trust deed, security agreement, or other evidence of indebtedness subject to the tax levied by this section secures future advances, as provided in s. 697.04, the tax shall be paid at the time of recordation on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the aforestated general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him or her is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this

state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

(6) For a home equity conversion mortgage as defined in 12 CFR s. 1026.33(a), only the principal limit available to the borrower is subject to the tax imposed in this section. The maximum claim amount and the stated mortgage amount are not subject to the tax imposed in this section. As used in this subsection, the term "principal limit" means the gross amount of loan proceeds available to the borrower without consideration of any use restrictions. For purposes of this subsection, the tax must be calculated based on the principal limit amount determined at the time of closing as evidenced by the recorded mortgage or any supporting documents attached thereto.

Section 8. The amendment to s. 201.08, Florida Statutes, made by this act is intended to be remedial in nature and shall apply retroactively, but does not create a right to a refund or credit of any tax paid before the effective date of this act. For any home equity conversion mortgage recorded before the effective date of this act, the taxpayer may evidence the principal limit using related loan documents.

Section 9. Paragraph (d) of subsection (2) of section 212.0306, Florida Statutes, is amended to read:

212.0306 Local option food and beverage tax; procedure for levying; authorized uses; administration.—

(2)

(d) Sales in cities or towns presently imposing a municipal resort tax as authorized by chapter 67-930, Laws of Florida, are exempt from the taxes authorized by subsection (1); however, the tax authorized by paragraph (1)(b) may be levied in such city or town if the governing authority of the city or town adopts an ordinance that is subsequently approved by a majority of the registered electors in such city or town voting in ~~at~~ a referendum held at a general election as defined in s. 97.021. Any tax levied in a city or town pursuant to this paragraph takes effect on the first day of January following the general election in which the ordinance was approved. A referendum to reenact an expiring tax authorized under this paragraph must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted tax, and the referendum may appear on the ballot only once within the 48-month period.

Section 10. Paragraph (f) is added to subsection (1) of section 212.031, Florida Statutes, to read:

212.031 Tax on rental or license fee for use of real property.—

(1)

(f) From July 1, 2024, through June 30, 2025, the tax rate under paragraphs (c) and (d) shall be 1.25 percent.

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

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

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

(c) At the rate of 6 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein; however, the following special provisions apply to the lease or rental of motor vehicles and to peer-to-peer car-sharing programs:

1. When a motor vehicle is leased or rented by a motor vehicle rental company or through a peer-to-peer car-sharing program as those terms are defined in s. 212.0606(1) for a period of less than 12 months:

a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.

b. If the motor vehicle is rented in another state and

dropped off in Florida, the rental is exempt from Florida tax.

c. If the motor vehicle is rented through a peer-to-peer car-sharing program, the peer-to-peer car-sharing program shall collect and remit the applicable tax due in connection with the rental.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(14)(a) to one lessee or rentee, or of a motor vehicle as defined in s. 316.003 which is to be used primarily in the trade or established business of the lessee or rentee, for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or

germane to such business.

Section 12. Paragraph (f) of subsection (1), paragraphs (a) and (d) of subsection (3), paragraph (a) of subsection (4), subsection (5), paragraph (f) of subsection (9), and subsection (10) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX.—

(f) Any discretionary sales surtax levied under this subsection pursuant to a referendum held on or after July 1, 2024 ~~2020~~, may not be levied for more than 10 ~~30~~ years.

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a

population of 50,000 or less on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by an extraordinary vote of the members of the county governing authority and ~~if the surtax revenues are expended for operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be~~ approved by a majority of the electors of the county voting in a referendum on the surtax.

(d)1. ~~If the surtax is levied pursuant to a referendum,~~ The proceeds of the surtax and any interest accrued thereto may be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, for the purpose of servicing bond indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources. ~~However, if the surtax is levied pursuant to an ordinance approved by an extraordinary vote of the members of the county governing authority,~~ The proceeds and any interest accrued thereto may also be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

2. For the purposes of this paragraph, "infrastructure" means any fixed capital expenditure or fixed capital costs

associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

(a)1. The governing body in each county that ~~the government of which is not consolidated with that of one or more municipalities, which~~ has a population of at least 800,000 residents and is not authorized to levy a surtax under subsection (5), may levy, pursuant to an ordinance ~~either approved by an extraordinary vote of the governing body or~~ conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

2. ~~If the ordinance is conditioned on a referendum,~~ A statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . . .CENTS TAX

AGAINST THE. . . .CENTS TAX

3. The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for

providing health care services to qualified residents, as defined in subparagraph 4. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. The plan must also address the services to be provided by the Level I trauma center. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers, including hospitals with a Level I trauma center, will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, promote the advancement of technology in medical services, recognize the level of responsiveness to medical needs in trauma cases, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must,

as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the Florida Hospital Uniform Reporting System (FHURS) manual referenced in s. 408.07. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

4. For the purpose of this paragraph, the term "qualified resident" means residents of the authorizing county who are:

a. Qualified as indigent persons as certified by the authorizing county;

b. Certified by the authorizing county as meeting the definition of the medically poor, defined as 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. In all cases, the authorizing county is intended to serve as the payor of last resort; or

c. Participating in innovative, cost-effective programs approved by the authorizing county.

5. Moneys collected pursuant to this paragraph remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

a. Maintain the moneys in an indigent health care trust fund;

b. Invest any funds held on deposit in the trust fund pursuant to general law;

c. Disburse the funds, including any interest earned, to any provider of health care services, as provided in subparagraphs 3. and 4., upon directive from the authorizing county. However, if a county has a population of at least 800,000 residents and has levied the surtax authorized in this paragraph, notwithstanding any directive from the authorizing county, on October 1 of each calendar year, the clerk of the court shall issue a check in the amount of $6.5 million to a hospital in its jurisdiction that has a Level I trauma center or shall issue a check in the amount of $3.5 million to a hospital in its jurisdiction that has a Level I trauma center if that county enacts and implements a hospital lien law in accordance with chapter 98-499, Laws of Florida. The issuance of the checks on October 1 of each year is provided in recognition of the Level I trauma center status and shall be in addition to the base contract amount received during fiscal year 1999-2000 and

any additional amount negotiated to the base contract. If the hospital receiving funds for its Level I trauma center status requests such funds to be used to generate federal matching funds under Medicaid, the clerk of the court shall instead issue a check to the Agency for Health Care Administration to accomplish that purpose to the extent that it is allowed through the General Appropriations Act; and

d. Prepare on a biennial basis an audit of the trust fund specified in sub-subparagraph a. Commencing February 1, 2004, such audit shall be delivered to the governing body and to the chair of the legislative delegation of each authorizing county.

6. Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this paragraph and subsections (2) and (3) in excess of a combined rate of 1 percent.

(5) COUNTY PUBLIC HOSPITAL SURTAX.— Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance ~~either approved by extraordinary vote of the county commission or~~ conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public

health trust.

(a) The rate shall be 0.5 percent.

(b) ~~If the ordinance is conditioned on a referendum,~~ The proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with subsection (10). The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(c) Proceeds from the surtax shall be:

1. Deposited by the county in a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital; and

2. Remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

(d) Except as provided in subparagraphs 1. and 2., the county must continue to contribute each year an amount equal to at least 80 percent of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public general hospital from the county's general revenues in the fiscal year of the county ending September 30, 1991:

1. Twenty-five percent of such amount must be remitted to a governing board, agency, or authority that is wholly

independent from the public health trust, agency, or authority responsible for the county public general hospital, to be used solely for the purpose of funding the plan for indigent health care services provided for in paragraph (e);

2. However, in the first year of the plan, a total of $10 million shall be remitted to such governing board, agency, or authority, to be used solely for the purpose of funding the plan for indigent health care services provided for in paragraph (e), and in the second year of the plan, a total of $15 million shall be so remitted and used.

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County Public Health Trust, the Dade County Medical Association, the

Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade County. This committee shall nominate between 10 and 14 county citizens for the governing board, agency, or authority. The slate shall be presented to the county commission and the county commission shall confirm the top five to seven nominees, depending on the size of the governing board. Until such time as the governing board, agency, or authority is created, the funds provided for in subparagraph (d)2. shall be placed in a restricted account set aside from other county funds and not disbursed by the county for any other purpose.

1. The plan shall divide the county into a minimum of four and maximum of six service areas, with no more than one participant hospital per service area. The county public general hospital shall be designated as the provider for one of the service areas. Services shall be provided through participants' primary acute care facilities.

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including primary care, preventive care, hospital emergency room care, and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in s. 397.311. Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least one regional

referral hospital per service area. The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care to draw down federal funds where appropriate, and require cost containment, including, but not limited to, case management. From the funds specified in subparagraphs (d)1. and 2. for indigent health care services, service providers shall receive reimbursement at a Medicaid rate to be determined by the governing board, agency, or authority created pursuant to this paragraph for the initial emergency room visit, and a per-member per-month fee or capitation for those members enrolled in their service area, as compensation for the services rendered following the initial emergency visit. Except for provisions of emergency services, upon determination of eligibility, enrollment shall be deemed to have occurred at the time services were rendered. The provisions for specific reimbursement of emergency services shall be repealed on July 1, 2001, unless otherwise reenacted by the Legislature. The capitation amount or rate shall be determined before program implementation by an independent actuarial consultant. In no event shall such reimbursement rates exceed the Medicaid rate. The plan must also provide that any hospitals owned and operated by government entities on or after the effective date of this act must, as a condition of receiving

funds under this subsection, afford public access equal to that provided under s. 286.011 as to any meeting of the governing board, agency, or authority the subject of which is budgeting resources for the retention of charity care, as that term is defined in the rules of the Agency for Health Care Administration. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.

3. The plan's benefits shall be made available to all county residents currently eligible to receive health care services as indigents or medically poor as defined in paragraph (4)(d).

4. Eligible residents who participate in the health care plan shall receive coverage for a period of 12 months or the period extending from the time of enrollment to the end of the current fiscal year, per enrollment period, whichever is less.

5. At the end of each fiscal year, the governing board, agency, or authority shall prepare an audit that reviews the budget of the plan, delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

(f) Notwithstanding any other provision of this section, a

county may not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(9) PENSION LIABILITY SURTAX.—

(f) A pension liability surtax imposed pursuant to this subsection shall terminate on December 31 of the year in which the actuarial funding level is expected to reach or exceed 100 percent for the defined benefit retirement plan or system for which the surtax was levied or December 31~~,~~ of the tenth year after the surtax was approved in a referendum under this subsection ~~2060~~, whichever occurs first. The most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63 must be used to establish the level of actuarial funding.

(10) DATES FOR REFERENDA; LIMITATIONS ON LEVY.—

(a) A referendum to adopt, amend, or reenact a local government discretionary sales surtax under this section must be held at a general election as defined in s. 97.021. A referendum to reenact an expiring surtax must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted surtax. Such a referendum may appear on the ballot only once within the 48-month period.

(b) Except as provided in paragraph (4)(b), any new or reenacted discretionary sales surtax levied pursuant to a referendum held on or after July 1, 2024, may not be levied for

more than 10 years, unless reenacted by ordinance subject to approval by a majority of the electors voting in a subsequent referendum.

Section 13. Paragraph (b) of subsection (1) and paragraph (b) of subsection (4) of section 212.11, Florida Statutes, are amended to read:

212.11 Tax returns and regulations.—

(1)

(b)1. For the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers to file a return and remit the tax, on or before the 20th day of the month, to the department, upon forms prepared and furnished by it or in a format prescribed by it. Such return must show the rentals, admissions, gross sales, or purchases, as the case may be, arising from all leases, rentals, admissions, sales, or purchases taxable under this chapter during the preceding calendar month.

2. Notwithstanding subparagraph 1. and in addition to any extension or waiver ordered pursuant to s. 213.055, a dealer is granted an automatic 10 calendar day extension from the due date for filing a return and remitting the tax if all of the following conditions are met:

a. The Governor has ordered or proclaimed a declaration of a state of emergency pursuant to s. 252.36.

b. The declaration is the first declaration for the event

giving rise to the state of emergency, or expands the counties covered by the initial state of emergency without extending or renewing the period of time covered by the first declaration of a state of emergency.

c. The first day of the period covered by the first declaration for the event giving rise to the state of emergency is within 5 business days before the 20th day of the month.

(4)

(b)1. The amount of any estimated tax shall be due, payable, and remitted by electronic funds transfer by the 20th day of the month for which it is estimated. The difference between the amount of estimated tax paid and the actual amount of tax due under this chapter for such month shall be due and payable by the first day of the following month and remitted by electronic funds transfer by the 20th day thereof.

2. Notwithstanding subparagraph 1. and in addition to any extension or waiver ordered pursuant to s. 213.055, a dealer with a certificate of registration issued under s. 212.18 to engage in or conduct business in a county to which an emergency declaration applies in sub-subparagraph b. is granted an automatic 10 calendar day extension from the due date for filing a return and remitting the tax if all of the following conditions are met:

a. The Governor has ordered or proclaimed a declaration of a state of emergency pursuant to s. 252.36.

b. The declaration is the first declaration for the event giving rise to the state of emergency, or expands the counties covered by the initial state of emergency without extending or renewing the period of time covered by the first declaration of a state of emergency.

c. The first day of the period covered by the first declaration for the event giving rise to the state of emergency is within 5 business days before the 20th day of the month.

Section 14. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.9744

percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.0966 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0810 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3653 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall

receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or

relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.1162(5) or s. 288.11621(3).

c. The department shall distribute up to $83,333 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $166,667 monthly to each certified applicant as defined in s.

288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

d. The department shall distribute $15,333 monthly to the State Transportation Trust Fund.

e.(I) On or before July 25, 2021, August 25, 2021, and September 25, 2021, the department shall distribute $324,533,334 in each of those months to the Unemployment Compensation Trust Fund, less an adjustment for refunds issued from the General Revenue Fund pursuant to s. 443.131(3)(e)3. before making the distribution. The adjustments made by the department to the total distributions shall be equal to the total refunds made pursuant to s. 443.131(3)(e)3. If the amount of refunds to be subtracted from any single distribution exceeds the distribution, the department may not make that distribution and must subtract the remaining balance from the next distribution.

(II) Beginning July 2022, and on or before the 25th day of

each month, the department shall distribute $90 million monthly to the Unemployment Compensation Trust Fund.

(III) If the ending balance of the Unemployment Compensation Trust Fund exceeds $4,071,519,600 on the last day of any month, as determined from United States Department of the Treasury data, the Office of Economic and Demographic Research shall certify to the department that the ending balance of the trust fund exceeds such amount.

(IV) This sub-subparagraph is repealed, and the department shall end monthly distributions under sub-sub-subparagraph (II), on the date the department receives certification under sub-sub-subparagraph (III).

f. Beginning July 1, 2023, in each fiscal year, the department shall distribute $27.5 million to the Florida Agricultural Promotional Campaign Trust Fund under s. 571.26, for further distribution in accordance with s. 571.265. This sub-subparagraph is repealed June 30, 2027 ~~2025~~.

7. All other proceeds must remain in the General Revenue Fund.

Section 15. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828,

those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.1875, those enumerated in s. 220.1876, those enumerated in s. 220.1877, those enumerated in s. 220.1878, those enumerated in s. 220.193, those enumerated in former s. 288.9916, those enumerated in former s. 220.1899, those enumerated in former s. 220.194, those enumerated in s. 220.196, those enumerated in s. 220.198, those enumerated in s. 220.1915, those enumerated in s. 220.199, ~~and~~ those enumerated in s. 220.1991, and those enumerated in s. 220.1992.

Section 16. Effective upon this act becoming a law, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2024 ~~2023~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2024 ~~2023~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 17. (1) The amendments made by this act to s. 220.03, Florida Statutes, operate retroactively to January 1, 2024.

(2) This section shall take effect upon becoming a law.

Section 18. Section 220.1992, Florida Statutes, is created to read:

220.1992 Individuals with Unique Abilities Tax Credit Program.—

(1) For purposes of this section, the term:

(a) "Qualified employee" means an individual who has a disability, as that term is defined in s. 413.801, and has been employed for at least six months by a qualified taxpayer.

(b) "Qualified taxpayer" means a taxpayer who employs a qualified employee at a business located in this state.

(2) For a taxable year beginning on or after January 1,

2024, a qualified taxpayer is eligible for a credit against the tax imposed by this chapter in an amount up to $1,000 for each qualified employee such taxpayer employed during the taxable year. The tax credit shall equal one dollar for each hour the qualified employee worked during the taxable year, up to 1,000 hours.

(3)(a) The department may adopt rules governing the manner and form of applications for the tax credit and establishing requirements for the proper administration of the tax credit. The form must include an affidavit certifying that all information contained within the application is true and correct and must require the taxpayer to specify the number of qualified employees for whom a credit under this section is being claimed and how many hours each qualified employee worked during the taxable year.

(b) The department must approve the tax credit prior to the taxpayer taking the credit on a return. The department must approve credits on a first-come, first-served basis. If the department determines that an application is incomplete, the department shall notify the taxpayer in writing and the taxpayer shall have 30 days after receiving such notification to correct any deficiency. If corrected in a timely manner, the application shall be deemed completed as of the date the application was first submitted.

(c) A taxpayer may not claim a tax credit of more than

$10,000 under this section in any one taxable year.

(d) A taxpayer may carry forward any unused portion of a tax credit under this section for up to 5 taxable years. The carryover may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(4) The combined total amount of tax credits which may be granted under this section is $5 million in each of state fiscal years 2024-2025, 2025-2026, and 2026-2027.

(5) The department may consult with the Department of Commerce and the Agency for Persons with Disabilities to determine if an individual is a qualified employee. The Department of Commerce and Agency for Persons with Disabilities shall provide technical assistance, when requested by the department, on any such question.

Section 19. Paragraphs (c) and (d) of subsection (2) of section 220.222, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, and a new paragraph (c) is added to that subsection, to read:

220.222 Returns; time and place for filing.—

(2)

(c) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year due to a federally declared disaster

that included locations within the state of Florida, and if the requirements of s. 220.32 are met, the due date of the return required under this code is automatically extended to 15 calendar days after the due date for such taxpayer's federal income tax return, including any extensions provided for such return for a federally declared disaster. Nothing in this paragraph affects the authority of the executive director to order an extension or waiver pursuant to s. 213.055(2).

Section 20. Section 374.986, Florida Statutes, is amended to read:

374.986 Taxing authority.—

(1) The property appraiser ~~tax assessor~~, tax collector, and board of county commissioners of each and every county in said district, shall, when requested by the board, prepare from their official records and deliver any and all information that may be from time to time requested from him or her or them or either of them by the board regarding the tax valuation, assessments, collection, and any other information regarding the levy, assessment, and collection of taxes in each of said counties.

(2) The board may annually assess and levy against the taxable property in the district a tax not to exceed one-tenth mill on the dollar for each year, and the proceeds from such tax shall be used by the district for all expenses of the district including the purchase price of right-of-way and other property.

The board shall, on or before the 31st day of July of each year, prepare a tentative annual written budget of the district's expected income and expenditures. In addition, the board shall compute a proposed millage rate to be levied as taxes for that year upon the taxable property in the district for the purposes of said district. The proposed budget shall be submitted to the Department of Environmental Protection for its approval. Prior to adopting a final budget, the district shall comply with the provisions of s. 200.065, relating to the method of fixing millage, and shall fix the final millage rate by resolution of the district and shall also, by resolution, adopt a final budget pursuant to chapter 200. Copies of such resolutions executed in the name of the board by its chair, and attested by its secretary, shall be made and delivered to the county officials specified in s. 200.065 of each and every county in the district, to the Department of Revenue, and to the Chief Financial Officer. Thereupon, it shall be the duty of the property appraiser ~~assessor~~ of each of said counties to assess, and the tax collector of each of said counties to collect, a tax at the rate fixed by said resolution of the board upon all of the real and personal taxable property in said counties for said year (and such officers shall perform such duty) and said levy shall be included in the warrant of the tax assessors of each of said counties and attached to the assessment roll of taxes for each of said counties. The tax collectors of each of said

counties shall collect such taxes so levied by the board in the same manner as other taxes are collected, and shall pay the same within the time and in the manner prescribed by law, to the treasurer of the board. It shall be the duty of the Chief Financial Officer to assess and levy on all railroad lines and railroad property and telegraph lines and telegraph property in the district a tax at the rate prescribed by resolution of the board, and to collect the tax thereon in the same manner as he or she is required by law to assess and collect taxes for state and county purposes and to remit the same to the treasurer of the board. All such taxes shall be held by the treasurer of the district for the credit of the district and paid out by him or her as provided herein. The tax collector ~~assessor~~ and property appraiser of each of said counties shall be entitled to payment as provided for by general laws.

Section 21. Paragraphs (a) and (b) of subsection (5) of section 402.62, Florida Statutes, are amended to read:

402.62 Strong Families Tax Credit.—

(5) STRONG FAMILIES TAX CREDITS; APPLICATIONS, TRANSFERS, AND LIMITATIONS.—

(a) Beginning in fiscal year 2024-2025 ~~2023-2024~~, the tax credit cap amount is $40 ~~20~~ million in each state fiscal year.

(b) ~~Beginning October 1, 2021,~~ A taxpayer may submit an application to the Department of Revenue for a tax credit or credits to be taken under one or more of s. 211.0253, s.

212.1834, s. 220.1877, s. 561.1213, or s. 624.51057, beginning at 9 a.m. on the first day of the calendar year that is not a Saturday, Sunday, or legal holiday.

1. The taxpayer shall specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year for a credit under s. 220.1877 or s. 624.51057 or the applicable state fiscal year for a credit under s. 211.0253, s. 212.1834, or s. 561.1213. For purposes of s. 220.1877, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that year pursuant to s. 220.222. For purposes of s. 624.51057, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that prior taxable year pursuant to ss. 624.509 and 624.5092. The application must specify the eligible charitable organization to which the proposed contribution will be made. The Department of Revenue shall approve tax credits on a first-come, first-served basis and must obtain the division's approval before approving a tax credit under s. 561.1213.

2. Within 10 days after approving or denying an application, the Department of Revenue shall provide a copy of its approval or denial letter to the eligible charitable organization specified by the taxpayer in the application.

Section 22. For the $20 million in additional credit under s. 402.62 available for fiscal year 2024-25 pursuant to changes

made by this act, a taxpayer may submit an application to the Department of Revenue beginning at 9 a.m. on July 1, 2024.

Section 23. Subsection (1) of section 413.4021, Florida Statutes, is amended to read:

413.4021 Program participant selection; tax collection enforcement diversion program.—The Department of Revenue, in coordination with the Florida Association of Centers for Independent Living and the Florida Prosecuting Attorneys Association, shall select judicial circuits in which to operate the program. The association and the state attorneys' offices shall develop and implement a tax collection enforcement diversion program, which shall collect revenue due from persons who have not remitted their collected sales tax. The criteria for referral to the tax collection enforcement diversion program shall be determined cooperatively between the state attorneys' offices and the Department of Revenue.

(1) Notwithstanding s. 212.20, 100 ~~75~~ percent of the revenues collected from the tax collection enforcement diversion program shall be deposited into the special reserve account of the Florida Association of Centers for Independent Living, to be used to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program and to contract with the state attorneys participating in the tax collection enforcement diversion program in an amount of not more than $75,000 for each state attorney.

Section 24. Subsection (5) of section 571.265, Florida Statutes, is amended to read:

571.265 Promotion of Florida thoroughbred breeding and of thoroughbred racing at Florida thoroughbred tracks; distribution of funds.—

(5) This section is repealed July 1, 2027 ~~2025~~, unless reviewed and saved from repeal by the Legislature.

Section 25. Disaster preparedness supplies; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from June 1, 2024, through June 14, 2024, or during the period from August 24, 2024, through September 6, 2024, on the sale of:

(a) A portable self-powered light source with a sales price of $40 or less.

(b) A portable self-powered radio, two-way radio, or weather-band radio with a sales price of $50 or less.

(c) A tarpaulin or other flexible waterproof sheeting with a sales price of $100 or less.

(d) An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit with a sales price of $100 or less.

(e) A gas or diesel fuel tank with a sales price of $50 or less.

(f) A package of AA-cell, AAA-cell, C-cell, D-cell, 6-

volt, or 9-volt batteries, excluding automobile and boat batteries, with a sales price of $50 or less.

(g) A nonelectric food storage cooler with a sales price of $60 or less.

(h) A portable generator used to provide light or communications or preserve food in the event of a power outage with a sales price of $3,000 or less.

(i) Reusable ice with a sales price of $20 or less.

(j) A portable power bank with a sales price of $60 or less.

(k) A smoke detector or smoke alarm with a sales price of $70 or less.

(l) A fire extinguisher with a sales price of $70 or less.

(m) A carbon monoxide detector with a sales price of $70 or less.

(n) The following supplies necessary for the evacuation of household pets purchased for noncommercial use:

1. Bags of dry dog food or cat food weighing 50 or fewer pounds with a sales price of $100 or less per bag.

2. Cans or pouches of wet dog food or cat food with a sales price of $10 or less per can or pouch or the equivalent if sold in a box or case.

3. Over-the-counter pet medications with a sales price of $100 or less per item.

4. Portable kennels or pet carriers with a sales price of

$100 or less per item.

5. Manual can openers with a sales price of $15 or less per item.

6. Leashes, collars, and muzzles with a sales price of $20 or less per item.

7. Collapsible or travel-sized food bowls or water bowls with a sales price of $15 or less per item.

8. Cat litter weighing 25 or fewer pounds with a sales price of $25 or less per item.

9. Cat litter pans with a sales price of $15 or less per item.

10. Pet waste disposal bags with a sales price of $15 or less per package.

11. Pet pads with a sales price of $20 or less per box or package.

12. Hamster or rabbit substrate with a sales price of $15 or less per package.

13. Pet beds with a sales price of $40 or less per item.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue is authorized, and all

conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section.

(4) This section shall take effect upon this act becoming a law.

Section 26. Freedom Month; sales tax holiday.—

(1) The taxes levied under chapter 212, Florida Statutes, may not be collected on purchases made during the period from July 1, 2024, through July 31, 2024, on:

(a) The sale by way of admissions, as defined in s. 212.02(1), Florida Statutes, for:

1. A live music event scheduled to be held on any date or dates from July 1, 2024, through December 31, 2024;

2. A live sporting event scheduled to be held on any date or dates from July 1, 2024, through December 31, 2024;

3. A movie to be shown in a movie theater on any date or dates from July 1, 2024, through December 31, 2024;

4. Entry to a museum, including any annual passes;

5. Entry to a state park, including any annual passes;

6. Entry to a ballet, play, or musical theatre performance scheduled to be held on any date or dates from July 1, 2024, through December 31, 2024;

7. Season tickets for ballets, plays, music events, or musical theatre performances;

8. Entry to a fair, festival, or cultural event scheduled

to be held on any date or dates from July 1, 2024, through December 31, 2024; or

9. Use of or access to private and membership clubs providing physical fitness facilities from July 1, 2024, through December 31, 2024.

(b) The retail sale of boating and water activity supplies, camping supplies, fishing supplies, general outdoor supplies, residential pool supplies, children's toys and children's athletic equipment. As used in this section, the term:

1. "Boating and water activity supplies" means life jackets and coolers with a sales price of $75 or less; recreational pool tubes, pool floats, inflatable chairs, and pool toys with a sales price of $35 or less; safety flares with a sales price of $50 or less; water skis, wakeboards, kneeboards, and recreational inflatable water tubes or floats capable of being towed with a sales price of $150 or less; paddleboards and surfboards with a sales price of $300 or less; canoes and kayaks with a sales price of $500 or less; paddles and oars with a sales price of $75 or less; and snorkels, goggles, and swimming masks with a sales price of $25 or less.

2. "Camping supplies" means tents with a sales price of $200 or less; sleeping bags, portable hammocks, camping stoves, and collapsible camping chairs with a sales price of $50 or less; and camping lanterns and flashlights with a sales price of

$30 or less.

3. "Fishing supplies" means rods and reels with a sales price of $75 or less if sold individually, or $150 or less if sold as a set; tackle boxes or bags with a sales price of $30 or less; and bait or fishing tackle with a sales price of $5 or less if sold individually, or $10 or less if multiple items are sold together. The term does not include supplies used for commercial fishing purposes.

4. "General outdoor supplies" means sunscreen, sunblock, or insect repellant with a sales price of $15 or less; sunglasses with a sales price of $100 or less; binoculars with a sales prices of $200 or less; water bottles with a sales price of $30 or less; hydration packs with a sales price of $50 or less; outdoor gas or charcoal grills with a sales price of $250 or less; bicycle helmets with a sales price of $50 or less; and bicycles with a sales price of $500 or less.

5. "Residential pool supplies" means individual residential pool and spa replacement parts, nets, filters, lights, and covers with a sales price of $100 or less; and residential pool and spa chemicals purchased by an individual with a sales price of $150 or less.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida

Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) If a purchaser of an admission purchases the admission exempt from tax pursuant to this section and subsequently resells the admission, the purchaser shall collect tax on the full sales price of the resold admission.

(4) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section.

(5) This section shall take effect upon this act becoming a law.

Section 27. Clothing, wallets, and bags; school supplies; learning aids and jigsaw puzzles; personal computers and personal computer-related accessories; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from July 29, 2024, through August 11, 2024 on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $100 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry,

umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $50 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, staplers and staples used to secure paper products, protractors, and compasses.

(c) Learning aids and jigsaw puzzles having a sales price of $30 or less. As used in this paragraph, the term "learning aids" means 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.

(d) Personal computers or personal computer-related accessories purchased for noncommercial home or personal use having a sales price of $1,500 or less. As used in this paragraph, the term:

1. "Personal computers" includes electronic book readers, calculators, laptops, desktops, handhelds, tablets, or tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not

primarily designed to process data.

2. "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. The term does not include furniture or systems, devices, software, monitors with a television tuner, or peripherals that are designed or intended primarily for recreational use.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The tax exemptions provided in this section apply 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 consisted of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by July 15, 2024, the dealer must notify the Department of Revenue 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.

(4) The Department of Revenue is authorized, and all

conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section.

(5) This section shall take effect upon this act becoming a law.

Section 28. Tools commonly used by skilled trade workers; Tool Time sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from September 1, 2024, through September 7, 2024, on the retail sale of:

(a) Hand tools with a sales price of $50 or less per item.

(b) Power tools with a sales price of $300 or less per item.

(c) Power tool batteries with a sales price of $150 or less per item.

(d) Work gloves with a sales price of $25 or less per pair.

(e) Safety glasses with a sales price of $50 or less per pair, or the equivalent if sold in sets of more than one pair.

(f) Protective coveralls with a sales price of $50 or less per item.

(g) Work boots with a sales price of $175 or less per pair.

(h) Tool belts with a sales price of $100 or less per item.

(i) Duffle bags or tote bags with a sales price of $50 or less per item.

(j) Tool boxes with a sales price of $75 or less per item.

(k) Tool boxes for vehicles with a sales price of $300 or less per item.

(l) Industry textbooks and code books with a sales price of $125 or less per item.

(m) Electrical voltage and testing equipment with a sales price of $100 or less per item.

(n) LED flashlights with a sales price of $50 or less per item.

(o) Shop lights with a sales price of $100 or less per item.

(p) Handheld pipe cutters, drain opening tools, and plumbing inspection equipment with a sales price of $150 or less per item.

(q) Shovels with a sales price of $50 or less.

(r) Rakes with a sales price of $50 or less.

(s) Hard hats and other head protection with a sales price of $100 or less.

(t) Hearing protection items with a sales price of $75 or less.

(u) Ladders with a sales price of $250 or less.

(v) Fuel cans with a sales price of $50 or less.

(w) High visibility safety vests with a sales price of $30

or less.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this section.

Section 29. (1) A county that has been designated as an area of critical state concern by law or by action of the Administration Commission pursuant to s. 380.05, Florida Statutes, and that levies both a tourist development tax pursuant to s. 125.0104, Florida Statutes, and a tourist impact tax pursuant to s. 125.0108, Florida Statutes, shall use the accumulated surplus from such taxes collected through September 30, 2024, whether held by the county directly or held by a land authority in that county created pursuant to s. 380.0663, Florida Statutes, for the purpose of providing housing that is both:

(a) Affordable, as defined in s. 420.0004, Florida Statutes.

(b) Available to employees of tourism-related businesses

in the county.

(2) Any housing financed with funds from this surplus shall only be used to provide housing that is affordable, as defined in s. 420.0004, Florida Statutes, for a period of no fewer than 99 years.

Section 30. (1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to implement the amendments made by this act to ss. 212.05, 212.031 and 220.03, and the creation by this act of s. 220.1992, Florida Statutes. Notwithstanding any other provision of law, emergency rules adopted pursuant to this subsection are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(2) This section shall take effect upon this act becoming a law and expires July 1, 2027.

Section 31. Except as otherwise provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2024.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|---|---|---|
| ADOPTED | __ | (Y/N) |
| ADOPTED AS AMENDED | __ | (Y/N) |
| ADOPTED W/O OBJECTION | __ | (Y/N) |
| FAILED TO ADOPT | __ | (Y/N) |
| WITHDRAWN | __ | (Y/N) |
| OTHER | _____ | |

Committee/Subcommittee hearing bill: Ways & Means Committee

Representative McClain offered the following:

**Amendment**

Remove line 311 and insert:

of the ~~registered~~ electors in such city or town voting in ~~at~~ a

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|---|---|---|
| ADOPTED | ____ | (Y/N) |
| ADOPTED AS AMENDED | ____ | (Y/N) |
| ADOPTED W/O OBJECTION | ____ | (Y/N) |
| FAILED TO ADOPT | ____ | (Y/N) |
| WITHDRAWN | ____ | (Y/N) |
| OTHER | | |

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Committee/Subcommittee hearing bill: Ways & Means Committee
Representative Eskamani offered the following:

**Amendment (with title amendment)**

Between lines 1446 and 1447, insert:

Section 31. Paragraphs (b) through (g) of subsection (1) of section 125.0108, Florida Statutes, are redesignated as paragraphs (c) through (h), respectively, paragraph (a) of that subsection, paragraph (c) of subsection (2), and subsections (3), (5), and (6) are amended, and a new paragraph (b) is added to subsection (1) of that section, to read:

125.0108 Areas of critical state concern; tourist impact tax.—

(1)

(a) Subject to ~~the provisions of~~ this section, any county creating a land authority pursuant to s. 380.0663(1) may ~~is~~

~~authorized to~~ levy by ordinance, in the area or areas within said county designated as an area of critical state concern pursuant to chapter 380, a tourist impact tax on the taxable privileges described in paragraph (c) ~~(b)~~; however, if the area or areas of critical state concern are greater than 50 percent of the land area of the county, the tax may be levied throughout the entire county. Such tax shall not be effective unless and until land development regulations and a local comprehensive plan that meet the requirements of chapter 380 have become effective and such tax is approved by referendum as provided for in paragraph (5)(b) ~~subsection (5)~~.

(b)1. Subject to this section, any county with a local affordable housing trust fund, or other similar local mechanism to provide for affordable housing, may levy by referendum a tourist impact tax on the taxable privileges described in paragraph (c). The revenue received must be expended according to the county's affordable housing trust fund program, or other similar local mechanism.

2. Tax revenues received pursuant to this paragraph are not subject to subsection (3) but are subject to s. 125.0104(10).

3. The tourist impact tax authorized pursuant to this paragraph shall take effect only as provided for in subsection (5)(b).

(2)

(c) Except for tourist impact taxes collected pursuant to paragraph (1)(b), collections received by the Department of Revenue from the tax, less costs of administration of this section, shall be paid and returned monthly to the county and the land authority in accordance with ~~the provisions of~~ subsection (3).

(3) All tax revenues received pursuant to paragraph (1)(a) ~~this section~~, less administrative costs, shall be distributed as follows:

(a) Fifty percent shall be transferred to the land authority to be used in accordance with s. 380.0666 in the area of critical state concern for which the revenue is generated. An amount not to exceed 5 percent may be used for administration and other costs incident to the exercise of said powers.

(b) Fifty percent shall be distributed to the governing body of the county where the revenue was generated. Such proceeds shall be used to offset the loss of ad valorem taxes due to acquisitions provided for by this act.

(5)(a) The tourist impact tax authorized by paragraph (1)(a) ~~this section~~ shall take effect only upon express approval by a majority vote of those qualified electors in the area or areas of critical state concern in the county seeking to levy such tax, voting in a referendum to be held in conjunction with a general election, as defined in s. 97.021. However, if the area or areas of critical state concern are greater than 50

percent of the land area of the county and the tax is to be imposed throughout the entire county, the tax shall take effect only upon express approval of a majority of the qualified electors of the county voting in such a referendum.

(b) The tourist impact tax authorized by paragraph (1)(b) shall take effect only upon express approval by a majority vote of those qualified electors in the county seeking to levy such tax, voting in a referendum to be held in conjunction with a general election, as defined in s. 97.021.

A referendum to reenact an expiring tourist impact tax must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted tax, and the referendum may appear on the ballot only once within the 48-month period.

(6) The effective date of the levy and imposition of the tourist impact tax authorized under this section shall be the first day of the second month following approval of the ordinance by referendum or the first day of any subsequent month as may be specified in the ordinance. A certified copy of the ordinance shall include the time period and the effective date of the tax levy and shall be furnished by the county to the Department of Revenue within 10 days after passing an ordinance levying such tax and again within 10 days after approval by referendum of such tax. If applicable, the county levying the

tax shall provide the Department of Revenue with a list of the businesses in the area of critical state concern where the tourist impact tax is levied by zip code or other means of identification. Notwithstanding ~~the provisions of~~ s. 213.053, the Department of Revenue shall assist the county in compiling such list of businesses. The tourist impact tax levied pursuant to paragraph (1)(a), if not repealed sooner pursuant to paragraph (1)(d) ~~(1)(c)~~, shall be repealed 10 years after the date the area of critical state concern designation is removed.

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**T I T L E A M E N D M E N T**

Remove line 95 and insert:

for future repeal; amending s. 125.0108, F.S.; authorizing counties with local affordable housing trust funds, or other similar local mechanism to provide for affordable housing, to levy tourist impact taxes under certain circumstances; requiring revenue received to be expended according to the county's affordable housing trust fund program, or other similar local mechanism; providing applicability; requiring such tax to take effect only upon express approval by a majority vote of those qualified electors in the county seeking to levy such tax, voting in a referendum; providing effective dates.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB WMC 24-06 Tangible Personal Property Tax Exemptions
**SPONSOR(S):** Ways & Means Committee
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| Orig. Comm.: Ways & Means Committee | | Rexford | Aldridge |

## SUMMARY ANALYSIS

The Florida Constitution reserves ad valorem taxation on real and tangible personal property to local. Ad valorem taxes are annual taxes levied by counties, municipalities, school districts, and certain special districts. These taxes are based on the just value (fair market value) of real and tangible property as determined by county property appraisers on January 1 of each year.

Tangible personal property is singled out for special treatment in the constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation. Household goods up to $1,000 in value are exempt. Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law. Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

The Florida Constitution, provides for a $25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

The joint resolution proposes an amendment Article VII, Section 3 of the Florida Constitution, to increase the amount of the exemption on the assessed value of tangible personal property from $25,000 to $50,000.

The Revenue Estimating Conference has not estimated the potential revenue impacts of the joint resolution. Staff estimates that the recurring negative impact on local government revenues would be approximately -$100 million beginning in FY 2025-26.

Subject to approval by 60 percent of voters during the 2024 general election or earlier special election, the amendment proposed in the joint resolution will take effect on January 1, 2025. The joint resolution is not subject to the governor's veto powers.

**A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.**

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Current Situation**

Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation on real and tangible personal property to local governments.[1] Ad valorem taxes are annual taxes levied by counties, municipalities, school districts, and certain special districts. These taxes are based on the just value (fair market value) of real and tangible property as determined by county property appraisers on January 1 of each year.[2] The just value may be subject to limitations, such as the "Save Our Homes" limitation on homestead property assessment increases.[3] The value arrived at after accounting for applicable limitations is known as the assessed value. Property appraisers then calculate the taxable value by reducing the assessed value in accordance with any applicable exemptions, such as the exemptions for homestead property.[4] Each year, local governing boards levy millage rates (i.e. tax rates) on the taxable value to generate the property tax revenue contemplated in their annual budgets.

Taxation of Tangible Personal Property

Article VII, Section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.[5] Household goods up to $1,000 in value are exempt.[6] Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.[7] Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, Section 3(e), Florida Constitution, provides for a $25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

**Effect of Proposed Changes**

The joint resolution proposes an amendment to Article VII, Section 3 of the Florida Constitution, to increase the amount of the exemption on the assessed value of tangible personal property from $25,000 to $50,000.

[1] Art. VII, s. 1(a)., Fla. Const.
[2] Art. VII, s. 4., Fla. Const.
[3] *See generally* s. 193.155, F.S.
[4] S. 196.031, F.S.
[5] Art. VII, s. 1(b), Fla. Const.
[6] Art. VII, s. 3(b), Fla. Const.
[7] Art. VII, s. 4(b), Fla. Const.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Division of Elections within the Department of State must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the amendment will appear on the ballot. The Division must also provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the potential revenue impacts of the joint resolution. Staff estimates that the negative recurring impact on local government revenues would be approximately -$100 million beginning in FY 2025-26.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the amendment proposed by the joint resolution is approved by voters, taxpayers who own certain taxable tangible personal property would see a reduction in their ad valorem taxes on the tangible personal property. There are approximately 200,000 accounts on tax rolls statewide with a tax liability for the ad valorem tax on tangible personal property. If the amendment proposed by the joint resolution had been law in 2023, approximately 50,000 of those 200,000 accounts would have had no tax liability.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The mandates provision applies only to a general law, not to a joint resolution proposing an amendment to the state Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

House Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article VII and the creation of a new section in Article XII of the State Constitution to authorize the Legislature, by general law, to increase the ad valorem tax exemption on the assessed value of tangible personal property from twenty-five thousand dollars to fifty thousand dollars and to provide an effective date.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 3 of Article VII and the creation of a new section in Article XII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment



CODING: Words ~~stricken~~ are deletions; words underlined are additions.

to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property



CODING: Words ~~stricken~~ are deletions; words underlined are additions.

related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined by general law.

(e) By general law and subject to conditions specified therein:

(1) Fifty ~~Twenty-five~~ thousand dollars of the assessed value of property subject to tangible personal property tax shall be exempt from ad valorem taxation.

(2) The assessed value of solar devices or renewable energy source devices subject to tangible personal property tax



CODING: Words ~~stricken~~ are deletions; words underlined are additions.

may be exempt from ad valorem taxation, subject to limitations provided by general law.

(f) There shall be granted an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation protections, as defined by general law.

(g) By general law and subject to the conditions specified therein, each person who receives a homestead exemption as provided in section 6 of this article; who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard; and who was deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature shall receive an additional exemption equal to a percentage of the taxable value of his or her homestead property. The applicable percentage shall be calculated as the number of days during the preceding calendar year the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the legislature divided by the number of days in that year.

ARTICLE XII

SCHEDULE

Increase in the ad valorem tax exemption for tangible personal property.—This section and the amendment to Section 3 of Article VII, increasing the ad valorem tax exemption on the assessed value of tangible personal property from twenty-five thousand dollars to fifty thousand dollars shall take effect January 1, 2025.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 3

ARTICLE XII

INCREASING THE EXEMPTION ON TANGIBLE PERSONAL PROPERTY FROM TWENTY-FIVE THOUSAND DOLLARS TO FIFTY-THOUSAND DOLLARS.—Proposing an amendment to the State Constitution to increase the value of an ad valorem tax exemption on the assessed value of tangible personal property from twenty-five thousand dollars to fifty thousand dollars. This amendment shall take effect January 1, 2025.

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB WMC 24-07 Tangible Personal Property Tax Exemptions Implementing Bill
**SPONSOR(S):** Ways & Means Committee
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| Orig. Comm.: Ways & Means Committee | | Rexford | Aldridge |

## SUMMARY ANALYSIS

The Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property. Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation. Household goods up to $1,000 in value are exempt. Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

The Florida Constitution, provides for a $25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

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. 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. The Legislature annually appropriates money to fiscally constrained counties to offset ad valorem tax revenue reductions caused by various amendments to the Florida Constitution.

The bill implements the amendment to Article VII, Section 3 of the Florida Constitution proposed by PCB WMC 24-06, by making conforming statutory changes. Specifically, the bill amends statute to change the amount of the exemption on the assessed value of tangible personal property from $25,000 to $50,000.

The bill also requires the Legislature to appropriate funds to offset reductions in ad valorem tax revenue experienced by fiscally constrained counties as a result of the increase in the exemption for tangible personal property.

The bill provides emergency rulemaking authority to the Department of Revenue to administer the provisions of the act.

The Revenue Estimating Conference has not estimated the potential revenue impacts of the bill. Staff estimates that the impact on state and local government revenues is zero as the constitutional amendment implemented by the bill is self-executing. Therefore, revenue impacts would result from approval of the constitutional amendment, not the implementing legislation.

This bill takes effect on the same day that the constitutional amendment proposed by PCB WMC 24-06, or a similar joint resolution, takes effect, which is January 1, 2025.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Current Situation**

Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation on real and tangible personal property to local governments.[1] Ad valorem taxes are annual taxes levied by counties, municipalities, school districts, and certain special districts. These taxes are based on the just value (fair market value) of real and tangible property as determined by county property appraisers on January 1 of each year.[2] The just value may be subject to limitations, such as the "Save Our Homes" limitation on homestead property assessment increases.[3] The value arrived at after accounting for applicable limitations is known as the assessed value. Property appraisers then calculate the taxable value by reducing the assessed value in accordance with any applicable exemptions, such as the exemptions for homestead property.[4] Each year, local governing boards levy millage rates (i.e. tax rates) on the taxable value to generate the property tax revenue contemplated in their annual budgets.

Taxation of Tangible Personal Property

Article VII, Section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.[5] Household goods up to $1,000 in value are exempt.[6] Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.[7] Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, Section 3(e), Florida Constitution, provides for a $25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation. This exemption is implemented in s. 196.183, F.S.

Section 196.183(1), F.S., provides that a single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

Fiscally Constrained Counties

[1] Art. VII, s. 1(a)., Fla. Const.
[2] Art. VII, s. 4., Fla. Const.
[3] *See generally* s. 193.155, F.S.
[4] S. 196.031, F.S.
[5] Art. VII, s. 1(b), Fla. Const.
[6] Art. VII, s. 3(b), Fla. Const.
[7] Art. VII, s. 4(b), Fla. Const.

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.[8] 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.[9]

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.[10]

The Legislature annually appropriates money to fiscally constrained counties to offset ad valorem tax revenue reductions caused by various amendments to the Florida Constitution.[11] In order to receive an offset distribution, fiscally constrained counties must annually provide the Department of Revenue with an estimate of the expected reduction in ad valorem tax revenues that are directly attributable to specified revisions of Article VII of the Florida Constitution.[12] This prevents such amendments related to property tax from negatively affecting fiscally constrained county tax revenues.

**Effect of Proposed Changes**

If the voters approve the amendment to Article VII, Section 3 of the Florida Constitution proposed by PCB WMC 24-06, the bill implements the amendment by making conforming statutory changes. Specifically, the bill amends s. 196.183, F.S., to change the amount of the exemption on the assessed value of tangible personal property from $25,000 to $50,000.

The bill creates s. 218.126, F.S., requiring the Legislature to appropriate funds to offset reductions in ad valorem tax revenue experienced by fiscally constrained counties as a result of the increase in the exemption for tangible personal property. To receive the offset, a qualifying county must annually apply to the Department of Revenue and provide documentation regarding the county's estimated reduction in ad valorem tax revenue. If a fiscally constrained county fails to apply for the distribution, its share reverts to the fund from which the appropriation was made.

The bill provides emergency rulemaking authority to the Department of Revenue to administer the provisions of the act.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.183, F.S., increasing the amount of the exemption on the assessed value of tangible personal property from $25,000 to $50,000.

Section 2: Creates s. 218.126, F.S., requiring the Legislature to appropriate money to offset losses experienced by fiscally constrained counties. Providing procedures for fiscally constrained counties to apply for funds.

Section 3: Authorizing the Department of Revenue to adopt emergency rules.

Section 4: Clarifying that the act first applies to the 2025 tax roll.

Section 5: Providing a contingent effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[8] S. 218.67(1), F.S.
[9] S. 288.0656, F.S.
[10] Florida Department of Revenue, *Fiscally Constrained Counties*, available at: https://www.floridarevenue.com/property/Documents/fcc_map.pdf (last visited Feb. 9, 2024).
[11] *See* ss. 218.12, 218.125, and 218.135, F.S.
[12] Ss. 218.12(2), 218.125(2), and 218.135(2), F.S.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   If the bill becomes effective and the Legislature makes appropriations as contemplated by the bill, the staff estimates the state expenditures necessary to fully offset the revenue losses for fiscally constrained counties resulting from increasing the amount of the exemption on the assessed value of tangible personal property would be approximately $3 million annually beginning in FY 2025-26.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference has not estimated the potential revenue impacts of the bill, staff estimates that the impact on state and local government revenues is zero as the constitutional amendment implemented by the bill is self-executing. Therefore, revenue impacts would result from approval of the constitutional amendment, not the implementing legislation.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None. The economic impact on the private sector would result from approval by the voters of the constitutional amendment proposed by PCB WMC 24-06, not the implementing legislation.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The mandates provision does not apply to provisions of legislative acts that conform statutes to a new constitutional requirement. The other provisions of the bill do not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

This bill authorizes the Florida Department of Revenue to adopt emergency rules to administer the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to tangible personal property taxation; amending s. 196.183, F.S.; increasing the amount of an exemption; creating s. 218.126, F.S.; requiring the Legislature to appropriate funds for a specified purpose; requiring such funds be distributed in a specified manner; requiring specified counties to apply for such distribution; providing requirements for application; providing a specified calculation to be used to determine funding; providing for a reversion of funds in specified circumstances; authorizing the Department of Revenue to adopt emergency rules; providing applicability; providing a contingent effective date.

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

Section 1. Subsection (1) of section 196.183, Florida Statutes, is amended to read:

196.183 Exemption for tangible personal property.—

(1) Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to $50,000 ~~$25,000~~ of assessed value. A single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property

placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county. Railroads, private carriers, and other companies assessed pursuant to s. 193.085 shall be allowed one $50,000 ~~$25,000~~ exemption for each county to which the value of their property is allocated. The $50,000 ~~$25,000~~ exemption for freestanding property placed at multiple locations and for centrally assessed property shall be allocated to each taxing authority based on the proportion of just value of such property located in the taxing authority; however, the amount of the exemption allocated to each taxing authority may not change following the extension of the tax roll pursuant to s. 193.122.

Section 2. Section 218.126, Florida Statutes, is created to read:

218.126 Offset for ad valorem revenue loss affecting fiscally constrained counties.—

(1) Beginning in fiscal year 2025-2026, the Legislature shall appropriate moneys to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties, as

defined in s. 218.67(1), which occur as a direct result of the implementation of revisions of s. 3(e) of Art. VII of the State Constitution approved in the November 2024 general election. The moneys appropriated for this purpose shall be distributed in January of each fiscal year among the fiscally constrained counties based on each county's proportion of the total reduction in ad valorem tax revenue resulting from the implementation of the revision of s. 3(e) of Art. VII of the State Constitution.

(2) On or before November 15 of each year, each fiscally constrained county shall apply to the Department of Revenue to participate in the distribution of the appropriation and provide documentation supporting the county's estimated reduction in ad valorem tax revenue in the form and manner prescribed by the Department of Revenue. The documentation must include an estimate of the reduction in taxable value directly attributable to revisions of s. 3(e) of Art. VII of the State Constitution approved in the November 2024 general election for all county taxing jurisdictions within the county and shall be prepared by the property appraiser in each fiscally constrained county. The documentation must also include the county millage rates applicable in all such jurisdictions for the current year and the prior year, rolled-back rates determined as provided in s. 200.065 for each county taxing jurisdiction, and maximum millage rates that could have been levied by majority vote pursuant to

s. 200.065(5). For purposes of this section, each fiscally constrained county's reduction in ad valorem tax revenue shall be calculated as 95 percent of the estimated reduction in taxable value multiplied by the lesser of the 2024 applicable millage rate or the applicable millage rate for each county taxing jurisdiction in the current year. If a fiscally constrained county fails to apply for the distribution, its share shall revert to the fund from which the appropriation was made.

Section 3. (1) The Department of Revenue may, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this act.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules.

Section 4. The amendments made by this act to s. 196.183, Florida Statutes, first apply to the 2025 tax roll.

Section 5. This act shall take effect on the effective date of the amendment to the State Constitution proposed by PCB WMC 24-06 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment is approved at the next general election or at an earlier special election specifically authorized by law for that purpose.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 295 Disclosure of Estimated Ad Valorem Taxes
**SPONSOR(S):** Anderson
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 380

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Regulatory Reform & Economic Development Subcommittee | | Thompson | Anstead |
| 2) Ways & Means Committee | | Rexford | Aldridge |
| 3) Commerce Committee | | | |

**SUMMARY ANALYSIS**

The marketplace for real estate has shifted over time in favor of online property listings. There are many large online platforms which list real estate, the most familiar of which being Zillow, Realtor.com, Trulia, and Redfin. In addition to large platforms, many individual realtors have websites which include listings of real estate for sale. These platforms are not unified in the information displayed to the user. Some, but not all, include the property's public tax history, a link to the county property appraiser's website, and an estimate of property taxes. There is currently no requirement that a real property listing platform include a property tax estimate or link to a property appraiser's website.

Estimating an individual's tax estimate requires several pieces of information. These might include the parcel's millage rate, applicable exemptions, the property's value, applicable classified property uses, and other assessments on the property. While there is no requirement to this effect, some property appraisers include on their website a tool or worksheet to assist homeowners in estimating property taxes.

The bill requires online listings of residential property to include an ad valorem tax estimator tool which calculates the ad valorem tax that would be due on the property at current rates, as follows:

- Requires residential property visible on a listing platform to include the estimated ad valorem taxes.
- Prohibits the current owner's ad valorem taxes from being displayed or used to calculate the estimated ad valorem taxes.
- Provides that if using a tax estimator or buyer payment calculator, the listing platform must calculate and display the ad valorem taxes that would be due, both with and without the homestead tax exemption, if the purchaser were taxed on the listing price of the property at current millage rates using the data and formula published by Department of Revenue (DOR).
- Provides that if not using a tax estimator or buyer payment calculator, the listing platform is required to include a link to the local property appraiser's tax estimator.
- Requires DOR to maintain links to each property appraiser's home page and tax estimator.
- Prohibits printed listing materials from including the current owner's ad valorem taxes.
- Requires DOR to annually develop a formula that may be used by a listing platform to calculate the estimated ad valorem taxes.
- Requires DOR to require each property appraiser to provide DOR with any information needed to develop the formula.
- Beginning December 15, 2024, and annually thereafter, requires DOR to publish the formula and the information collected from each property appraiser in accordance with the bill, on its website.
- Authorizes DOR to adopt rules to implement its responsibilities regarding the formula.

The bill does not appear to have a fiscal impact on state or local government.

Except as otherwise provided, the effective date of the bill is July 1, 2024.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

**Online Real Property Listing Platforms**

The marketplace for real estate has shifted over time in favor of online listings of property. More than half of all homebuyers in 2022 found the home they purchased on the internet.[1] There are many large online platforms which list real estate, the most familiar of which being Zillow, Realtor.com, Trulia, and Redfin. In addition to large platforms, many individual realtors have websites which include listings of real estate for sale.[2]

Online real property listing platforms are not unified in the information displayed to the user. Some, but not all, include the property's public tax history, a link to the county property appraiser's website, and an estimate of property taxes.[3]

There is currently no requirement that a real property listing platform include a property tax estimate or link to a property appraiser's website.[4]

**Disclosure of Ad Valorem Taxes to Prospective Purchasers**

Current law governing the "**disclosure**" of ad valorem taxes to prospective purchasers of residential property requires a prospective purchaser to be presented a **disclosure** summary at or before execution of the contract for sale. Unless a substantially similar disclosure summary is included in the contract for sale, a separate disclosure summary must be attached to the contract for sale. The disclosure summary, whether separate or included in the contract, must be in a form substantially similar to the following:[5]

PROPERTY TAX
DISCLOSURE SUMMARY

BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

The law provides that, unless included in the contract, the disclosure summary must be provided by the seller. If the disclosure summary is not included in the contract for sale, the contract for sale must refer to and incorporate by reference the disclosure summary and include, in prominent language, a

[1] National Ass'n of Realtors, *Quick Real Estate Statistics*, Nov. 3, 2022, available at https://www.nar.realtor/research-and-statistics/quick-real-estate-statistics (last visited Feb. 8, 2024).
[2] *Id.* The National Association of Realtors posits that it has more than 1,600,000 members, 70% of brokers and sales agents have a website, and 81% of their members have their own listings on their website.
[3] For example, Zillow's listings include all of the listed information, and the website's mortgage calculator includes estimated property taxes based on the home's value. https://www.zillowhomeloans.com/calculators/mortgage-calculator/ (last visited Jan. 18, 2024).
[4] Florida Department of Revenue, Analysis of 2024 HB 295, p. 2 (Feb. 8, 2023).
[5] S. 689.261(1), F.S.

statement that the potential purchaser should not execute the contract until he or she has read the disclosure summary.[6]

**Property Tax Estimates**

Estimating an individual's tax estimate requires several pieces of information. These might include the parcel's millage rate, applicable exemptions, the property's value, applicable classified property uses, and other assessments on the property.[7] While there is no requirement to this effect, some property appraisers include on their website a tool or worksheet to assist homeowners in estimating property taxes.[8]

**Ad Valorem Taxation**

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[9] The property appraiser annually determines the "just value"[10] of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[11] Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,[12] and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[13]

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;[14] however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often results in lower assessments. Properties that receive classified use treatment in Florida include agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;[15] land used for conservation purposes;[16] historic properties when authorized by the county or municipality;[17] and certain working waterfront property.[18]

**Property Tax Exemptions for Homesteads**

A homestead exemption is a reduction of assessed value, and therefore tax liability, based on the individual's maintaining a property as their primary residence. Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school

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[6] S. 689.261(2), F.S.
[7] Florida Department of Revenue, *Property Tax Information for First-Time Florida Homebuyers,* available at https://floridarevenue.com/property/Documents/pt107.pdf (last visited Feb 8, 2024).
[8] *See, e.g*., Miami-Dade County, *Tax Estimator*, available at https://www.miamidade.gov/Apps/PA/PAOnlineTools/Taxes/TaxEstimator.aspx (last visited Feb. 8, 2024).
[9] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.
[10] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler,* 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County,* 275 So. 2d 4 (Fla. 1973).
[11] *See* s. 192.001(2) and (16), F.S.
[12] Art. VII, s. 1(a), Fla. Const.
[13] *See* art. VII, s. 4, Fla. Const.
[14] Section 193.011(2), F.S.
[15] Art. VII, s. 4(a), Fla. Const.
[16] Art. VII, s. 4(b), Fla. Const.
[17] Art. VII, s. 4(e), Fla. Const.
[18] Art. VII, s. 4(j), Fla. Const.

districts.[19] An additional $25,000 exemption applies to homestead property value between $50,000 and $75,000.[20] This exemption does not apply to ad valorem taxes levied by school districts.

The Florida Constitution authorizes various additional homestead exemptions, either directly through legislation or through statutory permission for local governments to enact. These homesteads are based largely on the status or profession of the person maintaining the homestead property.[21]

**Real Estate Sales Associates and Brokers**

The Florida Real Estate Commission (FREC), within the Division of Real Estate (Division), at DBPR, administers and enforces real estate licensing laws applicable to real estate brokers[22] and sales associates[23] (real estate agents).[24] The FREC is also empowered to adopt rules that enable it to implement its statutorily authorized duties and responsibilities.[25]

A person who operates as a broker or sales associate in Florida without having a valid, current, and active license commits a felony of the third degree.[26] FREC may also discipline licensed real estate brokers and sales associates if FREC finds that the broker or sales associate violated the practice act, which violations may include:[27]

- Engaging in dishonest, fraudulent transactions;
- Advertising property or services in a manner which is fraudulent, false, deceptive, or misleading in form or content;
- Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession;
- Failing to include in any written listing agreement a definite expiration date, description of the property, price and terms, fee or commission, and a proper signature of the principal; or
- Failing to perform any statutory or legal obligation placed upon a licensee.

The FREC may:[28]

- Deny an application for licensure, registration, or permit, or renewal; may place a licensee, registrant, or permittee on probation;
- Suspend a license, registration, or permit for a period not exceeding 10 years;
- Revoke a license, registration, or permit;
- Impose an administrative fine not to exceed $5,000 for each count or separate offense; and
- Issue a reprimand.

**Effect of Proposed Changes**

The bill defines the term "listing platform" as any public-facing online real property listing platform, including, but not limited to, websites, web applications, and mobile applications.

The bill requires any residential property visible on a listing platform to include the estimated ad valorem taxes for such property.

[19] Art VII, s. 6(a), Fla. Const., and s. 196.031, F.S.
[20] Section 196.031(1)(b), F.S.
[21] *See, e.g.,* art. VII, s. 6(d), Fla. Const.; Ss. 196.081, 196.082, 196.091, and 196.102, F.S.
[22] "Broker" means, in pertinent part, a person who, for another, and for compensation or valuable consideration directly or indirectly paid or promised, expressly or implied, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents any real property or an interest in or concerning the same; or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in such business. S. 475.01(1)(a), F.S.
[23] "Sales associate" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of another person. S. 475.01(1)(j), F.S.
[24] Ch. 475, Part I, F.S.
[25] These rules are contained in ch. 61J2, F.A.C.
[26] S. 475.42(1)(a), F.S.
[27] Ss. 475.25 and s. 455.227, F.S.
[28] S. 475.25, F.S.

The bill prohibits the current owner's ad valorem taxes from being displayed or used to calculate the estimated ad valorem taxes.

The bill provides that if the ad valorem taxes are estimated using a tax estimator or buyer payment calculator, the listing platform must calculate and display the ad valorem taxes that would be due, both with and without the homestead tax exemption, if the purchaser were taxed on the listing price of the property at current millage rates using the data and formula published by Department of Revenue (DOR).

The bill provides that the use of such data and formula constitutes a reasonable estimate of ad valorem taxes.

The bill requires the listing platform to include a disclaimer next to the estimated ad valorem taxes that the millage rates of applicable taxing authorities may vary within a county and that the estimated ad valorem taxes do not include all applicable non-ad valorem assessments or exemptions, discounts, and other tax benefits, including, but not limited to, transfer of the homestead assessment difference under s. 4, Art. VII of the State Constitution.

The bill provides that if ad valorem taxes are not estimated using a tax estimator or buyer payment calculator, the listing platform is required to include a link to the property appraiser's tax estimator for the county in which the property is located, if available, or to such property appraiser's home page.

The bill requires DOR to maintain a table of links to each property appraiser's home page and tax estimator, if available, on its website.

The bill prohibits printed listing materials from including the current owner's ad valorem taxes.

The bill requires DOR to annually develop a formula that may be used by a listing platform to calculate the estimated ad valorem taxes required under the bill.

The bill requires DOR to require each property appraiser to provide DOR with any information needed to develop the formula, including, at a minimum, the county name, tax district code, summary school millage rate, and summary millage rate for all other applicable taxing authorities.

Beginning December 15, 2024, and annually thereafter, the bill requires DOR to publish the formula and the information collected from each property appraiser under the bill on its website.

The bill authorizes DOR to adopt rules to implement its responsibilities regarding the formula to be used by a listing platform to calculate the estimated ad valorem taxes required under the bill.

B. SECTION DIRECTORY:

Section 1: Amends s. 689.261, F.S., relating to sale of residential property; disclosure of ad valorem taxes to prospective purchaser.

Section 2: Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to DOR, the bill will not have a fiscal impact to its expenditures and operational expenses.[29]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DOR to adopt rules to implement its responsibilities regarding the formula to be used by a listing platform to calculate the estimated ad valorem taxes. According to DOR, it "will promulgate rules to implement s. 689.261(3)(d), F.S."[30]

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[29] Florida Department of Revenue, Analysis of 2024 HB 295, p. 3 (Nov. 15, 2023).
[30] *Id.*

A bill to be entitled

An act relating to disclosure of estimated ad valorem taxes; amending s. 689.261, F.S.; defining the term "listing platform"; requiring certain listings to include estimated ad valorem taxes; prohibiting the current owner's ad valorem taxes from being displayed or used for certain purposes; providing requirements for listing platforms, the Department of Revenue, and property appraisers; providing construction; prohibiting certain materials from including specified information; requiring, beginning on a specified date, the department to annually publish a formula and certain information on its website; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Subsection (3) is added to section 689.261, Florida Statutes, to read:

689.261 Sale of residential property; disclosure of ad valorem taxes to prospective purchaser.—

(3)(a) As used in this subsection, the term "listing platform" means any public-facing online real property listing platform, including, but not limited to, websites, web



CODING: Words stricken are deletions; words underlined are additions.

applications, and mobile applications.

(b) Any residential property visible on a listing platform must include the estimated ad valorem taxes for such property.

1. The current owner's ad valorem taxes may not be displayed or used to calculate the estimated ad valorem taxes.

2. If the ad valorem taxes are estimated using a tax estimator or buyer payment calculator, the listing platform must calculate and display the ad valorem taxes that would be due, both with and without the homestead tax exemption, if the purchaser were taxed on the listing price of the property at current millage rates using the data and formula published under paragraph (d). The use of such data and formula constitutes a reasonable estimate of ad valorem taxes. The listing platform must include a disclaimer next to the estimated ad valorem taxes that the millage rates of applicable taxing authorities may vary within a county and that the estimated ad valorem taxes do not include all applicable non-ad valorem assessments or exemptions, discounts, and other tax benefits, including, but not limited to, transfer of the homestead assessment difference under s. 4, Art. VII of the State Constitution.

3. If ad valorem taxes are not estimated using a tax estimator or buyer payment calculator as provided in sub-paragraph 2., the listing platform shall include a link to the property appraiser's tax estimator for the county in which the property is located, if available, or to such property

appraiser's home page. The Department of Revenue must maintain a table of links to each property appraiser's home page and tax estimator, if available, on its website.

(c) Printed listing materials may not include the current owner's ad valorem taxes.

(d) The Department of Revenue shall annually develop a formula that may be used by a listing platform to calculate the estimated ad valorem taxes required under this subsection. The department shall require each property appraiser to provide the department with any information needed to develop the formula, including, at a minimum, the county name, tax district code, summary school millage rate, and summary millage rate for all other applicable taxing authorities. Beginning December 15, 2024, and annually thereafter, the department shall publish the formula and the information collected from each property appraiser under this paragraph on its website.

(e) The Department of Revenue may adopt rules to implement paragraph (d).

Section 2. This act shall take effect July 1, 2024.

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|---|---|---|
| ADOPTED | ____ | (Y/N) |
| ADOPTED AS AMENDED | ____ | (Y/N) |
| ADOPTED W/O OBJECTION | ____ | (Y/N) |
| FAILED TO ADOPT | ____ | (Y/N) |
| WITHDRAWN | ____ | (Y/N) |
| OTHER | | |

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Committee/Subcommittee hearing bill: Ways & Means Committee
Representative Anderson offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (3) is added to section 689.261, Florida Statutes, to read:

689.261 Sale of residential property; disclosure of ad valorem taxes to prospective purchaser.—

(3)(a) As used in this subsection, the term:

1. "Listing platform" means any public-facing online real property listing platform, including, but not limited to, websites, web applications, and mobile applications.

2. "Property" means residential real property located within the state.

(b) Any property visible on a listing platform must include the estimated ad valorem taxes for such property.

1. The current owner's ad valorem taxes may not be displayed or used to calculate the estimated ad valorem taxes. However the current owner's ad valorem taxes may be included as part of historical tax information, if similar historical tax information was included on the listing platform as of January 1, 2024, and if such information is displayed less prominently than the tax estimate calculated under this subsection.

2. If the ad valorem taxes are estimated using a tax estimator or buyer payment calculator, the listing platform must calculate and display the ad valorem taxes that would be due if the purchaser were taxed on the listing price of the property at current millage rates using the data and formula published under paragraph (d). The use of such data and formula constitutes a reasonable estimate of ad valorem taxes. The listing platform must include a disclaimer next to the estimated ad valorem taxes that the millage rates of applicable taxing authorities may vary within a county and that the estimated ad valorem taxes do not include all applicable non-ad valorem assessments or exemptions, discounts, and other tax benefits, including, but not limited to, transfer of the homestead assessment difference under s. 4, Art. VII of the State Constitution.

3. If ad valorem taxes are not estimated using a tax estimator or buyer payment calculator as provided in sub-

paragraph 2., the listing platform shall include a link to the property appraiser's tax estimator for the county in which the property is located, if available, or to such property appraiser's home page. The Department of Revenue must maintain a table of links to each property appraiser's home page and tax estimator, if available, on its website.

4. There shall be no liability on the part of, and no cause of action of any nature shall arise against a listing platform nor licensee under chapter 475 for the accuracy of the estimated ad valorem taxes of a property listed on a listing platform when in compliance with this paragraph.

(c) The current owner's ad valorem taxes may not be included within any:

1. Printed listing materials concerning a property.

2. Post on a social media platform pertaining to a property listed for sale.

(d) The Department of Revenue shall annually develop a formula that may be used by a listing platform to calculate the estimated ad valorem taxes required under this subsection. The department shall require each property appraiser to provide the department with any information needed to develop the formula, including, at a minimum, the county name, tax district code, summary school millage rate, and summary millage rate for all other applicable taxing authorities. Beginning December 15, 2024, and annually thereafter, the department shall publish the

formula and the information collected from each property appraiser under this paragraph on its website.

(e) The Department of Revenue may adopt rules to implement paragraph (d).

Section 2. This act shall take effect January 1, 2025.

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**T I T L E A M E N D M E N T**

Remove lines 3-9 and insert:

taxes; amending s. 689.261, F.S.; defining the terms "listing platform" and "property"; requiring certain listings to include estimated ad valorem taxes; prohibiting the current owner's ad valorem taxes from being displayed or used for certain purposes; providing an exception; providing requirements for listing platforms, the Department of Revenue, and property appraisers; providing protection from liability for specified parties who take certain actions; providing construction;

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 503 Limitation on Local Fees for Virtual Offices
**SPONSOR(S):** Fabricio
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 578

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local Administration, Federal Affairs & Special Districts Subcommittee | 14 Y, 0 N | Roy | Darden |
| 2) Ways & Means Committee | | Rexford | Aldridge |
| 3) State Affairs Committee | | | |

## SUMMARY ANALYSIS

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law. Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors. Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.

Counties can levy and collect taxes, both for county purposes and for the provision of municipal services within a municipal services taxing unit, in a manner provided by general law. A municipality can raise amounts of money which are necessary for the conduct of municipal government and may enforce that receipt and collection in a manner prescribed by ordinance not inconsistent with general law.

The bill prohibits a county, municipality, or local governmental entity from adopting or maintaining in effect any ordinance or rule that has the effect of imposing a “tax, charge, fee, or other imposition” on a virtual office. For the purposes of this prohibition, the bill defines:

- A “tax, charge, fee, or other imposition” as any amount or in-kind payment of property or services, regardless of whether such amount or in-kind payment is designated as a user fee, privilege fee, occupancy fee, or rental fee; and
- A “virtual office” as an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space.

The Revenue Estimating Conference estimates that the bill has a zero or negative indeterminate impact on local government revenues.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Ordinances

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.[1] Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.[2] Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.[3] A local government enactment may be inconsistent with state law if the:

- State Constitution preempts the subject area;
- Legislature preempts the subject area; or
- Local enactment conflicts with a state statute.

Local governments exercise these powers by adopting ordinances. The adoption or amendment of a regular ordinance, other than an ordinance making certain changes to zoning, may be considered at any regular or special meeting of the local governing body.[4] Notice of the proposed ordinance must be published at least 10 days before the meeting in a newspaper of general circulation in the area; state the date, time, and location of the meeting, the title of the proposed ordinance, and locations where the proposed ordinance may be inspected by the public; and advise that interested parties may appear and speak at the meeting. Municipal ordinances must also be read by title or in full on at least two separate days.[5] Ordinances may only encompass a single subject and may not be revised or amended solely by reference to the title.[6]

Local Government Revenue Sources

Governments obtain revenue necessary to fund their operations and pay necessary expenses from a variety of sources. The nature of these revenue sources and the purpose for which such revenue may be used varies. Among the sources of governmental revenue are taxes, various fees and assessments, charges for goods or services, fines and penalties, gifts, grants and intergovernmental transfers and borrowing.[7]

In an overarching sense, all of these sources of revenue share some common attributes. They are all sources of revenue available to governments to be spent for their operations. They all represent a diversion of resources from the private sector to the public sector of the economy. There are also important legal, economic and practical differences between these revenue sources and the purposes for which the funds that they generate may be used. For example, some levies are often government

[1] Art. VIII, s. 1(f), Fla. Const.
[2] Art. VIII, s. 1(g), Fla. Const.
[3] Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.
[4] *See* ss. 125.66(2)(a) and 166.041, F.S. In addition to general notice requirements, a local government must provide written notice by mail to all property owners before adopting a zoning change involving less than 10 contiguous acres. Ss. 125.66(4)(a) and 166.041(3)(c)1., F.S. If a zoning change involves 10 or more contiguous acres, the local government must conduct two public hearings, advertised in a newspaper, before adopting the ordinance. Ss. 125.66(4)(b) and 166.041(3)(c)2., F.S.
[5] S. 166.041(3)(a), F.S.
[6] S. 125.67 and 166.041(2), F.S.
[7] *See generally* Joseph Bishop-Henchman, *How Is the Money Used? Federal and State Cases Distinguishing Taxes and Fees*, Tax Foundation (Mar. 27, 2013), https://taxfoundation.org/blog/how-money-used-federal-and-state-cases-distinguishing-taxes-and-fees (last visited Feb. 9, 2024).

exactions of money to pay for governmental goods or services that are either unrelated or only distantly related to the activity, person, or entity being taxed. Alternatively, there may be some direct "benefit" to the payer, but there is limited or no ability to avoid the levy. The lines differentiating between these revenue sources are not always clear.[8]

Counties can levy and collect taxes, both for county purposes and for the provision of municipal services within a municipal services taxing unit, in a manner provided by general law.[9] A municipality can raise amounts of money which are necessary for the conduct of municipal government and may enforce that receipt and collection in a manner prescribed by ordinance not inconsistent with general law.[10]

**Effect of Proposed Change**

The bill prohibits a county, municipality, or local governmental entity from adopting or maintaining in effect any ordinance or rule that has the effect of imposing a "tax, charge, fee, or other imposition" on a virtual office. For the purposes of this prohibition, the bill defines:

- A "tax, charge, fee, or other imposition" as any amount or in-kind payment of property or services, regardless of whether such amount or in-kind payment is designated as a user fee, privilege fee, occupancy fee, or rental fee; and
- A "virtual office" as an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space.

B. SECTION DIRECTORY:

Section 1: Creates s. 125.01035, F.S., prohibiting counties, municipalities, and local government entities from imposing a tax or other imposition on virtual offices.

Section 2: Creates s. 166.272, F.S., prohibiting municipalities from levying a tax or other imposition on virtual offices.

Section 3: Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimate Conference estimated the bill to have a zero or negative indeterminate fiscal impact on local government revenues, as the bill prohibits local governments from levying on or

[8] *See City of De Land v. Fla. Pub. Serv. Co.*, 119 Fla. 819, 823, (1935) ("What controls our judgment in cases…involving the attempted imposition of taxes of the character here…is the underlying reality of the tax ordinance rather than the form or label of the challenged tax."); *City of Gainesville v. State*, 863 So. 2d 138, 144-45 (Fla. 2003) (when determining whether a charge is an assessment or fee, the name of the charge is only one factor to consider among a list of factors).
[9] S. 125.01(1)(r), F.S.
[10] S. 166.201, F.S.

collecting a tax, charge, fee, or other imposition with respect to the utilization of a virtual office space.[11]

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill prohibits counties and municipalities from levying certain tax, charges, fees, and other imposition on virtual offices; however, an exemption may apply because the bill may have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

[11] Revenue Estimating Conference, *Limitation on Local Fees for Virtual Offices*, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2024/_pdf/page176-177.pdf (last visited Feb. 9, 2024).

A bill to be entitled

An act relating to limitation on local fees for virtual offices; creating ss. 125.01035 and 166.272, F.S.; prohibiting a county, municipality, or local governmental entity from imposing, levying, or collecting certain fees relating to the utilization of a virtual office; providing definitions; providing an effective date.

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

Section 1. Section 125.01035, Florida Statutes, is created to read:

125.01035 Limitation on local fees.—

(1) A county, municipality, or local governmental entity may not adopt or maintain in effect an ordinance or a rule that has the effect of imposing a tax, charge, fee, or other imposition on or with respect to the utilization of a virtual office.

(2) For purposes of this section, the term:

(a) "Tax, charge, fee, or other imposition" includes any amount or in-kind payment of property or services, regardless of whether such amount or in-kind payment of property or services is designated as a user fee, privilege fee, occupancy fee, or rental fee.



CODING: Words stricken are deletions; words underlined are additions.

(b) "Virtual office" means an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space.

Section 2. Section 166.272, Florida Statutes, is created to read:

166.272 Limitation on local fees.—

(1) A municipality may not levy on or collect from a person any tax, charge, fee, or other imposition on or with respect to the utilization of a virtual office.

(2) For purposes of this section, the term:

(a) "Tax, charge, fee, or other imposition" includes any amount or in-kind payment of property or services, regardless of whether such amount or in-kind payment of property or services is designated as a user fee, privilege fee, occupancy fee, or rental fee.

(b) "Virtual office" means an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space.

Section 3. This act shall take effect July 1, 2024.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1177 Land Development
**SPONSOR(S):** Local Administration, Federal Affairs & Special Districts Subcommittee, Duggan
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1110

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local Administration, Federal Affairs & Special Districts Subcommittee | 13 Y, 1 N, As CS | Mwakyanjala | Darden |
| 2) Ways & Means Committee | | Rexford | Aldridge |
| 3) State Affairs Committee | | | |

## SUMMARY ANALYSIS

Each county and municipality is required to plan for future development and growth by adopting, implementing, and amending as necessary a comprehensive plan. All elements of a plan or plan amendment must be based on relevant, appropriate data and an analysis by the local government. Each comprehensive plan must include a transportation element addressing traffic circulation, including the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways.

Certain public facilities and services must be in place and available to serve new development no later than the issuance of a certificate of occupancy or its functional equivalent by a local government. Local governments may extend this concurrency requirement to additional public facilities such as transportation. Local governments electing to repeal transportation concurrency are encouraged to adopt an alternative mobility funding system. One method of funding local government transportation concurrency requirements is through the adoption and imposition of impact fees to fund the infrastructure needed to expand local services to meet the demands of population growth caused by new growth. Local governments may increase impact fees only under limited circumstances, including upon a showing of extraordinary circumstances.

A Development of Regional Impact (DRI) is “any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county.” Any proposed change to a previously approved DRI must be reviewed by the local government. Notwithstanding any provision of an adopted local comprehensive plan or adopted land development regulations to the contrary, an adopted change to a development order for an approved DRI does not diminish or otherwise alter any credits for a development order exaction or fee.

The bill:

- Revises powers and responsibilities of counties and municipalities under the Community Planning Act;
- Requires local governments implementing transportation concurrency to credit the fair market value of any land dedicated and prohibits fees based on cumulative analysis of trips between project stages and phases;
- Removes exceptions from impact fee statute for water and sewer collection fees;
- Revises application of credits against local impacts for DRIs;
- Revises review requirements for changes to DRIs; and
- Clarifies the application of vested rights in DRIs.

The Revenue Estimating Conference met on February 2, 2024, and determined the bill would have a negative, indeterminate impact on local government tax revenues.

The bill is effective upon becoming law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Comprehensive Planning

Every local government, defined as any county and municipality,[1] is required to plan for future development and growth by adopting, implementing, and amending as necessary a comprehensive plan.[2] All elements of a plan or plan amendment must be based on relevant, appropriate data[3] and an analysis by the local government that may include surveys, studies, aspirational goals, and other data available at the time of adopting the plan or amendment.[4] The data supporting a plan or amendment must be taken from professionally accepted sources[5] and must be based on permanent and seasonal population estimates and projections.[6]

Each comprehensive plan must include a transportation element, the purpose of which is to plan for a multimodal transportation system emphasizing feasible public transportation, addressing mobility issues pertinent to the size and character of the local government, and designed to support all other elements of the comprehensive plan.[7] The transportation element must address traffic circulation, including the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways.[8] The plan of a local government with a population exceeding 50,000 that is not within the planning area of a metropolitan planning organization (MPO)[9] also must address mass transit, ports, and aviation[10] and related facilities.[11] The transportation planning element for a local government with a population exceeding 50,000 located within the area of a MPO specifically must address the following:

- All alternative modes of travel, including public transportation, pedestrian, and bicycle;
- Aviation, rail, and seaport facilities, access to those facilities, and intermodal transportation;
- Capability to evacuate coastal population prior to a natural disaster;
- Airports, projected airport and aviation development, and land use around airports; and
- Identification of land use densities, building intensities, and transportation management programs to promote public transportation.[12]

[1] S. 163.3164(29), F.S. For the purpose of the Community Planning Act, the Central Florida Tourism Oversight District may exercise the powers of a municipality for the area under its jurisdiction. S. 163.3167(6), F.S. *See also* ch. 2023-5, Laws of Fla. (renaming the Reedy Creek Improvement District to the Central Florida Tourism Oversight District).
[2] Ss. 163.3167(2), 163.3177(2), F.S.
[3] "To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue." S. 163.3177(1)(f), F.S.
[4] S. 163.3177(1)(f), F.S.
[5] S. 163.3177(1)(f)2., F.S. The statute does not further define "professionally accepted sources."
[6] S. 163.3177(1)(f)3., F.S. Population estimates may be those published by the Office of Economic and Demographic Research or may be generated by the local government based upon a professionally acceptable methodology. *Id.*
[7] S. 163.3177(6)(b), F.S.
[8] S. 163.3177(6)(b)1., F.S.
[9] A MPO must be designated as provided in 23 U.S.C. s. 450.310(a) for each urbanized area with a population of more than 50,000. S. 339.175(2), F.S. Florida MPOs are intended specifically to develop plans and programs in metropolitan areas for the development and management of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities to function as an intermodal transportation system. S. 339.175(1), F.S.
[10] All local governments have the option to include within the transportation element an airport master plan, incorporated into the plan through the comprehensive plan amendment process. S. 163.3177(6)(b)4., F.S.
[11] S. 163.3177(6)(b), F.S.
[12] S. 163.3177(6)(b)2., F.S.

The transportation planning element for a municipality with a population exceeding 50,000, or a county with a population exceeding 75,000, must provide for moving people by mass transit, including:

- Providing efficient, safe, and convenient public transit, including accommodation for the transportation disadvantaged;
- Plans for port, aviation, and related facilities; and
- Plans for circulation of recreational traffic, including bicycle and riding facilities and exercise trails.[13]

In addition to the general requirements for data supporting a comprehensive plan or amendment, the transportation planning element must include one or more maps showing the general location of existing and proposed transportation system features and data, analyses, and associated principles pertaining to:

- Existing transportation system levels of service and system needs and availability of transportation facilities and services;
- Growth trends and travel patterns, as well as interactions between land use and transportation;
- Current and projected intermodal[14] deficiencies and needs;
- Projected transportation system levels of service and system needs; and
- How the local government will correct existing facility deficiencies, meet the needs of the projected transportation system, and advance the transportation purposes of the plan.[15]

Generally, local government transportation and mobility planning should address providing mobility options, such as automobile, bicycle, pedestrian, or mass transit, that minimize environmental impacts, expand transportation options, and increase connectivity between destinations.[16]

Transportation Concurrency

Certain public facilities and services must be in place and available to serve new development no later than the issuance of a certificate of occupancy or its functional equivalent by a local government.[17] Local governments may extend this concurrency requirement to additional public facilities such as transportation.[18] Where concurrency is applied to transportation, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application.[19] The plan must show that the included levels of service may reasonably be met.[20] Local governments utilizing transportation concurrency must use professionally accepted studies to evaluate levels of service and techniques to measure such levels of service when evaluating potential impacts of proposed developments.[21] While local governments implementing a transportation concurrency system are encouraged to develop and use certain tools and guidelines, such as addressing potential negative impacts on urban infill and redevelopment[22] and adopting long-

[13] S. 163.3177(6)(b)3., F.S.
[14] "Intermodal transportation" is not defined in the statute but generally means the transportation by or involving more than one form of carrier in a single journey, particularly for moving cargo. *See* "intermodal," available at https://www.merriam-webster.com/dictionary/intermodal (last visited Feb. 2, 2024); "intermodal transport," available at https://www.ups.com/us/en/supplychain/insights/knowledge/glossary-term/intermodal-transport.page (last visited Feb. 2, 2024). Part of the intent in creating the Florida Strategic Intermodal System is to address the increased demands placed on the entire statewide transportation system by economic and population growth and projected increases in freight movement, international trade, and tourism designing and operating a strategic intermodal system to meet the mobility needs of the state. *See* s. 339.61(2), F.S.
[15] S. 163.3177(6)(b)1., F.S.
[16] Dept. of Commerce, "Transportation Planning," available at https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/transportation-planning (last visited Feb. 2, 2024), herein Commerce Transportation Planning.
[17] S. 163.1380(2), F.S. The only such services for which concurrency is mandatory are sanitary sewer, solid waste, drainage, and potable water supplies.
[18] S. 163.3180(1), F.S.
[19] Ss. 163.3180(1)(a), 163.3180(5)(a), F.S. *See* Commerce Transportation Planning, *supra* n. 16.
[20] S. 163.3180(1)(b), F.S.
[21] S. 163.3180(5)(b)-(c), F.S.
[22] S. 163.3180(5)(e), F.S.

term multimodal strategies,[23] such local governments must follow specific concurrency requirements including consulting with the Florida Department of Transportation if proposed amendments to the plan affect the Strategic Intermodal System, exempting public transit facilities from concurrency requirements, and allowing a developer to contribute a proportionate share to mitigate transportation impacts for a specific development.[24]

An applicant for a development-of-regional-impact development order, development agreement, rezoning, or other land use development permit satisfies the requirements for transportation concurrency if the applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of transportation improvements required to mitigate the impact of the proposed development and the proffered proportionate share contribution or construction is sufficient to accomplish one or more mobility improvements benefitting a regionally significant transportation facility.[25] The plan for transportation concurrency must provide the basis on which landowners will be assessed a proportionate share,[26] which must include a compliant formula for calculating the proportionate share.[27] The proportionate share may not include additional costs to reduce or eliminate existing transportation deficiencies.[28]

Local governments electing to repeal transportation concurrency are encouraged to adopt an alternative mobility funding system. Such an alternative system may not be used to restrict or deny certain development approval applications provided the developer agrees to pay for the development's transportation impacts using the funding mechanism implemented by the local government. Local government mobility fee systems must comply with all requirements for adopting and implementing impact fees. An alternative funding system that is not mobility fee based may not impose on new development any responsibility for funding existing transportation deficiencies.[29]

Impact Fees

One method of funding local government transportation concurrency requirements is through the adoption and imposition of impact fees on new development. Local governments impose impact fees to fund infrastructure[30] needed to expand local services to meet the demands of population growth caused by new growth.[31] Impact fees must meet the following minimum criteria when adopted:

- The fee must be calculated using the most recent and localized data.[32]
- The local government adopting the impact fee must account for and report impact fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.[33]
- Charges imposed for the collection of impact fees must be limited to the actual costs.[34]

[23] S. 163.3180(f), F.S.
[24] S. 163.3180(5)(h), F.S. *See* Commerce Transportation Planning, *supra* note 16.
[25] S. 163.3180(5)(h)1.c., F.S.
[26] S. 163.3180(5)(h)1.d., F.S.
[27] S. 163.3180(5(h)2.a.-d., F.S.
[28] S. 163.3180(5)(h)2., F.S. For purposes of s. 163.3180(5), F.S., "transportation deficiency" means a facility or facilities on which the level of service standard adopted in the comprehensive plan is exceeded by the number of existing, projected, or vested trips together with additional trips originating from any source other than the development project under review, and trips forecast by established traffic standards. S. 163.3180(5)(h)4., F.S. Local governments may resolve existing transportation deficiencies within an identified transportation deficiency area by creating a transportation development authority with specific powers to implement a transportation sufficiency plan funded through a formula of tax increment funding. Adopting a transportation sufficiency plan is deemed as meeting transportation level of service standards, and proportionate fair-share mitigation is limited to ensure developments within the transportation deficiency area are not responsible for additional costs to eliminate deficiencies. S. 163.3182, F.S.
[29] S. 163.3180(5)(i), F.S.
[30] "Infrastructure" means the fixed capital expenditure or outlay for the construction, reconstruction, or improvement of public facilities with a life expectancy of five or more years, together with specific other costs required to bring the public facility into service but excluding the costs of repairs or maintenance. The term also includes specific equipment. S. 163.31801(3), F.S.
[31] S. 163.31801(2), F.S. Water and sewer connection fees are not impact fees. S. 163.31801(12), F.S.
[32] S. 163.31801(4)(a), F.S.
[33] S. 163.31801(4)(b), F.S.
[34] S. 163.31801(4)(c), F.S.

- All local governments must give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect, but need not wait 90 days before decreasing, suspending, or eliminating an impact fee. Unless the result reduces total mitigation costs or impact fees on an applicant, new or increased impact fees may not apply to current or pending applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.[35]
- A local government may not require payment of the impact fee before the date of issuing a building permit for the property that is subject to the fee.[36]
- The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.[37]
- The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction.[38]
- The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.[39]
- The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.[40]

The types of impact fees charged and the timing of their collection after issuing a building permit are within the discretion of the local government or special district authorities choosing to impose the fees.[41] In general, a building permit must be obtained before the construction, erection, modification, repair, or demolition of any building.[42] A development permit pertains to any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.[43] Local governments providing an exception or waiver of impact fees for the development or construction of affordable housing are not required to use any revenues to offset the impact of such development.[44]

Local governments must credit against impact fee collections any contribution related to public facilities or infrastructure on a dollar-for-dollar basis at fair market value for the general category or class of public facilities or infrastructure for which the contribution was made. If no impact fee is collected for that category of public facility or infrastructure for which the contribution is made, no credit may be applied.[45] Credits for impact fees may be assigned or transferred at any time once established, from one development or parcel to another within the same impact fee zone or district or within an adjoining impact fee zone or district within the same local government jurisdiction.[46]

Local governments may increase impact fees only under limited circumstances. A fee may be increased no more than once every four years, may not be increased retroactively, the increase may not exceed 50 percent of the current impact fee amount, and any increase must be consistent with a statutorily-compliant plan for the imposition, collection, and use of the fees. An increase not exceeding

[35] S. 163.31801(4)(d), F.S.
[36] S. 163.31801(4)(e), F.S.
[37] S. 163.31801(4)(f), F.S.
[38] S. 163.31801(4)(g), F.S.
[39] S. 163.31801(4)(h), F.S.
[40] S. 163.31801(4)(i), F.S.
[41] *See* s. 163.31801(2), F.S.
[42] S. 553.79, F.S.
[43] S. 163.3164(16), F.S.
[44] S. 163.31801(11), F.S.
[45] S. 163.31801(5), F.S.
[46] S. 163.31801(10), F.S. In an action challenging an impact fee or a failure to provide proper credits, the local government has the burden of proof to establish the imposition of the fee or the credit complies with the statute, and the court may not defer to the decision or expertise of the government. S. 163.31801(9), F.S.

25 percent of the current fee amount must be implemented in two equal annual increments, while an increase greater than 25 percent but not exceeding 50 percent of the current amount must be implemented in four equal annual installments. However, a local government may increase a fee more than once in four years or for more than 50 percent of a current impact fee amount if it has:

- Prepared a demonstrated-need study within 12 months before adopting the increase showing extraordinary circumstances necessitating the need for the increase;
- Conducted at least two publicly noticed workshops on the extraordinary circumstances justifying the increase; and
- Approved the increase by at least a two-thirds vote of the governing body.[47]

A local government that increases an impact fee must still provide the holder of any impact fee credit the full benefit of the density and intensity prepaid by the credit balance.[48]

With each annual financial report or audit filed[49] a local government must report specific information on impact fees imposed, including the specific purpose of the fee, the impact fee schedule describing the method of calculating the fee, the amount assessed for each purpose and for each type of dwelling, the total amount of fees charged by type of dwelling, and each exception or waiver to the imposition of impact fees provided for construction of affordable housing.[50] Additionally, the chief financial officer or executive officer (if there is no chief financial officer) must submit with the annual financial report an affidavit attesting that all impact fees were collected and expended by the local government, or on its behalf, in full compliance with the spending period provisions in the local ordinance and that funds expended from each impact fee account were used to acquire, construct, or improve those specific infrastructure needs.[51]

Developments of Regional Impact (DRIs)

A DRI is "any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county."[52] The DRI statutes were created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting laws.[53] The program provided a process to identify regional impacts stemming from large developments and appropriate provisions to mitigate impacts on state and regional resources.[54]

The process to review or amend a DRI agreement and its implementing development orders went through several revisions[55] until repeal of the requirements for state and regional reviews in 2018.[56] Affected local governments are responsible for the implementation and amendment of existing DRI agreements and development orders.[57] Currently, an amendment to a development order for an approved DRI may not amend to an earlier date until the local government agrees not to impose downzoning, unit density reduction, or intensity reduction, unless:[58]

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[47] S. 163.31801(6), F.S.
[48] S. 163.31801(7), F.S.
[49] *See* ss. 218.32, 218.39, F.S.
[50] S. 163.31801(13), F.S.
[51] S. 163.31801(8), F.S.
[52] S. 380.06(1), F.S.
[53] The Florida Senate, Committee on Community Affairs, Interim Report 2012-114, September 2011, citing: Thomas G. Pelham, *A Historical Perspective for Evaluating Florida's Evolving Growth Management Process*, in *Growth Management in Florida: Planning for Paradise*, 8 (Timothy S. Chapin, Charles E. Connerly, and Harrison T. Higgins eds. 2005), https://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-114ca.pdf (last visited Feb. 2, 2024)
[54] Ch. 72-317, s. 6, Laws of Fla.
[55] *See* ch. 2015-30, Laws of Fla. (requiring that new DRI-sized developments proposed after July 1, 2015, must be approved by a comprehensive plan amendment in lieu of the state review process provided for in s. 380.06, F.S.) and ch. 2016-148, Laws of Fla. (requiring DRI reviews to follow the state coordinated review process if the development, or an amendment to the development, required an amendment to the comprehensive plan).
[56] Ch. 2018-158, Laws of Fla.
[57] S. 380.06(4)(a) and (7), F.S.
[58] S. 380.06(4)(a), F.S.

- The local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred;
- The development order was based on substantially inaccurate information provided by the developer; or
- The change is clearly established by local government to be essential to the public health, safety, or welfare.

Any proposed change to a previously approved DRI must be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and local land development regulations.[59] However, a proposed change reducing the originally approved height, density, or intensity of the development must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved.[60] If the proposed change would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change.[61] Any new conditions contained in amendment to the development order must address impact directly created by the proposed change and must be consistent with the local government's adopted comprehensive plan, land development regulations, and transportation concurrency.[62]

Current provisions concerning DRIs do not limit or modify the rights of any person to complete any development that was authorized by:

- Registration of a subdivision pursuant to former chapter 498, F.S.
- Recordation pursuant to local subdivision plat law, or
- A building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973.[63]

If a developer has obtained vested or other legal rights in reliance on prior regulations that prevent the local government from changing those regulations in a way adverse to the developer's interest, those rights may not be abridged.

If a development has conveyed, or agreed to convey, property to a state or local government as a prerequisite for a zoning change approval, such change is considered an act of reliance to vest rights, provided the zoning change is actually granted by the government.[64]

Impact Fee Credits

Notwithstanding any provision of an adopted local comprehensive plan or adopted land development regulations to the contrary, an adopted change to a development order for an approved DRI does not diminish or otherwise alter any credits for a development order exaction or fee as against impact fees, mobility fees, or exactions if the credits are based upon the developer's contribution of land, a public facility, or the construction, expansion, or payment for land acquisition or construction or expansion of a public facility or portion of a public facility.[65]

If a local government imposes or increases impact fees, mobility fees, or exactions by local ordinance, developers may petition the local government to modify the affected provisions of the developer's development order to give the developer credit for any contribution required by the development owner toward an impact fee or exaction for the same need.[66]

[59] S. 380.06(7)(a), F.S. These procedures must include notice to the applicant and public about the issuance of development orders.
[60] *Id*.
[61] *Id.*
[62] S. 380.06(7)(b), F.S.
[63] S. 380.06(8), F.S.
[64] S. 380.06(8)(b), F.S.
[65] S. 380.06(5)(a), F.S.
[66] S. 380.06(5)(b), F.S.

This provision does not apply to internal, onsite facilities required by local regulations and any offsite facilities necessary to provide safe and adequate services to the development. [67]

**Effect of Proposed Changes**

Comprehensive Planning

The bill revises the scope of the Community Planning Act to clarify that incorporated municipalities and counties have the power and responsibility to evaluate transportation impacts, apply concurrency, and assess any fee related to transportation improvements. The bill also provides that counties and municipalities, notwithstanding any other provision of general law, exclusively hold the powers and responsibilities assigned to those units of government under the Community Planning Act.

The bill provides that a local government that continues to implement a transportation concurrency system must comply with existing statutory requirements notwithstanding any provision in a development order, an agreement, a local comprehensive plan, or a local land development regulation. The bill revises those requirements by:

- Requiring local governments that implement a transportation concurrency system to credit the fair market value of any land dedicated to a governmental entity for transportation facilities against the total proportionate share payments computed pursuant to general law; and
- Removing the authority for local governments to cumulatively analyze trips from a previous stage or phase of development that did not result in impacts for which mitigation was required when determining whether mitigation for a subsequent stage or phase of development is required.

Impact Fees

The bill clarifies that a special district may only levy impact fees if authorized to do so by special act. The bill requires local governments to provide credit against the collection of the impact fee for any contributions related to public facilities or infrastructure, notwithstanding the provisions of any agreement.

The bill removes the exception for water and sewer connection fees from. s. 163.31801, F.S., making water and sewer connections subject to the impact fee requirements in statute.

Developments of Regional Impact (DRIs)

The bill revises the exceptions pertaining to credits against local impact fees when amendments are made to a development order. The exceptions apply to:

- Internal, *private*, onsite facilities required by local regulations; and
- Offsite facilities necessary to provide safe and adequate services *solely* to the development *and not the general public*.

The bill removes the requirement that a local government review a proposed change to a DRI based on the local comprehensive plan at the time the development was originally approved. The bill provides that a change to a DRI that has the effect of reducing the originally approved height, density, or intensity of the development or that changes only the location or acreage of uses and infrastructure or exchanges permitted uses must be administratively approved and is not subject to review by the local government.

[67] S. 380.06(5)(d), F.S.

The bill provides that any local government review of any proposed change to a DRI and of any development order required to construct developments in the DRI must abide by any prior agreements or other actions vesting the laws and policies governing the development.

The bill removes the requirement that any new condition in an amendment to a development order approving or denying an application for a proposed change to a DRI must be consistent with the local government's comprehensive plan and land development regulations.

The bill requires any proposed change to a DRI that includes a dedicated multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles[68] along any internal roadway must be approved if the right-of-way remains sufficient for the ultimate number of lanes of the internal road. The bill requires approval of any proposed change to a DRI substituting a multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles in lieu of an internal road if the change does not result in any road within or adjacent to the DRI falling below the local government's adopted level of service and does not increase the original distribution of trips on any road analyzed as part of the DRI by more than 20 percent. The bill requires a local government to return any interest it may have in the right-of-way to the developer if the developer has dedicated the right-of-way to the local government for proposed internal road ways as part of the approval process for the amendment.

The bill clarifies that comprehensive plans and land development regulations adopted after a DRI has vested do not apply to proposed changes to an approved DRI or to development orders required to implement the DRI.

The bill provides that the conveyance of property or compensation, or the agreement to convey property or compensation, to the state or local government is an act of reliance to vest rights, removing the requirement that the conveyance be part of a zoning change.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3167, F.S., relating to the scope of the Community Planning Act.

Section 2: Amends s. 163.3180, F.S., relating to concurrency.

Section 3: Amends s. 163.31801, F.S., relating to impact fees.

Section 4: Amends s. 380.06, F.S., relating to developments of regional impact.

Section 5: Provides that the bill is effective upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

[68] Low-speed vehicle means any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour. S. 320.01(41), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference met on February 2, 2024, and determined the would have a negative, indeterminate impact on local government tax revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill makes various changes regarding impact fees and impact fee credits that could result in a reduction in authority to raise revenue; however, an exemption may apply because the bill may have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted an amendment and reported the bill favorably as committee substitute. The amendment provides that a DRI change must be approved administratively when it changes only the location or acreage of uses and infrastructure or exchanges permitted uses.

The analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.

A bill to be entitled

An act relating to land development; amending s. 163.3167, F.S.; revising the scope of power and responsibility of municipalities and counties under the Community Planning Act; amending s. 163.3180, F.S.; modifying requirements for local governments implementing a transportation concurrency system; amending s. 163.31801, F.S.; revising legislative intent with respect to the adoption of impact fees by special districts; clarifying circumstances under which a local government or special district must credit certain contributions toward the collection of an impact fee; deleting a provision that exempts water and sewer connection fees from the Florida Impact Fee Act; amending s. 380.06, F.S.; revising exceptions from provisions governing credits against local impact fees; revising procedures regarding local government review of changes to previously approved developments of regional impact; specifying changes that are not subject to local government review; authorizing changes to multimodal pathways, or the substitution of such pathways, in previously approved developments of regional impact if certain conditions are met; specifying that certain changes to comprehensive plan policies and land development regulations do not apply

to proposed changes to an approved development of regional impact or to development orders required to implement the approved development of regional impact; revising acts that are deemed to constitute an act of reliance by a developer to vest rights; providing an effective date.

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

Section 1. Subsection (1) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(1) Notwithstanding any other provision of general law, the several incorporated municipalities and counties ~~shall~~ have exclusive power and responsibility:

(a) To plan for their future development and growth.

(b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.

(c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.

(d) To evaluate transportation impacts, apply concurrency, or assess any fee related to transportation improvements.

(e) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and

purposes of this act.

The powers and authority set out in this act may be employed by municipalities and counties individually or jointly by mutual agreement in accord with this act and in such combinations as their common interests may dictate and require.

Section 2. Paragraph (h) of subsection (5) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(5)

(h)1. Notwithstanding any provision in a development order, an agreement, a local comprehensive plan, or a local land development regulation, local governments that continue to implement a transportation concurrency system, whether in the form adopted into the comprehensive plan before the effective date of the Community Planning Act, chapter 2011-139, Laws of Florida, or as subsequently modified, must:

a. Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system.

b. Exempt public transit facilities from concurrency. For the purposes of this sub-subparagraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and

airport passenger terminals and concourses, air cargo facilities, and hangars for the assembly, manufacture, maintenance, or storage of aircraft. As used in this sub-subparagraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

c. Allow an applicant for a development-of-regional-impact development order, development agreement, rezoning, or other land use development permit to satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06, when applicable, if:

(I) The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required improvements in a manner consistent with this subsection.

(II) The proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility. A local government may accept contributions from multiple applicants for a planned improvement if it maintains contributions in a separate account designated for that purpose.

d. Provide the basis upon which the landowners will be assessed a proportionate share of the cost addressing the transportation impacts resulting from a proposed development.

e. Credit the fair market value of any land dedicated to a governmental entity for transportation facilities against the total proportionate share payments computed pursuant to this section.

2. An applicant is ~~shall~~ not ~~be held~~ responsible for the additional cost of reducing or eliminating deficiencies. When an applicant contributes or constructs its proportionate share pursuant to this paragraph, a local government may not require payment or construction of transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.

a. The proportionate-share contribution shall be calculated based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

b. In using the proportionate-share formula provided in this subparagraph, the applicant, in its traffic analysis, shall identify those roads or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined in subparagraph 4. The proportionate-share formula

provided in this subparagraph shall be applied only to those facilities that are determined to be significantly impacted by the project traffic under review. If any road is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.

c. When the provisions of subparagraph 1. and this subparagraph have been satisfied for a particular stage or phase of development, all transportation impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any transportation analysis for a subsequent stage or phase of development. ~~Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or phase to determine whether an impact requires mitigation for the subsequent stage or phase.~~

d. In projecting the number of trips to be generated by

the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.

e. The applicant shall receive a credit on a dollar-for-dollar basis for impact fees, mobility fees, and other transportation concurrency mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement, or by the amount specified by local ordinance, whichever yields the greater credit.

3. This subsection does not require a local government to approve a development that, for reasons other than transportation impacts, is not qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

4. As used in this subsection, the term "transportation deficiency" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage

or phase of development under review.

Section 3. Subsection (2), paragraph (a) of subsection (5), and subsection (12) of section 163.31801, Florida Statutes, are amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district, if authorized by its special act, adopts an impact fee by resolution, the governing authority complies with this section.

(5)(a) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, agreement, or resolution to the contrary, the local government or special district must credit against the collection of the impact fee any contribution, whether identified in an ~~a proportionate share~~ agreement or other form of exaction, related to public facilities or infrastructure,

including land dedication, site planning and design, or construction. Any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made.

~~(12) This section does not apply to water and sewer connection fees.~~

Section 4. Paragraph (d) of subsection (5) and subsections (7) and (8) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(5) CREDITS AGAINST LOCAL IMPACT FEES.—

(d) This subsection does not apply to internal, private onsite facilities required by local regulations or to any offsite facilities to the extent that such facilities are necessary to provide safe and adequate services solely to the development and not the general public.

(7) CHANGES.—

(a) Notwithstanding any provision to the contrary in any development order, agreement, local comprehensive plan, or local land development regulation, this section applies to all ~~any~~ proposed changes ~~change~~ to a previously approved development of regional impact. ~~shall be reviewed by~~ The local government must base its review ~~based~~ on the standards and procedures in its adopted local comprehensive plan and adopted local land

development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders. However, a change to a development of regional impact that has the effect of reducing the originally approved height, density, or intensity of the development or that changes only the location or acreage of uses and infrastructure or exchanges permitted uses must be administratively approved and is not subject to review by the local government. The local government review of any proposed change to a previously approved development of regional impact and of any development order required to construct the development set forth in the development of regional impact ~~must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5). For any proposed change to a previously approved development of regional impact, at least one public hearing must be held on the application for change, and any change must be approved by the local governing body before it becomes effective. The review~~ must abide by any prior agreements or other actions vesting the laws and policies governing the development. Development within

the previously approved development of regional impact may continue, as approved, during the review in portions of the development which are not directly affected by the proposed change.

(b) The local government shall either adopt an amendment to the development order that approves the application, with or without conditions, or deny the application for the proposed change. Any new conditions in the amendment to the development order issued by the local government may address only those impacts directly created by the proposed change, and must be consistent with s. 163.3180(5)~~, the adopted comprehensive plan, and adopted land development regulations~~. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation associated with a phased construction project so that mitigation takes place in the same timeframe relative to the impacts as approved.

(c) This section is not intended to alter or otherwise limit the extension, previously granted by statute, of a commencement, buildout, phase, termination, or expiration date in any development order for an approved development of regional impact and any corresponding modification of a related permit or agreement. Any such extension is not subject to review or modification in any future amendment to a development order pursuant to the adopted local comprehensive plan and adopted local land development regulations.

(d) Any proposed change to a previously approved development of regional impact showing a dedicated multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles, as defined in s. 320.01, along any internal roadway must be approved so long as the right-of-way remains sufficient for the ultimate number of lanes of the internal road. Any proposed change to a previously approved development of regional impact which proposes to substitute a multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles, as defined in s. 320.01, in lieu of an internal road must be approved if the change does not result in any road within or adjacent to the development of regional impact falling below the local government's adopted level of service and does not increase the original distribution of trips on any road analyzed as part of the approved development of regional impact by more than 20 percent. If the developer has already dedicated right-of-way to the local government for the proposed internal roadway as part of the approval of the proposed change, the local government must return any interest it may have in the right-of-way to the developer.

(8) VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to

commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights. Consistent with s. 163.3167(5), comprehensive plan policies and land development regulations adopted after a development of regional impact has vested do not apply to proposed changes to an approved development of regional impact or to development orders required to implement the approved development of regional impact.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must notify the department in writing by January 1, 1986. Such notification shall include information adequate to

document the rights established by this subsection. When such notification requirements are met, in order for the vested rights authorized pursuant to this paragraph to remain valid after June 30, 1990, development of the vested plan must be commenced prior to that date upon the property that the state land planning agency has determined to have acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements have not been met, the vested rights authorized by this paragraph shall expire June 30, 1986, unless development commenced prior to that date.

(b) For the purpose of this act, the conveyance of property or compensation, or the agreement to convey~~,~~ property or compensation, to the county, state, or local government ~~as a prerequisite to zoning change approval~~ shall be construed as an act of reliance to vest rights as determined under this subsection~~, provided such zoning change is actually granted by such government~~.

Section 5. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE ACTION

| | |
|---|---|
| ADOPTED | ___ (Y/N) |
| ADOPTED AS AMENDED | ___ (Y/N) |
| ADOPTED W/O OBJECTION | ___ (Y/N) |
| FAILED TO ADOPT | ___ (Y/N) |
| WITHDRAWN | ___ (Y/N) |
| OTHER | _____ |

Committee/Subcommittee hearing bill: Ways & Means Committee
Representative Duggan offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Paragraph (dd) is added to subsection (1) of section 125.01, Florida Statutes, to read:

125.01 Powers and duties.—

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

(dd) Hear appeals of final orders and decisions of municipal historic preservation boards as provided in s. 166.04152.

Section 2. Section 163.046, Florida Statutes, is created to read:

163.046 Tree pruning, trimming, or removal; property used for veterans healthcare facilities.—

(1) A local government may not require a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on property being used for the construction or development of a veterans healthcare facility, as approved by the United States Department of Veterans Affairs.

(2) A local government may not require a property owner to replant a tree that was pruned, trimmed, or removed in accordance with this section.

Section 3. Subsection (1) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(1) Notwithstanding any other provision of general law, except any law pertaining to the protection and restoration of the Everglades, the several incorporated municipalities and counties ~~shall~~ have exclusive power and responsibility:

(a) To plan for their future development and growth.

(b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.

(c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.

(d) To evaluate transportation impacts, apply concurrency, or assess any fee related to transportation improvements.

(e) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act.

The powers and authority set out in this act may be employed by municipalities and counties individually or jointly by mutual agreement in accord with this act and in such combinations as their common interests may dictate and require.

Section 4. Paragraph (h) of subsection (5) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(5)

(h)1. Notwithstanding any provision in a development order, an agreement, a local comprehensive plan, or a local land development regulation, local governments that continue to implement a transportation concurrency system, whether in the form adopted into the comprehensive plan before the effective date of the Community Planning Act, chapter 2011-139, Laws of Florida, or as subsequently modified, must:

a. Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system.

b. Exempt public transit facilities from concurrency. For the purposes of this sub-subparagraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the assembly, manufacture, maintenance, or storage of aircraft. As used in this sub-subparagraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

c. Allow an applicant for a development-of-regional-impact development order, development agreement, rezoning, or other land use development permit to satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06, when applicable, if:

(I) The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required improvements in a manner consistent with this subsection.

(II) The proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility. A local government may accept contributions from multiple applicants for a planned improvement if it maintains contributions in a separate account designated for that purpose.

d. Provide the basis upon which the landowners will be assessed a proportionate share of the cost addressing the transportation impacts resulting from a proposed development.

e. Credit the fair market value of any land dedicated to a governmental entity for transportation facilities against the total proportionate share payments computed pursuant to this section.

2. An applicant is ~~shall~~ not ~~be held~~ responsible for the additional cost of reducing or eliminating deficiencies. When an applicant contributes or constructs its proportionate share pursuant to this paragraph, a local government may not require payment or construction of transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.

a. The proportionate-share contribution shall be calculated based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from

construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

b. In using the proportionate-share formula provided in this subparagraph, the applicant, in its traffic analysis, shall identify those roads or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined in subparagraph 4. The proportionate-share formula provided in this subparagraph shall be applied only to those facilities that are determined to be significantly impacted by the project traffic under review. If any road is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.

c. When the provisions of subparagraph 1. and this subparagraph have been satisfied for a particular stage or phase

of development, all transportation impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any transportation analysis for a subsequent stage or phase of development. ~~Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or phase to determine whether an impact requires mitigation for the subsequent stage or phase.~~

d. In projecting the number of trips to be generated by the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.

e. The applicant shall receive a credit on a dollar-for-dollar basis for impact fees, mobility fees, and other transportation concurrency mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement, or by the amount specified by local ordinance, whichever yields the greater credit.

3. This subsection does not require a local government to approve a development that, for reasons other than transportation impacts, is not qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

4. As used in this subsection, the term "transportation deficiency" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

Section 5. Subsection (2) and paragraph (a) of subsection (5) of section 163.31801, Florida Statutes, are amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district, if authorized by its special act, adopts an

impact fee by resolution, the governing authority complies with this section.

(5)(a) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, agreement, or resolution to the contrary, the local government or special district must credit against the collection of the impact fee any contribution, whether identified in an ~~a proportionate share~~ agreement or other form of exaction, related to public facilities or infrastructure, including land dedication, site planning and design, or construction. Any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made.

Section 6. Section 166.04152, Florida Statutes, is created to read:

166.04152 Final orders and decisions of historic preservation boards.—

(1) Notwithstanding any local charter, ordinance, or regulation to the contrary, any final order or decision made by an historic preservation board established pursuant to municipal charter or ordinance may be appealed to the board of county commissioners of the county in which the municipality is located.

(2) The board of county commissioners shall hold a public hearing on the appeal within 30 days of receipt of the appeal.

(3) The board of county commissioners, after the public hearing, may approve or reject the final order or decision. The determination of the board of county commissioners is final.

(4) This section is supplemental to all other remedies available under law.

Section 7. Paragraph (d) of subsection (5) and subsections (7) and (8) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(5) CREDITS AGAINST LOCAL IMPACT FEES.—

(d) This subsection does not apply to internal, private onsite facilities required by local regulations or to any offsite facilities to the extent that such facilities are necessary to provide safe and adequate services solely to the development and not the general public.

(7) CHANGES.—

(a) Notwithstanding any provision to the contrary in any development order, agreement, local comprehensive plan, or local land development regulation, this section applies to all ~~any~~ proposed changes ~~change~~ to a previously approved development of regional impact. ~~shall be reviewed by~~ The local government must base its review ~~based~~ on the standards and procedures in its adopted local comprehensive plan and adopted local land

development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders. However, a change to a development of regional impact that has the effect of reducing the originally approved height, density, or intensity of the development or that changes only the location or acreage of uses and infrastructure or exchanges permitted uses must be administratively approved and is not subject to review by the local government. The local government review of any proposed change to a previously approved development of regional impact and of any development order required to construct the development set forth in the development of regional impact ~~must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5). For any proposed change to a previously approved development of regional impact, at least one public hearing must be held on the application for change, and any change must be approved by the local governing body before it becomes effective. The review~~ must abide by any prior agreements or other actions vesting the laws and policies governing the development. Development within

the previously approved development of regional impact may continue, as approved, during the review in portions of the development which are not directly affected by the proposed change.

(b) The local government shall either adopt an amendment to the development order that approves the application, with or without conditions, or deny the application for the proposed change. Any new conditions in the amendment to the development order issued by the local government may address only those impacts directly created by the proposed change, and must be consistent with s. 163.3180(5)~~, the adopted comprehensive plan, and adopted land development regulations~~. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation associated with a phased construction project so that mitigation takes place in the same timeframe relative to the impacts as approved.

(c) This section is not intended to alter or otherwise limit the extension, previously granted by statute, of a commencement, buildout, phase, termination, or expiration date in any development order for an approved development of regional impact and any corresponding modification of a related permit or agreement. Any such extension is not subject to review or modification in any future amendment to a development order pursuant to the adopted local comprehensive plan and adopted local land development regulations.

(d) Any proposed change to a previously approved development of regional impact showing a dedicated multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles, as defined in s. 320.01, along any internal roadway must be approved so long as the right-of-way remains sufficient for the ultimate number of lanes of the internal road. Any proposed change to a previously approved development of regional impact which proposes to substitute a multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles, as defined in s. 320.01, in lieu of an internal road must be approved if the change does not result in any road within or adjacent to the development of regional impact falling below the local government's adopted level of service and does not increase the original distribution of trips on any road analyzed as part of the approved development of regional impact by more than 20 percent. If the developer has already dedicated right-of-way to the local government for the proposed internal roadway as part of the approval of the proposed change, the local government must return any interest it may have in the right-of-way to the developer.

(8) VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to

commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights. Consistent with s. 163.3167(5), comprehensive plan policies and land development regulations adopted after a development of regional impact has vested do not apply to proposed changes to an approved development of regional impact or to development orders required to implement the approved development of regional impact.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must notify the department in writing by January 1, 1986. Such notification shall include information adequate to

document the rights established by this subsection. When such notification requirements are met, in order for the vested rights authorized pursuant to this paragraph to remain valid after June 30, 1990, development of the vested plan must be commenced prior to that date upon the property that the state land planning agency has determined to have acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements have not been met, the vested rights authorized by this paragraph shall expire June 30, 1986, unless development commenced prior to that date.

(b) For the purpose of this act, the conveyance of property or compensation, or the agreement to convey~~,~~ property or compensation, to the county, state, or local government ~~as a prerequisite to zoning change approval~~ shall be construed as an act of reliance to vest rights as determined under this subsection~~, provided such zoning change is actually granted by such government~~.

Section 8. This act shall take effect upon becoming a law.

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**T I T L E A M E N D M E N T**

Remove lines 3-31 and insert:

125.01, F.S.; revising the powers of counties to include hearing appeals from historic preservation boards; creating s. 163.046, F.S.; prohibiting local

governments from requiring specified documents or a fee for tree pruning, trimming, or removal on certain properties; prohibiting local governments from requiring property owners to replant trees pruned, trimmed, or removed on certain properties; amending s. 163.3167, F.S.; revising the scope of power and responsibility of municipalities and counties under the Community Planning Act; amending s. 163.3180, F.S.; modifying requirements for local governments implementing a transportation concurrency system; amending s. 163.31801, F.S.; revising legislative intent with respect to the adoption of impact fees by special districts; clarifying circumstances under which a local government or special district must credit certain contributions toward the collection of an impact fee; creating s. 166.04152, F.S.; prescribing manner for appealing final order or decision made by an historic preservation board; requiring the board of county commissioners to hold a public hearing; authorizing the board of county commissioners to approve or reject a final order or decision; clarifying appeal to board of county commissioners is supplemental to other remedies available under law; amending s. 380.06, F.S.; revising exceptions from provisions governing credits

against local impact fees; revising procedures regarding local government review of changes to previously approved developments of regional impact; specifying changes that are not subject to local government review; authorizing changes to multimodal pathways, or the substitution of such pathways, in previously approved developments of regional impact if certain conditions are met; specifying that certain changes to comprehensive plan policies and land development regulations do not apply to proposed changes to an approved development of regional impact or to development orders required to implement the approved development of regional impact; revising acts that are deemed to constitute an act of reliance by a developer to vest rights; providing an effective date.

**PCS for HB 141**

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 141 Regional Rural Development Grants Program
**SPONSOR(S):** Ways & Means Committee
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| Orig. Comm.: Ways & Means Committee | | Berg | Aldridge |

## SUMMARY ANALYSIS

Under Florida law, a "rural community," as the term relates to counties, means a county with a population of 75,000 or fewer, or a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer. The Florida Department of Commerce (DOC) Regional Rural Development Grant Program encourages rural communities to leverage limited resources to develop and implement strategies to help attract new businesses.

Triumph Gulf Coast, Inc., was created in 2013 by the Legislature to manage, distribute, and assess the use of certain funds related to the Deepwater Horizon oil spill. Triumph Gulf Coast, Inc., is organized as a nonprofit corporation, administratively housed within the Department of Commerce. The corporation is a separate entity from state government and not subject to control, supervision, or direction of the Department of Commerce.

The bill eliminates several requirements related to the Regional Rural Development Grants Program:

- Removes the requirements for grant funds received by a regional development organization to be matched each year by nonstate resources in an amount equal to 25 percent of the state contributions;
- Removes the requirement for local governments and private businesses to make financial or in-kind commitments to the regional organization; and
- Removes the requirement that the DOC consider the demonstrated need of the applicant for assistance when approving participants for the program.

The bill also allows Triumph Gulf Coast, Inc. to retain interest earned on the funds in its trust account rather than having those funds revert to the Triumph Gulf Coast Trust Fund. The funds held are required to be used to make awards or for administrative costs.

The bill provides an effective date of July 1, 2024.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Regional Rural Development Grants Program

The Regional Rural Development Grants Program was established to provide funding, through matching grants, to build the professional capacity of regionally based economic development organizations located in rural communities. The concept of building the "professional capacity" of an economic development organization includes hiring professional staff to develop, deliver, and provide economic development professional services. Professional services include technical assistance, education and leadership development, marketing, and project recruitment.[1]

Applications submitted to the Department of Commerce (DOC) for funding through this program must provide proof:[2]

- Of official commitments of support from each of the units of local government represented by the regional organization;
- That each local government has made a financial or in-kind commitments to the regional organization;
- That the private sector has made financial or in-kind commitment to the regional organization;
- That the regional organization is in existence and actively involved in economic development activities serving the region; and
- Of the manner in which the organization coordinates its efforts with those other local and state organizations.

An organization may receive up to $50,000 a year or $250,000 if located in a rural area of opportunity (RAO).[3] Grants must be matched by an amount of non-state resources equal to 25 percent of the state contribution. The DOC is authorized to spend up to $750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund to carry out this program.[4]

Rural Areas of Opportunity

A (RAO) is a rural community,[5] or region comprised of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster.[6] An area may also be designated as a RAO if it presents a unique economic development opportunity of regional impact. The designation of a RAO must be agreed upon by the Department of Commerce (DOC), as well as the county and municipal governments to be included in the RAO.[7]

[1] S. 288.018(1)(b), F.S.
[2] S. 288.018(2), F.S.
[3] S. 288.018(1)(c), F.S.
[4] S. 288.018(4), F.S.
[5] S. 288.0656(2)(e), F.S., defines a "rural community" as any county with a population of 75,000 or fewer, any county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer, a municipality in a county that meets either of the aforementioned criteria, or an unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors.
[6] S. 288.0656(2)(d), F.S.
[7] S. 288.0656(7)(b), F.S.

Based on recommendations of the Rural Economic Development Initiative (REDI),[8] the Governor may designate up to three RAOs by executive order.[9] This designation establishes these areas as priority assignments for REDI and allows the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development initiative.

Currently, there are three designated RAO areas:

- Northwest RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and portions of Walton County (the City of Freeport and lands north of the Choctawhatchee Bay and intercoastal waterway).
- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay in Palm Beach County and the city of Immokalee in Collier County.
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.[10]

Triumph Gulf Coast, Inc.

Triumph Gulf Coast, Inc., was created in 2013 by the Legislature to manage, distribute, and assess the use of certain funds related to the Deepwater Horizon oil spill.[11] Triumph Gulf Coast, Inc., is organized as a nonprofit corporation, administratively housed within the Department of Commerce. The corporation is a separate entity from state government and not subject to control, supervision, or direction of the Department of Commerce.

Triumph Gulf Coast, Inc., is required to administer the Recovery Fund and all programs created under the Gulf Coast Economic Corridor Act in a transparent manner and in accordance with all applicable laws, bylaws, or contractual requirements.[12] The corporation is required to monitor, review, and evaluate awardees and related projects or programs. The evaluation process must be used to determine funding priorities and determine whether an award should be reauthorized or terminated. The corporation is also required to maintain a website that provides information related to meetings, issuance of awards, and the status of projects and programs.

**Effect of the Bill**

The bill eliminates several requirements related to the Regional Rural Development Grants Program:

- Removes the requirements for grant funds received by a regional development organization to be matched each year by nonstate resources in an amount equal to 25 percent of the state contributions;
- Removes the requirement for local governments and private businesses to make financial or in-kind commitments to the regional organization; and
- Removes the requirement that the DOC consider the demonstrated need of the applicant for assistance when approving participants for the program.

The bill also allows Triumph Gulf Coast, Inc. to retain interest earned on the funds in its trust account rather than having those funds revert to the Triumph Gulf Coast Trust Fund. The funds held are required to be used to make awards or for administrative costs.

[8] S. 288.0656(1), F.S. REDI was established by the Legislature to encourage and facilitate the location and expansion of major economic development projects of significant scale in rural communities.
[9] S. 288.0656(7)(a), F.S.
[10] Department of Commerce, *Rural Areas of Opportunity*, https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Feb. 2, 2023). The economic development organizations for these RAOs are named Opportunity Florida, Florida's Heartland Regional Economic Development Initiative, and the North Florida Economic Development Partnership, respectively.
[11] S. 288.8013(1), F.S.
[12] Triumph Gulf Coast, Inc., *available at* https://www.myfloridatriumph.com/ (last visited January 16, 2024).

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.018, F.S., relating to the Regional Rural Development Grants Program.

Section 2: Amends s. 288.8013, F.S., to allow Triumph Gulf Coast, Inc. to retain interest earned on the funds in its trust account rather than having those funds revert to the Triumph Gulf Coast Trust Fund. The funds held are required to be used to make awards or for administrative costs.

Section 3: Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to economic development; amending s. 288.018, F.S.; removing the requirement that certain grants received by a regional economic development organization must be matched in a certain manner; removing a provision requiring a certain consideration; removing certain demonstration requirements of program applicants; amending s. 288.8013, F.S.; removing the requirement that certain interest be deposited in a specified manner; providing that specified earnings may be used in a certain manner; providing exception from existing limitation on administrative costs; providing an effective date.

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

Section 1. Paragraphs (b), (c), and (d) of subsection (1) and subsection (2) of section 288.018, Florida Statutes, are amended to read:

288.018 Regional Rural Development Grants Program.—

(1)

(b) The department shall establish a ~~matching~~ grant program to provide funding to regional economic development organizations for the purpose of building the professional capacity of those organizations. Building the professional

capacity of a regional economic development organization includes hiring professional staff to develop, deliver, and provide needed economic development professional services, including technical assistance, education and leadership development, marketing, and project recruitment. ~~Matching~~ Grants may also be used by a regional economic development organization to provide technical assistance to local governments, local economic development organizations, and existing and prospective businesses.

(c) A regional economic development organization may apply annually to the department for a ~~matching~~ grant. The department is authorized to approve, on an annual basis, grants to such regional economic development organizations. The maximum amount an organization may receive in any year will be $50,000, or $250,000 for any three regional economic development organizations that serve an entire region of a rural area of opportunity designated pursuant to s. 288.0656(7) if they are recognized by the department as serving such a region.

~~(d) Grant funds received by a regional economic development organization must be matched each year by nonstate resources in an amount equal to 25 percent of the state contribution.~~

(2) In approving the participants, the department shall ~~consider the demonstrated need of the applicant for assistance and~~ require the following:

(a) Documentation of official commitments of support from each of the units of local government represented by the regional organization.

~~(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.~~

~~(c) Demonstration that the private sector has made financial or in-kind commitments to the regional organization.~~

(b) ~~(d)~~ Demonstration that the organization is in existence and actively involved in economic development activities serving the region.

(c) ~~(e)~~ Demonstration of the manner in which the organization is or will coordinate its efforts with those of other local and state organizations.

Section 2. Upon the expiration and reversion of the amendments made to s. 288.8013, Florida Statutes, pursuant to section of 64 chapter 2023-240, Laws of Florida, subsection (3) of section 288.8013, Florida Statutes, is amended to read:

288.8013 Triumph Gulf Coast, Inc.; creation; funding; investment.—

(3) Triumph Gulf Coast, Inc., shall establish a trust account at a federally insured financial institution to hold funds received from the Triumph Gulf Coast Trust Fund and make deposits and payments. ~~Interest earned in the trust account shall be deposited monthly into the Triumph Gulf Coast Trust~~

~~Fund.~~ Triumph Gulf Coast, Inc., may invest surplus funds in the Local Government Surplus Funds Trust Fund, pursuant to s. 218.407. Earnings generated by investments and interest of the fund may be retained and used to make awards pursuant to this act or, notwithstanding paragraph (2)(d), for administrative costs, including costs in excess of the cap~~, and interest earned, net of fees, shall be transferred monthly into the Triumph Gulf Coast Trust Fund~~. Administrative costs may include payment of travel and per diem expenses of board members, audits, salary or other costs for employed or contracted staff, including required staff under s. 288.8014(9), and other allowable costs. The annual salary for any employee or contracted staff may not exceed $130,000, and associated benefits may not exceed 35 percent of salary.

Section 3. This act shall take effect July 1, 2024.

**PCS for HB 927**

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for CS/HB 927 Improvements to Real Property
**SPONSOR(S):** Ways & Means Committee
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| Orig. Comm.: Ways & Means Committee | | Berg | Aldridge |

## SUMMARY ANALYSIS

In 2010, the Legislature provided specific authority for local governments to create qualifying improvement programs, commonly referred to as Property Assessed Clean Energy (PACE) programs, to provide up-front financing for certain qualifying improvements. Under these programs, property owners may apply to the local government for funding to finance a qualifying improvement and voluntarily enter into a financing agreement with the local government. Qualifying improvements include energy conservation and efficiency improvements, renewable energy improvements, and wind resistance improvements to existing facilities. Property owners finance qualifying improvements through a non-ad valorem assessment on their property. Local governments may offer this program to residential and/or commercial property owners and may administer the program directly or through a third-party.

The bill makes several changes to Florida law governing qualifying improvement programs:

- Modifies eligible "qualifying improvements"
  - For residential properties: **Adds** certain wastewater improvements, flood and water damage resiliency improvements, and permanent generators; **Removes** some energy conservation and efficiency improvements.
  - For commercial properties: **Adds** wastewater improvements, flood and water damage resiliency improvements, improvements to achieve a sustainable building rating or compliance with a national model resiliency standard, improvements to achieve wind or flood insurance rate reductions, and water conservation improvements.
- Requires the holder or servicer of a mortgage that encumbers an applicant's commercial property to provide consent for the applicant to finance any qualifying improvement through the program.
- Provides additional new terms and requirements for residential and commercial properties, including:
  - Written and oral disclosure requirements.
  - Maximum terms for financing agreements based on the useful life of financed improvements.
  - A rescission period of 3 business days for financing agreements on residential property improvements.
  - Terms for certain change orders necessary for completion of qualifying improvements.
- Establishes requirements relating to program contractors and third-party administrators, including annual performance reviews; regulates program marketing and information sharing and prohibits kickbacks from program administrators to contractors; specifies terms under which financing agreements are unenforceable, and requires an annual report from each local government that has authorized a qualifying improvement program.
- Requires the Auditor General to conduct an operational audit of residential and commercial programs every 3 years.

The bill does not have a fiscal impact on state or local government. The bill has an effective date of July 1, 2024.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Current Situation**

Property Assessed Clean Energy (PACE) Programs

Generally, Property Assessed Clean Energy (PACE) laws enable local governments to establish programs to provide financing for certain qualifying improvements on real property which reduce energy consumption and increase energy efficiency. PACE allows individual property owners to contract directly with qualified contractors for energy efficiency and renewable energy projects. The local government issues revenue bonds and uses the proceeds to provide initial project funding, which bonds are repaid by non-ad valorem assessments on participating property owners' tax bills. PACE programs are active in 30 states plus Washington D.C., but only California, Florida, and Missouri offer residential PACE programs.[1]

PACE in Florida

In 2010, the Legislature provided specific authority for local governments to create PACE programs.[2] The law[3] provides supplemental authority to local governments[4] concerning qualified improvements to residential and non-residential real property. The law provides that if a local government authorizes a PACE program, property owners may apply to the local government for funding to finance a qualifying improvement and voluntarily enter into a financing agreement with the local government.[5] "Qualifying improvements" include energy conservation and efficiency improvements, renewable energy improvements, and wind resistance improvements to existing facilities.[6]

At least 30 days before entering into the financing agreement, the property owner must provide notice to any mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment required to repay the amount.[7] The law provides that an acceleration clause for "payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement … is not enforceable."[8] However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to pay annually the qualifying improvement assessment.

The law authorizes a local government to provide and finance qualifying improvements, levy a non-ad valorem assessment to fund a qualifying improvement, incur debt to provide financing for qualifying improvements, and collect costs incurred from financing qualifying improvements through a non-ad valorem assessment. These non-ad valorem assessments are senior to existing mortgage debt,[9] so if

[1] California offers residential PACE financing for improvements related to electric vehicle charging, infrastructure, energy efficiency, renewable energy, seismic strengthening and water efficiency. Missouri offers PACE financing for improvements related to energy efficiency and renewable energy. Additionally, Maine offers residential programs without holding a lien against properties. *See* PACE Nation, *PACE Programs* https://www.pacenation.org/pace-programs/ (last visited Jan, 27, 2024).
[2] Ch. 2010-139, Laws of Fla.
[3] S. 163.08, F.S.
[4] Section 163.08(2)(a), F.S., defines the term "local government" to mean a county, a municipality, a dependent special district as defined in s. 189.012, or a separate legal entity created pursuant to s. 163.01(7) (the Florida Interlocal Cooperation Act)."
[5] S. 163.08(4), F.S.
[6] S. 163.08(2)(b), F.S.
[7] S. 163.08(13), F.S.
[8] S. 163.08(15), F.S.
[9] *See* ss. 125.01(1)(r), 170.01 and 170.09, F.S.

the homeowner defaults on their mortgage or goes into foreclosure, the delinquent PACE assessment payments may be recovered before the mortgage. Current law also specifies that a PACE program may be administered by a for-profit entity or a not-for-profit organization on behalf of and at the discretion of the local government.

In 2012, the Legislature expanded the definition of "local government" to allow a partnership of local governments formed pursuant to the Florida Interlocal Cooperation Act[10] to enter into a financing agreement wherein the partnership, as a separate legal entity, imposes the PACE assessment.[11]

Before entering into a financing agreement, the local government must reasonably determine that:

- All property taxes and other assessments on the property are paid and have not been delinquent for the preceding 3 years (or the property owner's period of ownership, if less than 3 years);
- There are no involuntary liens on the property, including, but not limited to, construction liens;
- No notices of default or other evidence of property-based debt delinquency have been recorded during the preceding 3 years (or the property owner's period of ownership, if less than 3 years); and
- The property owner is current on all mortgage debt on the property.[12]

The total assessment cannot be for an amount greater than 20 percent of the just value of the property as determined by the county property appraiser, unless consent is obtained from the mortgage holders.[13] Consideration of the property owner's ability to repay the assessment is not required.

In Florida, local governments typically have multiple non-exclusive agreements with a number of PACE providers. Generally, PACE providers are private companies that administer the local government's PACE program on behalf of the local government and provide funding from private sources. PACE providers generally act as the program administrator for special districts created pursuant to an interlocal agreement between two or more Florida local governments. Once the PACE district is created, additional counties or municipalities may join the special district as members, authorizing the PACE provider for the special district to administer PACE programs on behalf of the newly joined members.[14] PACE providers generally maintain a list of approved contractors authorized to provide qualifying improvements.[15]

For example, Broward County authorizes the following PACE providers:[16]

- Counterpointe Energy Solutions administers a commercial PACE program for the Florida PACE Funding District.
- Berkadia administers a commercial PACE program the Florida Renewable Energy District.
- CleanFund administers a commercial PACE program for the Florida Renewable Energy District.
- Dividend Finance administers the "Dividend" Program for the Florida Renewable Energy District.
- FortiFi Financial administers a residential PACE program for the Florida PACE Funding Agency District.

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[10] S. 163.01(7), F.S.
[11] Ch. 2012-117, Laws of Fla.
[12] S. 163.08(9), F.S.
[13] S. 163.08(12)(a), F.S.
[14] *See, e.g.,* Green Corridor Property Assessed Clean Energy (PACE) District Town of Cutler Bay, Florida Financial Report for the Fiscal Year Ended Sept. 30, 2020, at 13, https://flauditor.gov/pages/specialdistricts_efile%20rpts/2020%20green%20corridor%20property%20assessment%20clean%20energy%20(pace)%20district.pdf (last visited Jan. 27, 2024).
[15] *See, e.g.,* Sarasota County, *PACE*, https://www.scgov.net/government/uf-ifas-extension-and-sustainability/pace (last visited Jan. 27, 2024).
[16] Broward County, *Property Assessed Clean Energy (PACE)* https://www.broward.org/Sustainability/Documents/PACEProviderList_2022.pdf (last visited Jan. 27, 2024).

- Greenworks Lending administers a commercial PACE program for the Florida Resiliency and Energy District.
- Lever Energy Capital administers a commercial PACE program for the Florida Resiliency and Energy District.
- Home Run Financing administers a residential PACE Program for the Florida PACE Funding Agency District.
- Rahill administers a commercial PACE program for the Florida Resiliency and Energy District.
- Renew Financial administers PACE programs under the "RenewPACE" Program (residential and commercial) for the Florida Green Finance Authority.
- Structured Finance Associates administers a commercial PACE program for the Florida Resiliency and Energy District.
- Twain Financial Partners administers a commercial PACE program for the Florida Renewable Energy District.

Local governments may choose whether to offer a residential or commercial PACE program, whether to administer the program directly or through a third-party PACE provider, or any combination thereof.

PACE financing interest rates vary but are typically higher than traditional financing.[17] Interest rates and fees for a project are set by the PACE provider when the agreement is finalized with the property owner.[18]

Federal Housing Finance Agency and Super-Priority Liens

In 2010, and again in 2014,[19] the Federal Housing Finance Agency (FHFA) directed mortgage underwriters Fannie Mae and Freddie Mac not to purchase mortgages of homes encumbered by a PACE assessment due to its senior status above a mortgage. Under normal circumstances, real estate lien priority is established by the order in which the liens are filed.[20]

According to the FHFA, such super-priority liens increase the risk of losses to taxpayers. Fannie Mae and Freddie Mac support the housing finance market by purchasing, guaranteeing, and securitizing single-family mortgages. Therefore, mortgages supported by Fannie Mae and Freddie Mac must remain in first-lien position, meaning they have first priority in receiving the proceeds from the sale of a

[17] The Balance, *How PACE Loans Work,* https://www.thebalancemoney.com/pace-loans-financing-for-upgrades-4124071 (last visited Jan. 27, 2024).
[18] *See* PACE Broward, *Frequently Asked Questions*, https://www.broward.org/Climate/Documents/PACE%20Broward%20FAQ%20Sheet_Update6_09272021.pdf (last visited Jan. 27, 2024).
[19] Federal Housing Finance Agency, *FHFA Statement on Certain Energy Retrofit Loan Programs* (July, 6, 2010), http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-Certain-Energy-Retrofit-Loan-Programs.aspx (last visited Jan. 27, 2024). *See also* Federal Housing Financial Agency, *Statement of the Federal Housing Finance Agency on Certain Super Priority Liens* (December 22, 2014)("FHFA wants to make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac's policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it") http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-the-Federal-Housing-Finance-Agency-on-Certain-Super-Priority-Liens.aspx (last visited Jan. 27, 2024).
[20] "Real estate liens generally are ordered so that prior liens are paid in foreclosure before liens filed later in time. For example, a mortgage loan used to buy the property takes priority over a later mortgage loan used to remodel the home. The earliest and thus highest priority mortgage loan is known as a first lien, while the subsequent mortgage loan is deemed a second lien. If the homeowner defaults on the second lien loan, the first lien mortgage holder retains the lien even if the second lien mortgage holder forecloses; however, the converse is not true. Tax assessments are an exception to this lien priority rule. Generally, unpaid property tax assessments have priority over other liens, regardless of the date the prior liens were recorded or when the tax assessments became delinquent. This makes the lien priority for PACE financing senior to liens for mortgage loans closed prior to the homeowner's acceptance of the PACE financing. In the case of default by the homeowner on the PACE assessment, local governments and investors in PACE bonds can expect to collect the balance owed on a PACE assessment before any recovery by a mortgage lender." Prentiss Cox, *Keeping PACE? The Case Against Property Assessed Clean Energy Financing Programs*, 83 U. Colo. L. Rev. 83, 94 (2011), https://scholarship.law.umn.edu/faculty_articles/549 (last visited Jan. 27, 2024).

property in foreclosure. Although FHFA generally supports energy retrofit financing programs, FHFA acknowledges that such programs should be structured to ensure protection of the core financing for the home.[21]

This restriction has two potential implications for borrowers. First, a homeowner whose property is encumbered with a PACE assessment may not refinance their existing mortgage with a Fannie Mae or Freddie Mac mortgage. Second, anyone wanting to buy a home that already has a first-lien PACE loan cannot use a Fannie Mae or Freddie Mac loan for the purchase. These restrictions may reduce the marketability of the house or require the homeowner to pay off the PACE loan before selling the house.[22]

Additionally, in December 2017, the United States Department of Housing and Urban Development announced that the Federal Housing Administration will no longer insure new mortgages on properties that include PACE assessments, citing concerns about the potential for increased losses to the Mutual Mortgage Insurance Fund resulting from the priority lien status given to such assessments.[23]

Some residential PACE programs are now operating with loan loss reserve funds, appropriate disclosures, or other protections meant to address FHFA's concerns.[24] For example, in 2013, California created a reserve fund to compensate first mortgage lenders in case of a foreclosure or a forced sale attributable to a PACE loan. Additionally, Oklahoma and Vermont have passed legislation to downgrade PACE from senior lien to junior lien, and there have been attempts by Congress to revise residential PACE programs at the federal level, including the 2014 PACE Assessment Protection Act.[25]

Consumer Protection

Consumer issues have surrounded PACE programs from their inception.[26] These include the cost of funding, contractor sales techniques (notably, responding to a limited homeowner problem and marketing a full house retrofit), rolling the administrative fees for the local government into the PACE loan amount, product sales at above market interest rates, workmanship issues, inadequate disclosures, and indiscriminate lending regardless of ability to repay.[27] An administrator of residential PACE programs in California and Florida recently settled with the Federal Trade Commission and California to address complaints that the administrator recruited and authorized contractors, without adequate training or oversight, to sell its financing, leading to many consumers being deceived during the sales process and being unfairly subjected to liens on their homes without their express, informed consent.[28]

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[21] *FHFA Statement on Certain Energy Retrofit Loan Programs, supra*, note 20.
[22] *Id.*.
[23] FHFA, Property Assessed Clean Energy (PACE) Program, 85 Fed. Reg. 11,2738 (Jan. 16, 2020).
[24] Commercial PACE programs were not directly affected by FHFA's actions because Fannie Mae and Freddie Mac do not underwrite commercial mortgages.
[25] NCSL, *PACE Financing* https://www.ncsl.org/research/energy/pace-financing.aspx (last visited April 5, 2023).
[26] "PACE loans, offered through home improvement contractors, often in door-to-door sales, and secured by a property tax lien, are collected through a property tax assessment that takes priority over any existing mortgage. PACE programs must be authorized by state and local governments, but are privately run with little or no government oversight. Over the last two years, there has been a sharp increase in homeowners seeking assistance from legal services and other organizations in relation to PACE loans. The goal of improving home energy efficiency is being overshadowed by the lack of adequate consumer protection for these loans. Weak PACE loan regulation enables contractors to saddle homeowners with debt they cannot afford and puts their homes at risk for foreclosure." National Consumer Law Center, *Advocates Applaud CFPB's Intention* to *Deal with PACE Loan Program Abuses* (Mar. 4, 2019), https://www.nclc.org/media-center/advocates-applaud-cfpbs-intention-to-deal-with-pace-loan-program-abuses.html (last visited Jan. 27, 2024).
[27] FHFA, Property Assessed Clean Energy (PACE) Program, 85 Fed. Reg. 11,2738 (Jan. 16, 2020).
[28] Federal Trade Commission, *FTC, California Act to Stop Ygrene Energy Fund from Deceiving Consumers About PACE Financing, Placing Liens on Homes Without Consumers' Consent,* https://www.ftc.gov/news-events/news/press-releases/2022/10/ftc-california-act-stop-ygrene-energy-fund-deceiving-consumers-about-pace-financing-placing-liens (last visited Jan. 27, 2024).

In response to these consumer issues, Congress amended the Truth in Lending Act in 2018 to direct the Consumer Financial Protection Bureau to implement federal regulations which provide more effective consumer protections relating to PACE loans, especially those related to the ability of a homeowner to repay the loan.[29]

The United States Department of Energy maintains "best practice guidelines" for residential PACE financing programs, which includes measures relating to:

- Establishing financial eligibility and verifying property ownership;
- Confirming property-based debt, tax assessments, and property valuation;
- Reviewing property owner income and debt obligations;
- Establishing consumer and lender protections;
- Establishing property owner education and disclosures;
- Providing a right to cancel the purchase;
- Determining appropriate minimum equity requirements and appropriate maximum assessments;
- Providing equipment specifications and energy assessments;
- Defining the relationship between PACE assessments and mortgage financing;
- Providing for non-acceleration upon property owner default;
- Notifying mortgage holders of record; and
- Addressing the needs and potential vulnerabilities of low-income and elderly households.[30]

Some local governments in Florida have implemented more stringent consumer protections than those required by Florida law.[31]

Florida PACE Funding Agency

The Florida PACE Funding Agency (FPFA) is one of several separate legal entities formed under the Florida Interlocal Cooperation Act to impose PACE assessments. It was formed by an interlocal agreement between Flagler County and City of Kissimmee. FPFA markets PACE financing statewide[32] and has sued county tax collectors to force collection of PACE assessments in jurisdictions that have not agreed to be a part of FPFA or even to offer PACE programs.[33] This has led to a pending lawsuit that includes nearly half of the counties in the state over local government rights[34] and creates uncertainty for property owners and contractors.

Wastewater Treatment Improvements

The Florida Department of Environmental Protection provides "Onsite sewage treatment and disposal systems (OSTDS), commonly referred to as septic systems, are currently used for wastewater disposal by approximately 30% of Florida's population. With an estimated 2.6 million systems in operation, Florida represents 12% of the United States' septic systems. Proper design, construction, and

[29] FHFA, Property Assessed Clean Energy (PACE) Program, 85 Fed. Reg. 11,2738 (Jan. 16, 2020). *See also* Public Law 115–174 (2018), section 307; codified at 15 U.S.C. 1639c(b)(3)(C). and Bureau of Consumer Financial Protection, Advance Notice of Proposed Rulemaking on Residential Property Assessed Clean Energy Financing, 84 FR 8479 (Mar. 8, 2019).
[30] Department of Energy, *Best Practice Guidelines for Residential PACE Financing Programs* (Nov. 18, 2016), https://www.energy.gov/sites/prod/files/2016/11/f34/best-practice-guidelines-RPACE.pdf (last visited Jan. 27, 2024).
[31] *See, e.g.,* Palm Beach County, Ord. No. 2017-012, Section 6. Disclosure Requirements https://discover.pbcgov.org/resilience/PDF/PACE_ORDINANCE_2017-012%20-%20ADA%20Compliant.pdf (last visited Jan. 27, 2024).
[32] Florida PACE Funding Agency, https://floridapace.gov/ (last visited Jan. 27, 2024).
[33] *See* C.T. Bowen, *PACE sues to restart Hillsborough County loans*, Tampa Bay Times, Aug. 23, 2023; Alex Harris, *Florida counties say PACE home loan program needs more consumer protections*, Miami Herald, Dec. 20, 2023; Jeff Burlew, *Leon County declares Florida PACE Funding Agency a 'public danger' over home improvement loans*, Tallahassee Democrat, Jul. 19, 2023.
[34] Harris, *supra* note 34.

maintenance of systems are important to help protect Florida's ground water, which provides 90 percent of Florida's drinking water."[35]

There are estimated, however, to be thousands of septic tanks that are old and at risk of failing.[36] These systems risk leaking phosphorus and nitrogen into the water system, which can promote harmful algal blooms, aquatic weeds, and the alteration of the natural fauna and flora. Serious algal blooms can also cause human health issues.

For this reason, there has been a push over time to move from individual septic systems to community sewage treatment. Such a transition can cost in the range of $15,000 to $20,000.[37]

**Effect of the Bill**

The bill makes several changes to Florida's PACE law by modifying the types of improvements eligible for financing as qualifying improvements, establishing expanded underwriting requirements for financing agreements, requiring specific disclosures to applicants, and providing terms for the conduct of contractors and third-party administrators. The bill splits the current statute into multiple sequential statutes to address the following.

Definitions – Section 163.08, F.S.

The bill defines the following terms related to programs used in Florida to finance qualifying improvements:

- *Program administrator* means a county, a municipality, a dependent special district as defined in s. 189.012, F.S., or a separate legal entity created pursuant to s. 163.01(7), F.S., which directly operates a program for financing qualifying improvements and is authorized pursuant to new ss. 163.081 and 163.082, F.S., created by the bill.
- *Residential property* means real property zoned as residential or multifamily residential and composed of four or fewer dwelling units.
- *Commercial property* means real property other than residential property, including, but not limited to, a property zoned multifamily residential which is composed of five or more dwelling units; and real property used for commercial, industrial, or agricultural purposes.
- *Property owner* means the owner or owners of record of real property. The term includes real property held in trust for the benefit of one or more individuals, in which case the individual or individuals may be considered as the property owner or owners, provided that the trustee provides written consent. The term does not include persons renting, using, living, or otherwise occupying real property.
- *Qualifying improvement contractor* means a licensed or registered contractor who has been registered to participate by a program administrator pursuant to terms established by the bill to install or otherwise perform work to make qualifying improvements on residential property financed pursuant to a program authorized under terms established by the bill.

Qualifying Improvement Programs - Residential Property – Section 163.081, F.S.

The bill provides that a program administrator may only offer a program for financing qualifying improvements to residential property within the jurisdiction of a county or municipality which has authorized by ordinance or resolution the administration of the program. A county or municipality can deauthorize a program through the method the program was originally authorized. Any financing

[35] Florida Department of Environmental Protection, *Onsite Sewage Program*, https://floridadep.gov/water/onsite-sewage (last visited Jan. 27, 2024).
[36] Benita Goldstein, *Failing septic tanks damaging state's environment; will cost billions of dollars to replace*, South Florida Sun Sentinel, Apr. 22, 2019.
[37] Terri Lowery, *Cities, Counties Need Plan to Switch Septic to Sewer,* Florida Today, May 24, 2016..

agreements continue after the deauthorization of a program, unless the provisions of s. 163.086, F.S. (as created by this act), regarding unenforceable financing agreements, apply.

The bill clarifies that only the owner of record of a residential property may apply to an authorized program administrator to finance a qualifying improvement and that the program administrator may only enter into a financing agreement with the property owner.

*Qualifying Improvements*

The bill amends the definition of "qualifying improvement" to modify the types of permanent improvements that may be financed under an authorized qualifying improvement program. For residential property, the bill provides that a qualifying improvement includes:

- Repairing, replacing, or improving a central sewerage system, converting an onsite sewage treatment and disposal system to a central sewerage system, or, if no central sewerage system is available, removing, repairing, replacing, or improving an onsite sewage treatment and disposal system to an advanced system or technology.
- Repairing, replacing, or improving a roof, including improvements that strengthen the roof deck attachment; create a secondary water barrier to prevent water intrusion; install wind-resistant shingles or gable-end bracing; or reinforce roof-to-wall connections.
- Providing flood and water damage mitigation and resiliency improvements, prioritizing repairs, replacement, or improvements that qualify for reductions in flood insurance premiums, including raising a structure above the base flood elevation to reduce flood damage; constructing a flood diversion apparatus, drainage gate, or seawall improvement; purchasing flood-damage-resistant building materials; or making electrical, mechanical, plumbing, or other system improvements that reduce flood damage.
- Replacing windows or doors, including garage doors, with energy-efficient, impact-resistant, wind-resistant, or hurricane windows or doors or installing storm shutters;
- Installing energy-efficient heating, cooling, or ventilation systems.
- Replacing or installing insulation.
- Replacing or installing energy-efficient water heaters.
- Installing and affixing a permanent generator.
- Providing a renewable energy improvement, including the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses solar, geothermal, bioenergy, wind or hydrogen.

The bill removes from current law the following types of improvements as qualifying improvements to residential property:

- Energy efficiency and conservation improvements not listed above, including air sealing; building modifications to increase the use of sunlight; and installation of energy controls or energy recovery devices, electric vehicle charging equipment, and efficient lighting equipment.

For residential properties, the bill prohibits financing agreements for qualifying improvements to buildings or facilities under new construction or construction for which a certificate of occupancy or similar evidence of substantial completion of new construction or improvement has not been issued.

*Underwriting Requirements*

The bill provides that before entering into a financing agreement, the program administrator must review the residential property owner's public records derived from a commercially accepted source and the property owner's statements, records, and credit reports and make each of the following findings:

- There are sufficient resources to complete the project.
- The total amount of any non-ad valorem assessment under the program does not exceed 20 percent of the just value of the property as determined by the property appraiser, provided that

the total amount may exceed this limitation upon written consent of the holders or loan servicers of any mortgage encumbering or otherwise secured by the property.
- The combined mortgage-related debt and total amount of any non-ad valorem assessments under the program for the property does not exceed 97 percent of the just value of the property as determined by the property appraiser.
- The financing agreement does not utilize a negative amortization schedule, a balloon payment, or prepayment fees or fines other than nominal administrative costs. Capitalized interest included in the original balance of the assessment financing agreement does not constitute negative amortization.
- All property taxes and any other assessments, including non-ad valorem assessments, levied on the same bill as the property taxes are current and have not been delinquent for the preceding 3 years, or the property owner's period of ownership, whichever is less.
- There are no outstanding fines or fees related to zoning or code enforcement violations issued by a county or municipality, unless the qualifying improvement will remedy the zoning or code violation.
- There are no involuntary liens, including, but not limited to, construction liens on the property.
- No notices of default or other evidence of property-based debt delinquency have been recorded and not released during the preceding 3 years or the property owner's period of ownership, whichever is less.
- The property owner is current on all mortgage debt on the residential property.
- The property owner has not been subject to a bankruptcy proceeding within the last 5 years unless it was discharged or dismissed more than 2 years before the date on which the property owner applied for financing.
- The residential property is not subject to an existing home equity conversion mortgage or reverse mortgage product.
- The term of the financing agreement does not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the assessment contract is attributable, not to exceed 20 years.[38]
- The total estimated annual payment amount for all financing agreements entered into under this section does not exceed 10% of the property owner’s annual income. Income must be confirmed using reasonable evidence and not solely by the owner’s statement.
- If the qualifying improvement is for the conversion of an onsite sewage treatment and disposal system to a central sewerage system, the property owner has utilized all available local government funding for such conversions and is unable to obtain financing for the improvement on more favorable terms through a local government program designed to support such conversions.

If the improvement is estimated to cost $10,000 or more, the program administrator must advise the property owner in writing that the best practice is to obtain estimates from at least two unaffiliated qualifying improvement contractors and must notify the owner in writing of the advertising and solicitation requirements of s. 163.085, F.S., as created by the bill.

*Disclosures*

The bill requires that, before approving a financing agreement, a program administrator must provide a written financing estimate and disclosure to the residential property owner. This disclosure must contain the following terms, each of which must be individually acknowledged in writing by the property owner:
- The estimated total amount to be financed, including the total and itemized cost of the qualifying improvement, program fees, and capitalized interest, if any.
- The estimated annual non-ad valorem assessment.

[38] The bill provides that the program administrator must determine the useful life of a qualifying improvement using established standards, including certification criteria from government agencies or nationally recognized standards and testing organizations

- The term of the financing agreement and the schedule for the non-ad valorem assessments.
- The interest charged and estimated annual percentage rate.
- A description of the qualifying improvement.
- The total estimated annual costs that will be required to be paid under the assessment contract, including program fees.
- The total estimated average monthly equivalent amount of funds that would need to be saved in order to pay the annual costs of the non-ad valorem assessment, including program fees.
- The estimated due date of the first payment that includes the non-ad valorem assessment.
- A disclosure that the financing agreement may be canceled within 3 business days after signing the financing agreement without any financial penalty for doing so.
- A disclosure that the property owner may repay any remaining amount owed, at any time, without penalty or imposition of additional prepayment fees or fines other than nominal administrative costs.
- A disclosure that if the property owner sells or refinances the residential property, the property owner may be required by a mortgage lender to pay off the full amount owed under each financing agreement under this section.
- A disclosure that the assessment will be collected along with the property owner's property taxes, and will result in a lien on the property from the date the financing agreement is recorded.
- A disclosure that potential utility or insurance savings are not guaranteed, and will not reduce the assessment amount.
- A disclosure that failure to pay the assessment may result in penalties, fees, including attorney fees, court costs, and the issuance of a tax certificate that could result in the property owner losing the property and a judgment against the property owner, and may affect the property owner's credit rating.

Prior to the financing agreement being approved, the program administrator must conduct an oral, recorded telephone call with the property owner during which the program administrator must confirm each of these disclosures and the underwriting findings described above.

*Other Terms*

The bill provides that a residential property owner, without penalty, may cancel a financing agreement on a form established by the program administrator within 3 business days after signing the financing agreement.

The bill provides that the program administrator, before disbursing final funds to a qualifying improvement contractor for a qualifying improvement on residential property, must confirm that the applicable work or service has been completed or, as applicable, that the final permit for the qualifying improvement has been closed with all permit requirements satisfied or a certificate of occupancy or similar evidence of substantial completion of construction or improvement has been issued.

Qualifying Improvement Programs - Commercial Property – Section 163.082, F.S.

The bill provides that a program administrator may only offer a program for financing qualifying improvements to commercial property within the jurisdiction of a county or municipality which has authorized by ordinance or resolution the administration of the program. A county or municipality can deauthorize a program through the method the program was originally authorized. Any financing agreements continue after the deauthorization of a program, unless the provisions of s. 163.086, F.S. (as created by this act), regarding unenforceable financing agreements, apply.

The bill clarifies that only the owner of record of a commercial property may apply to an authorized program administrator to finance a qualifying improvement.

*Qualifying Improvements*

For commercial property, the bill amends the definition of "qualifying improvement" to include, in addition to the qualifying improvements authorized under current law:

- Energy conservation and efficiency improvements necessary to achieve a sustainable building rating or compliance with a national model green building code.
- Waste system improvements, which consists of repairing, replacing, improving, or constructing a central sewerage system, converting an onsite sewage treatment and disposal system to a central sewerage system, or, if no central sewerage system is available, removing, repairing, replacing, or improving an onsite sewage treatment and disposal system to an advanced system or technology.
- Flood and water damage mitigation and resiliency improvements, prioritizing repairs, replacement, or improvements that qualify for reductions in flood insurance premiums, including raising a structure above the base flood elevation to reduce flood damage; creating or improving stormwater and flood resiliency, including flood diversion apparatus, drainage gates, or shoreline improvements; purchasing flood-damage-resistant building materials; or making any other improvements necessary to achieve a sustainable building rating or compliance with a national model resiliency standard and any improvements to a structure to achieve wind or flood insurance rate reductions, including building elevation.
- Water conservation efficiency improvements, which are measures to reduce consumption through efficient use or conservation of water.

The bill removes from current law the installation of storm shutters or opening protections as qualifying improvements to commercial property.

*Underwriting Requirements*

The bill provides that before entering into a financing agreement, the program administrator must review public records derived from a commercially accepted source and the property owner's statements, records, and credit reports and make each of the following findings:

- There are sufficient resources to complete the project.
- The combined mortgage-related debt and total amount of any non-ad valorem assessments under the program for the commercial property does not exceed 97 percent of the just value of the property as determined by the property appraiser.
- All property taxes and any other assessments, including non-ad valorem assessments, levied on the same bill as the property taxes are current.
- There are no involuntary liens greater than $5,000, including, but not limited to, construction liens on the commercial property.
- No notices of default or other evidence of property-based debt delinquency have been recorded and not been released during the preceding 3 years or the property owner's period of ownership, whichever is less.
- The property owner is current on all mortgage debt on the commercial property.
- The term of the financing agreement does not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the assessment contract is attributable, not to exceed 30 years. The program administrator shall determine the useful life of a qualifying improvement using established standards, including certification criteria from government agencies or nationally recognized standards and testing organizations.
- The property owner is not currently the subject of a bankruptcy proceeding.

The bill provides that all of these findings must be documented, including supporting evidence relied upon, and provided to the property owner before a financing agreement is approved and recorded.

Further, the bill requires that, prior to entering into a financing agreement with a commercial property owner, the local government must have the written consent of the current holders or servicers of any

mortgage that encumbers or is otherwise secured by the property (or that will be secured by the property at the time the financing agreement is executed by the local government).

*Disclosures*

The bill provides that a financing agreement may not be approved unless the program administrator provides, either on a separate document or included with other disclosures or forms, a financing estimate and disclosure to the property owner which includes the following:

- The estimated total amount to be financed, including the total and itemized cost of the qualifying improvement, program fees, and capitalized interest, if any.
- The estimated annual non-ad valorem assessment.
- The term of the financing agreement and the schedule for the non-ad valorem assessments.
- The interest charged and estimated annual percentage rate.
- A description of the qualifying improvement.
- The total estimated annual costs that will be required to be paid under the assessment contract, including program fees.
- The estimated due date of the first payment that includes the non-ad valorem assessment.
- A disclosure of any prepayment penalties, fees, or fines as set forth in the financing agreement.

*Other Terms*

The bill requires the program administrator, upon disbursement of all financing and completion of installation of qualifying improvements financed, to file with the applicable county or municipality a certificate that the qualifying improvements have been installed and are in good working order.

Qualifying Improvement Programs – General Terms for All Properties

The bill prohibits financing agreements for qualifying improvements with a total cost (including program fees and interest) of less than $2,500.

The bill requires the program administrator, before entering into a financing agreement, to determine whether there are any current financing agreements on the property and if a property owner has obtained or sought to obtain additional qualifying improvements on the same property that have not yet been recorded. The bill provides that this finding, along with other required findings, must be documented, including supporting evidence relied upon, and provided to the property owner before a financing agreement is approved and recorded.

The bill requires the program administrator to submit an approved financing agreement, or a summary memorandum of the agreement, for recording in the public records of the county within which the residential property is located within 10 business days after execution of the agreement (and the 3-day cancellation period, for residential projects). This extends the current law requirement that such agreements be submitted for recording within 5 business days.

The bill provides that a notice of lien for the full amount of the financing may be recorded in the public records of the county where the property is located. Such lien is not enforceable in a manner that results in the acceleration of the remaining nondelinquent unpaid balance under the assessment financing agreement.

The bill reduces from 30 days to 5 days the requirement that before entering into the financing agreement, the property owner must provide notice to any mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment required to repay the amount.

The bill provides that when a change order or proposed change order on a project increases the cost or expands the scope of the original project by at least 20%, the program administrator must notify the

property owner, confirm the change with the property owner, and provide an updated written disclosure form.

Qualifying Improvement Contractors – Section 163.083, F.S.

The bill requires a county or municipality to establish a process to register contractors for participation in a qualifying improvement program for residential properties. The county or municipality may approve such a process established by a program administrator. A contractor may only perform such work that the contractor is appropriately licensed, registered, and permitted to conduct.

The bill provides that contractors must, when applying to participate in a qualifying improvement program and while participating in the program:

- Hold all necessary licenses or registrations for the work to be performed which are in good standing. Good standing includes no outstanding complaints with the state or local government which issues such licenses or registrations.
- Comply with all applicable federal, state, and local laws and regulations, including obtaining and maintaining any other permits, licenses, or registrations required for engaging in business in the jurisdiction in which it operates and maintaining all state-required bond and insurance coverage.
- File with the program administrator a written statement in a form approved by the county or municipality that the contractor will comply with applicable laws and rules and qualifying improvement program policies and procedures, including those on advertising and marketing.

The bill prohibits a program administrator or third-party administrator from registering as a qualifying improvement contractor.

The bill requires each program administrator to establish and maintain a process to monitor qualifying improvement contractors with regard to performance and compliance with program requirements and must conduct regular review of such contractors to confirm that each remains in good standing. The bill also requires each program administrator to establish and maintain procedures notice and imposition of penalties upon finding a violation, which penalties may include

- Probation with conditions for continued program participation.
- Suspension.
- Termination from program participation.

Each program administrator must also establish and maintain an “easily accessible” page on its website that provides information on the status of registered contractors.

Third-Party Administrators – Section 163.084, F.S.

The bill provides that a program administrator, in its discretion, may contract with one or more entities to administer a residential or commercial qualifying improvement program on behalf of the program administrator. A third-party administrator must be independent of the program administrator and have no conflicts of interest between its managers or owners and program administrator managers, owners, officials, or employees with oversight over the contract.

The bill prohibits a program administrator from contracting with a third-party administrator that, within the last three years, has been:

- Prohibited, after notice and a hearing, from serving as a third-party administrator for another program administrator for program or contract violations in this state or
- Found by a court of competent jurisdiction to have substantially violated state or federal laws related to the administration of a qualifying improvement program under relevant Florida laws or a similar program in another jurisdiction.

The bill clarifies that only the program administrator may levy or administer non-ad valorem assessments.

The bill provides that a contract with a third-party administrator must provide for the third-party to administer the program pursuant to the requirements of relevant Florida law and the ordinance or resolution adopted by the county or municipality authorizing the program. Further, the bill requires the program administrator to include in the contract the right to perform annual reviews of the third-party administrator to confirm compliance with relevant Florida law, the ordinance or resolution adopted by the county or municipality, and the contract.

If the program administrator finds that the third-party administrator has committed a violation of any of these terms, it must provide the third-party administrator with notice of the violation and may, as set forth in the adopted ordinance or resolution or the contract with the third-party administrator:

- Place the third-party administrator in a probationary status that places conditions for continued operations.
- Impose any fines or sanctions.
- Suspend the activity of the third-party administrator for a period of time.
- Terminate the agreement with the third-party administrator.

Further, the bill provides that a program administrator may terminate a contract with a third-party administrator, as set forth in the adopted ordinance or resolution or the contract with the third-party administrator, upon finding that:

- The third-party administrator has violated the contract.[39]
- The third-party administrator, or an officer, a director, a manager or a managing member, or a control person of the third-party administrator, has been found by a court of competent jurisdiction to have violated state or federal laws related to the administration a program authorized under relevant Florida law or a similar program in another jurisdiction within the last 5 years.
- Any officer, director, manager or managing member, or control person of the third-party administrator has been convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication has been withheld, a crime related to administration of a program authorized under relevant Florida law or a similar program in another jurisdiction within the last 10 years.
- An annual performance review reveals a substantial violation or a pattern of violations by the third-party administrator.

In the event of termination or suspension, the bill provides that any recorded financing agreements shall continue unless the provisions of new section 163.086, F.S., apply.

Advertising and Solicitation – Section 163.085, F.S.

The bill prohibits a program administrator, qualifying improvement contractor, or third-party administrator from doing the following when communicating with a property owner:

- Suggesting or implying that a non-ad valorem assessment authorized under a qualifying improvement program is a government assistance program.
- Suggesting or implying that qualifying improvements are free or provided at no cost, or that the financing related to a non-ad valorem assessment authorized under a qualifying improvement program is free or provided at no cost.
- Suggesting or implying that the financing of a qualifying improvement using a program authorized under Florida law does not require repayment of the financial obligation.
- Making any representation as to the tax deductibility of a non-ad valorem assessment.[40]

[39] The bill provides that the contract may set forth "substantial violations" that may result in contract termination and other violations that may provide for a period of time for correction before the contract may be terminated.
[40] The bill provides that a program administrator, qualifying improvement contractor, or third-party administrator may encourage a property owner to seek the advice of a tax professional regarding tax matters related to assessments.

The bill prohibits these same entities from providing any direct cash payment or other thing of material value to a property owner which is explicitly conditioned upon entering into a financing agreement. The bill does allow a program administrator or third-party administrator to offer programs or promotions on a nondiscriminatory basis that provide reduced fees or interest rates if the reduced fees or interest rates are reflected in the financing agreements and are not provided to the property owner as cash consideration.

The bill also prohibits a program administrator or third-party administrator from:

- Providing a qualifying improvement contractor any information that discloses the amount of financing for which a property owner is eligible for qualifying improvements or the amount of equity in a residential property or commercial property.
- Providing any payment, fee, or kickback to a qualifying improvement contractor for referring property owners to the program administrator or third-party administrator. A program administrator or third-party administrator may provide information to a qualifying improvement contractor to facilitate the installation of an improvement for a property owner.
- Reimbursing a qualifying improvement contractor for its expenses in advertising and marketing campaigns and materials.

The bill prohibits a qualifying improvement contractor from:

- Advertising the availability of financing agreements for, or soliciting program participation on behalf of, the program administrator unless the contractor is registered and is in good standing with the program administrator.
- Providing a different price for a qualifying improvement financed under a residential program than the price that the contractor would otherwise provide if the improvement was not being financed through a financing agreement.

Unenforceable Financing Agreements – Section 163.086, F.S.

The bill provides terms concerning the enforceability of financing agreements for qualifying improvements.

The bill provides that a financing agreement may not be enforced, and a recorded financing agreement may be removed from attachment to a residential property or commercial property and deemed null and void, if:

- The property owner applied for, accepted, and canceled a financing agreement within the 3-business-day period provided in the bill.
- A person other than the property owner obtained the recorded financing agreement.
- The program administrator, third-party administrator, or qualifying improvement contractor approved or obtained funding through fraudulent means and in violation of relevant Florida law.

The bill provides that if a qualifying improvement contractor has initiated work on property under a contract deemed unenforceable under this section, the qualifying improvement contractor:

- May not receive compensation for that work under the financing agreement;
- Must restore the property to its original condition at no cost to the property owner; and
- Must immediately return any funds, property, and other consideration given by the property owner. If the property owner provided any property and the qualifying improvement contractor does not or cannot return it, the qualifying improvement contractor must immediately return the fair market value of the property or its value as designated in the contract, whichever is greater.

If a qualifying improvement contractor has delivered chattel or fixtures to a residential property or commercial property pursuant to a contract deemed unenforceable under this section, the bill provides that the contractor has 90 days after the date on which the contract was executed to retrieve the chattel or fixtures, provided that:

- The qualifying improvement contractor has not received compensation and has restored the property to its original condition at no cost to the property owner; and
- The chattel and fixtures can be removed at the qualifying improvement contractor's expense without damaging the property.

If the contractor fails to comply with this requirement, the property owner may retain any chattel or fixtures provided pursuant to a contract deemed unenforceable.

The bill provides that a contract that is otherwise unenforceable under these the terms stated in the bill remains enforceable if the property owner waives his or her right to cancel the contract or cancels the financing agreement but allows the qualifying improvement contractor to proceed with the installation of the qualifying improvement.

The bill provides that a recorded financing agreement may not be removed from attachment to a residential property or commercial property if the property owner fraudulently obtained funding through an authorized qualifying improvement program.

Annual Report – Section 163.087, F.S.

The bill requires each program administrator that has authorized a qualifying improvement program for residential or commercial property to post on its website an annual report within 45 days after the end of its fiscal year. Each annual report must include the following information for the previous year:

- The number and types of qualifying improvements funded.
- The aggregate, average, and median dollar amounts of annual non-ad valorem assessments and the total number of non-ad valorem assessments collected under financing agreements.
- The total number of defaulted non-ad valorem assessments, including the total defaulted amount, the number and dates of missed payments, and the total number of parcels in default and the length of time in default.
- A summary of all reported complaints received by the program administrator related to the program, including the names of the third-party administrator, if applicable, and qualifying improvement contractors and the resolution of each complaint.

The bill requires the Auditor General to conduct an operational audit of each authorized program, including any third-party administrators, for compliance with the provisions of relevant Florida law and any adopted ordinance at least once every 3 years. The Auditor General may stagger evaluations such that a portion of all programs are evaluated in 1 year; however, every program must be evaluated at least once by September 1, 2028. Each program administrator, and third-party administrator if applicable, must post the most recent report on its website.

The bill requires the Auditor General to adopt rules related to reporting requirements.

The bill allows current contracts between a county or municipality and a current program administrator to continue without additional action. However, all parties must comply with the new law, and any contract in conflict with the new law must be updated.

B. SECTION DIRECTORY:

**Section 1.** Amends s. 163.08, F.S., providing definitions for qualifying improvements to real property.

**Section 2.** Creates 163.081, F.S., financing qualifying improvements to residential property.

**Section 3.** Creates 163.082, F.S., financing qualifying improvements to commercia property.

**Section 4.** Creates 163.083, F.S., qualifying improvement contractors for qualifying improvements

to real property.

**Section 5.** Creates 163.084, F.S., third-party administrators for qualifying improvements to real property.

**Section 6.** Creates 163.085, F.S., advertisement and solicitation for financing qualifying improvements programs.

**Section 7.** Creates 163.086, F.S., unenforceable financing agreements for qualifying improvements programs.

**Section 8.** Creates 163.087, F.S., reporting for financing qualifying improvements programs.

**Section 9.** Provides applicability of changes made by the act.

**Section 10.** Provides an effective date of July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The provision in the bill requiring certain contracts, agreements, authorizations or interlocal agreements to be amended to comply with the act may implicate Article I, Section 10, of the Florida Constitution.

B. RULE-MAKING AUTHORITY:

The bill requires the Auditor General to engage in rulemaking related to reporting requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to improvements to real property; amending s. 163.08, F.S.; deleting provisions relating to legislative findings and intent; defining terms and revising definitions; creating s. 163.081, F.S.; authorizing a program administrator to offer a program for financing qualifying improvements for residential property when authorized by a county or municipality; requiring an authorized program administrator that administers an authorized program to meet certain requirements; authorizing a county or municipality to enter into an interlocal agreement to implement a program; authorizing a county or municipality to deauthorize a program administrator through certain measures; allowing a recorded financing agreement at the time of deauthorization to continue, with an exception; authorizing a program administrator to contract with third-party administrators to implement the program; authorizing a program administrator to levy non-ad valorem assessments for a certain purpose; providing for compensation for tax collectors for actual costs incurred to collect non-ad valorem assessments; authorizing a program administrator to incur debt for the purpose of providing financing for qualifying improvements; authorizing the owner of

record of the residential property to apply to the program administrator to finance a qualifying improvement; requiring the program administrator to make certain findings before entering into a financing agreement; requiring the program administrator to ascertain certain financial information from the property owner before entering into a financing agreement; requiring certain documentation before the financing agreement is approved and recorded; requiring an advisement and notification for certain qualifying improvements; requiring certain financing agreement and contract provisions for change orders under certain circumstances; prohibiting a financing agreement from being entered into under certain circumstances; requiring the program administrator to provide certain information before a financing agreement may be executed; requiring an oral, recorded telephone call with the residential property owner to confirm findings and disclosures before the approval of a financing agreement; requiring the residential property owner to provide written notice to the holder or loan servicer of his or her intent to enter into a financing agreement as well as other financial information; requiring that proof of such notice be provided to the program administrator; providing that

a certain acceleration provision in an agreement between the residential property owner and mortgagor or lienholder is unenforceable; providing that the lienholder or loan servicer retains certain authority; authorizing a residential property owner, under certain circumstances and within a certain timeframe, to cancel a financing agreement without financial penalty; requiring recording of the financing agreement in a specified timeframe; creating the seller's disclosure statements for properties offered for sale which have assessments on them for qualifying improvements; requiring the program administrator to confirm that certain conditions are met before disbursing final funds to a qualifying improvement contractor for qualifying improvements on residential property; requiring a program administrator to confirm that the applicable work service has been completed or the final permit for the qualifying improvement has been closed and evidence of substantial completion of construction or improvement has been issued; creating s. 163.082, F.S.; authorizing a program administrator to offer a program for financing qualifying improvements for commercial property when authorized by a county or municipality; requiring an authorized program administrator that administers an authorized

program to meet certain requirements; authorizing a county or municipality to enter into an interlocal agreement to implement a program; authorizing a county or municipality to deauthorize a program administrator through certain measures; authorizing a recorded financing agreement at the time of deauthorization to continue, with an exception; authorizing a program administrator to contract with third-party administrators to implement the program; authorizing a program administrator to levy non-ad valorem assessments for a certain purpose; providing for compensation for tax collectors for actual costs incurred to collect non-ad valorem assessments; authorizing a program administrator to incur debt for the purpose of providing financing for qualifying improvements; authorizing the owner of record of the commercial property to apply to the program administrator to finance a qualifying improvement; requiring the program administrator to receive the written consent of current holders or loan servicers of certain mortgages encumbering or secured by commercial property; requiring a program administrator offering a program for financing qualifying improvements to commercial property to certain underwriting criteria; requiring the program

administrator to make certain findings before entering into a financing agreement; requiring the program administrator to ascertain certain financial information from the property owner before entering into a financing agreement; requiring the program administrator to document and retain certain findings; requiring certain financing agreement and contract provisions for change orders under certain circumstances; prohibiting a financing agreement from being entered into under certain circumstances; requiring the program administrator to provide certain information before a financing agreement may be executed; requiring any financing agreement executed pursuant to this section be submitted for recording in the public records of the county where the commercial property is located in a specified timeframe; requiring that the recorded agreement provide constructive notice that the non-ad valorem assessment levied on the property is a lien of equal dignity; providing that a lien with a certain acceleration provision is unenforceable; creating the seller's disclosure statements for properties offered for sale which have assessments on them for qualifying improvements; requiring the program administrator to confirm that certain conditions are met before

disbursing final funds to a qualifying improvement contractor for qualifying improvements on commercial property; providing construction; creating s. 163.083, F.S.; requiring a county or municipality to establish or approve a process for the registration of a qualifying improvement contractor to install qualifying improvements; requiring certain conditions for a qualifying improvement contractor to participate in a program; prohibiting a third-party administrator from registering as a qualifying improvement contractor; requiring the program administrator to monitor qualifying improvement contractors, enforce certain penalties for a finding of violation, and post certain information online; creating s. 163.084, F.S.; authorizing the program administrator to contract with entities to administer an authorized program; providing certain requirements for a third-party administrator; prohibiting a program administrator from acting as a third-party administrator under certain circumstances; providing an exception; requiring the program administrator to include in its contract with the third-party administrator the right to perform annual reviews of the administrator; authorizing the program administrator to take certain actions if the program administrator finds that the

third-party administrator has committed a violation of its contract; authorizing a program administrator to terminate an agreement with a third-party administrator under certain circumstances; providing for the continuation of certain financing agreements after the termination or suspension of the third-party administrator, with an exception; creating s. 163.085, F.S.; requiring that, in communicating with the property owner, the program administrator, qualifying improvement contractor, or third-party administrator comply with certain requirements; prohibiting the program administrator or third-party administrator from disclosing certain financing information to a qualifying improvement contractor; prohibiting a qualifying improvement contractor from making certain advertisements or solicitations; providing exceptions; prohibiting a program administrator or third-party administrator from providing certain payments, fees, or kickbacks to a qualifying improvement contractor; prohibiting a program administrator or third-party administrator from reimbursing a qualifying improvement contractor for certain expenses; prohibiting a qualifying improvement contractor from providing different prices for a qualifying improvement; requiring a contract between a property

owner and a qualifying improvement contractor to include certain provisions; prohibiting a program administrator, qualifying improvement contractor, or third-party administrator from providing any cash payment or anything of material value to a property owner which is explicitly conditioned on a financing agreement; providing exceptions; creating s. 163.086, F.S.; prohibiting a recorded financing agreement from being removed from attachment to a property under certain circumstances; providing for the unenforceability of a financing agreement under certain circumstances; providing provisions for when a qualifying improvement contractor initiates work on an unenforceable contract; providing that a qualifying improvement contractor may retrieve chattel or fixtures delivered pursuant to an unenforceable contract if certain conditions are met; providing that an unenforceable contract will remain unenforceable under certain circumstances; creating s. 163.087, F.S.; requiring a program administrator authorized to administer a program for financing a qualifying improvement to post on its website an annual report; specifying requirements for the report; requiring the Auditor General to conduct an operational audit of each program administrator; requiring the Auditor

General to adopt certain rules requiring certain reporting from the program administrator; requiring program administrators and, if applicable, third-party administrators to post the report on its website; providing that a contract, agreement, authorization, or interlocal agreement entered into before a certain date may continue without additional action by the county or municipality; requiring that the program administrator comply with the act and that any related contracts, agreements, authorizations, or interlocal agreements be amended to comply with the act; providing an effective date.

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

Section 1. Section 163.08, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 163.08, F.S., for present text.)

163.08 Definitions.—As used in ss. 163.081-163.087, the term:

(1) "Commercial property" means real property other than residential property. The term includes, but is not limited to, a property zoned multifamily residential which is composed of five or more dwelling units; and real property used for

commercial, industrial, or agricultural purposes.

(2) "Program administrator" means a county, a municipality, a dependent special district as defined in s. 189.012, or a separate legal entity created pursuant to s. 163.01(7) which directly operates a program for financing qualifying improvements and is authorized pursuant to s. 163.081 or s. 163.082.

(3) "Property owner" means the owner or owners of record of real property. The term includes real property held in trust for the benefit of one or more individuals, in which case the individual or individuals may be considered as the property owner or owners, provided that the trustee provides written consent. The term does not include persons renting, using, living, or otherwise occupying real property.

(4) "Qualifying improvement" means the following permanent improvements located on real property within the jurisdiction of an authorized financing program:

(a) For improvements on residential property:

1. Repairing, replacing, or improving a central sewerage system, converting an onsite sewage treatment and disposal system to a central sewerage system, or, if no central sewerage system is available, removing, repairing, replacing, or improving an onsite sewage treatment and disposal system to an advanced system or technology.

2. Repairing, replacing, or improving a roof, including

improvements that strengthen the roof deck attachment; create a secondary water barrier to prevent water intrusion; install wind-resistant shingles or gable-end bracing; or reinforce roof-to-wall connections.

3. Providing flood and water damage mitigation and resiliency improvements, prioritizing repairs, replacement, or improvements that qualify for reductions in flood insurance premiums, including raising a structure above the base flood elevation to reduce flood damage; constructing a flood diversion apparatus, drainage gate, or seawall improvement, including seawall repairs and seawall replacements; purchasing flood-damage-resistant building materials; or making electrical, mechanical, plumbing, or other system improvements that reduce flood damage.

4. Replacing windows or doors, including garage doors, with energy-efficient, impact-resistant, wind-resistant, or hurricane windows or doors or installing storm shutters.

5. Installing energy-efficient heating, cooling, or ventilation systems.

6. Replacing or installing insulation.

7. Replacing or installing energy-efficient water heaters.

8. Installing and affixing a permanent generator.

9. Providing a renewable energy improvement, including the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses solar,

geothermal, bioenergy, wind, or hydrogen.

(b) For installing or constructing improvements on commercial property:

1. Waste system improvements, which consists of repairing, replacing, improving, or constructing a central sewerage system, converting an onsite sewage treatment and disposal system to a central sewerage system, or, if no central sewerage system is available, removing, repairing, replacing, or improving an onsite sewage treatment and disposal system to an advanced system or technology.

2. Making resiliency improvements, which includes but is not limited to:

a. Repairing, replacing, improving, or constructing a roof, including improvements that strengthen the roof deck attachment;

b. Creating a secondary water barrier to prevent water intrusion;

c. Installing wind-resistant shingles or gable-end bracing;

d. Reinforcing roof-to-wall connections; or

e. Providing flood and water damage mitigation and resiliency improvements, prioritizing repairs, replacement, or improvements that qualify for reductions in flood insurance premiums, including raising a structure above the base flood elevation to reduce flood damage; creating or improving

stormwater and flood resiliency, including flood diversion apparatus, drainage gates, or shoreline improvements; purchasing flood-damage-resistant building materials; or making any other improvements necessary to achieve a sustainable building rating or compliance with a national model resiliency standard and any improvements to a structure to achieve wind or flood insurance rate reductions, including building elevation.

3. Energy conservation and efficiency improvements, which are measures to reduce consumption through efficient use or conservation of electricity, natural gas, propane, or other forms of energy, including but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; building modification to increase the use of daylight; window replacement; windows; energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of efficient lighting equipment; or any other improvements necessary to achieve a sustainable building rating or compliance with a national model green building code.

4. Renewable energy improvements, including the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses solar, geothermal, bioenergy, wind, or hydrogen.

5. Water conservation efficiency improvements, which are measures to reduce consumption through efficient use or

conservation of water.

(5) "Qualifying improvement contractor" means a licensed or registered contractor who has been registered to participate by a program administrator pursuant to s. 163.083 to install or otherwise perform work to make qualifying improvements on residential property financed pursuant to a program authorized under s. 163.081.

(6) "Residential property" means real property zoned as residential or multifamily residential and composed of four or fewer dwelling units.

(7) "Third-party administrator" means an entity under contract with a program administrator pursuant to s. 163.084.

Section 2. Section 163.081, Florida Statutes, is created to read:

163.081 Financing qualifying improvements to residential property.—

(1) RESIDENTIAL PROPERTY PROGRAM AUTHORIZATION.—

(a) A program administrator may only offer a program for financing qualifying improvements to residential property within the jurisdiction of a county or municipality if the county or municipality has authorized by ordinance or resolution the program administrator to administer the program for financing qualifying improvements to residential property. The authorized program must, at a minimum, meet the requirements of this section.

(b) Pursuant to this section or as otherwise provided by law or pursuant to a county's or municipality's home rule power, a county or municipality may enter into an interlocal agreement providing for a partnership between one or more counties or municipalities for the purpose of facilitating a program to finance qualifying improvements to residential property located within the jurisdiction of the counties or municipalities that are party to the agreement.

(c) A county or municipality may deauthorize a program administrator through repeal of the ordinance or resolution adopted pursuant to paragraph (a) or other action. Any recorded financing agreements at the time of deauthorization shall continue, except any financing agreement for which the provisions of s. 163.086 apply.

(d) An authorized program administrator may contract with one or more third-party administrators to implement the program as provided in s. 163.084.

(e) An authorized program administrator may levy non-ad valorem assessments to facilitate repayment of financing qualifying improvements. Costs incurred by the program administrator for such purpose may be collected as a non-ad valorem assessment. A non-ad valorem assessment shall be collected pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a), shall not be subject to discount for early payment. However, the notice and adoption requirements of s.

197.3632(4) do not apply if this section is used and complied with, and the intent resolution, publication of notice, and mailed notices to the property appraiser, tax collector, and Department of Revenue required by s. 197.3632(3)(a) may be provided on or before August 15 of each year in conjunction with any non-ad valorem assessment authorized by this section, if the property appraiser, tax collector, and program administrator agree. The program administrator shall only compensate the tax collector for the actual cost of collecting non-ad valorem assessments, not to exceed 2 percent of the amount collected and remitted.

(f) A program administrator may incur debt for the purpose of providing financing for qualifying improvements, which debt is payable from revenues received from the improved property or any other available revenue source authorized by law.

(2) APPLICATION.—The owner of record of the residential property within the jurisdiction of an authorized program may apply to the authorized program administrator to finance a qualifying improvement. The program administrator may only enter into a financing agreement with the property owner.

(3) FINANCING AGREEMENTS.—

(a) Before entering into a financing agreement, the program administrator must make each of the following findings based on a review of public records derived from a commercially accepted source and the property owner's statements, records,

and credit reports:

1. There are sufficient resources to complete the project.

2. The total amount of any non-ad valorem assessment for a residential property under this section does not exceed 20 percent of the just value of the property as determined by the property appraiser. The total amount may exceed this limitation upon written consent of the holders or loan servicers of any mortgage encumbering or otherwise secured by the residential property.

3. The combined mortgage-related debt and total amount of any non-ad valorem assessments under the program for the residential property does not exceed 97 percent of the just value of the property as determined by the property appraiser.

4. The financing agreement does not utilize a negative amortization schedule, a balloon payment, or prepayment fees or fines other than nominal administrative costs. Capitalized interest included in the original balance of the assessment financing agreement does not constitute negative amortization.

5. All property taxes and any other assessments, including non-ad valorem assessments, levied on the same bill as the property taxes are current and have not been delinquent for the preceding 3 years, or the property owner's period of ownership, whichever is less.

6. There are no outstanding fines or fees related to zoning or code enforcement violations issued by a county or

municipality, unless the qualifying improvement will remedy the zoning or code violation.

7. There are no involuntary liens, including, but not limited to, construction liens on the residential property.

8. No notices of default or other evidence of property-based debt delinquency have been recorded and not released during the preceding 3 years or the property owner's period of ownership, whichever is less.

9. The property owner is current on all mortgage debt on the residential property.

10. The property owner has not been subject to a bankruptcy proceeding within the last 5 years unless it was discharged or dismissed more than 2 years before the date on which the property owner applied for financing.

11. The residential property is not subject to an existing home equity conversion mortgage or reverse mortgage product.

12. The term of the financing agreement does not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the assessment contract is attributable, not to exceed 20 years. The program administrator shall determine the useful life of a qualifying improvement using established standards, including certification criteria from government agencies or nationally recognized standards and testing organizations.

13. The total estimated annual payment amount for all

financing agreements entered into under this section on the residential property does not exceed 10 percent of the property owner's annual household income. Income must be confirmed using reasonable evidence and not solely by a property owner's statement.

14. If the qualifying improvement is for the conversion of an onsite sewage treatment and disposal system to a central sewerage system, the property owner has utilized all available local government funding for such conversions and is unable to obtain financing for the improvement on more favorable terms through a local government program designed to support such conversions.

(b) Before entering into a financing agreement, the program administrator must determine if there are any current financing agreements on the residential property and if the property owner has obtained or sought to obtain additional qualifying improvements on the same property which have not yet been recorded. The existence of a prior qualifying improvement non-ad valorem assessment or a prior financing agreement is not evidence that the financing agreement under consideration is affordable or meets other program requirements.

(c) Findings satisfying paragraphs (a) and (b) must be documented, including supporting evidence relied upon, and provided to the property owner prior to a financing agreement being approved and recorded. The program administrator must

retain the documentation for the duration of the financing agreement.

(d) If the qualifying improvement is estimated to cost $10,000 or more, before entering into a financing agreement the program administrator must advise the property owner in writing that the best practice is to obtain estimates from more than one unaffiliated, registered qualifying improvement contractor for the qualifying improvement and notify the property owner in writing of the advertising and solicitation requirements of s. 163.085.

(e) A property owner and the program administrator may agree to include in the financing agreement provisions for allowing change orders necessary to complete the qualifying improvement. Any financing agreement or contract for qualifying improvements which includes such provisions must meet the requirements of this paragraph. If a proposed change order on a qualifying improvement will increase the original cost of the qualifying improvement by 20 percent or more or will expand the scope of the qualifying improvement by more than 20 percent, before the change order may be executed which would result in an increase in the amount financed through the program administrator for the qualifying improvement, the program administrator must notify the property owner, provide an updated written disclosure form as described in subsection (4) to the property owner, and obtain written approval of the change from

the property owner.

(f) A financing agreement may not be entered into if the total cost of the qualifying improvement, including program fees and interest, is less than $2,500.

(g) A financing agreement may not be entered into for qualifying improvements in buildings or facilities under new construction or construction for which a certificate of occupancy or similar evidence of substantial completion of new construction or improvement has not been issued.

(4) DISCLOSURES.—

(a) In addition to the requirements imposed in subsection (3), a financing agreement may not be executed unless the program administrator first provides, including via electronic means, a written financing estimate and disclosure to the property owner which includes all of the following, each of which must be individually acknowledged in writing by the property owner:

1. The estimated total amount to be financed, including the total and itemized cost of the qualifying improvement, program fees, and capitalized interest;

2. The estimated annual non-ad valorem assessment;

3. The term of the financing agreement and the schedule for the non-ad valorem assessments;

4. The interest charged and estimated annual percentage rate;

5. A description of the qualifying improvement;

6. The total estimated annual costs that will be required to be paid under the assessment contract, including program fees;

7. The total estimated average monthly equivalent amount of funds that would need to be saved in order to pay the annual costs of the non-ad valorem assessment, including program fees;

8. The estimated due date of the first payment that includes the non-ad valorem assessment;

9. A disclosure that the financing agreement may be canceled within 3 business days after signing the financing agreement without any financial penalty for doing so;

10. A disclosure that the property owner may repay any remaining amount owed, at any time, without penalty or imposition of additional prepayment fees or fines other than nominal administrative costs;

11. A disclosure that if the property owner sells or refinances the residential property, the property owner may be required by a mortgage lender to pay off the full amount owed under each financing agreement under this section;

12. A disclosure that the assessment will be collected along with the property owner's property taxes, and will result in a lien on the property from the date the financing agreement is recorded;

13. A disclosure that potential utility or insurance

savings are not guaranteed, and will not reduce the assessment amount; and

14. A disclosure that failure to pay the assessment may result in penalties, fees, including attorney fees, court costs, and the issuance of a tax certificate that could result in the property owner losing the property and a judgment against the property owner, and may affect the property owner's credit rating.

(b) Prior to the financing agreement being approved, the program administrator must conduct an oral, recorded telephone call with the property owner during which the program administrator must confirm each finding or disclosure required in subsection (3) and this section.

(5) NOTICE TO LIENHOLDERS AND SERVICERS.—At least 5 business days before entering into a financing agreement, the property owner must provide to the holders or loan servicers of any existing mortgages encumbering or otherwise secured by the residential property a written notice of the owner's intent to enter into a financing agreement together with the maximum amount to be financed, including the amount of any fees and interest, and the maximum annual assessment necessary to repay the total. A verified copy or other proof of such notice must be provided to the program administrator. A provision in any agreement between a mortgagor or other lienholder and a property owner, or otherwise now or hereafter binding upon a property

owner, which allows for acceleration of payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is unenforceable. This subsection does not limit the authority of the holder or loan servicer to increase the required monthly escrow by an amount necessary to pay the annual assessment.

(6) CANCELLATION.—A property owner may cancel a financing agreement on a form established by the program administrator within 3 business days after signing the financing agreement without any financial penalty for doing so.

(7) RECORDING.—Any financing agreement executed pursuant to this section, or a summary memorandum of such agreement, shall be submitted for recording in the public records of the county within which the residential property is located by the program administrator within 10 business days after execution of the agreement and the 3-day cancelation period. The recorded agreement must provide constructive notice that the non-ad valorem assessment to be levied on the property constitutes a lien of equal dignity to county taxes and assessments from the date of recordation. A notice of lien for the full amount of the financing may be recorded in the public records of the county where the property is located. Such lien is not enforceable in a manner that results in the acceleration of the remaining nondelinquent unpaid balance under the assessment financing

agreement.

(8) SALE OF RESIDENTIAL PROPERTY.—At or before the time a seller executes a contract for the sale of any residential property for which a non-ad valorem assessment has been levied under this section and has an unpaid balance due, the seller shall give the prospective purchaser a written disclosure statement in the following form, which must be set forth in the contract or in a separate writing:

QUALIFYING IMPROVEMENTS.—The property being purchased is subject to an assessment on the property pursuant to s. 163.081, Florida Statutes. The assessment is for a qualifying improvement to the property and is not based on the value of the property. You are encouraged to contact the property appraiser's office to learn more about this and other assessments that may be provided by law.

(9) DISBURSEMENTS.—Before disbursing final funds to a qualifying improvement contractor for a qualifying improvement on residential property, the program administrator shall confirm that the applicable work or service has been completed or, as applicable, that the final permit for the qualifying improvement has been closed with all permit requirements satisfied or a certificate of occupancy or similar evidence of substantial

completion of construction or improvement has been issued.

(10) CONSTRUCTION.—This section is additional and supplemental to county and municipal home rule authority and not in derogation of such authority or a limitation upon such authority.

Section 3. Section 163.082, Florida Statutes, is created to read:

163.082 Financing qualifying improvements to commercial property.—

(1) COMMERCIAL PROPERTY PROGRAM AUTHORIZATION.—

(a) A program administrator may only offer a program for financing qualifying improvements to commercial property within the jurisdiction of a county or municipality if the county or municipality has authorized by ordinance or resolution the program administrator to administer the program for financing qualifying improvements to commercial property. The authorized program must, at a minimum, meet the requirements of this section.

(b) Pursuant to this section or as otherwise provided by law or pursuant to a county's or municipality's home rule power, a county or municipality may enter into an interlocal agreement providing for a partnership between one or more counties or municipalities for the purpose of facilitating a program for financing qualifying improvements to commercial property located within the jurisdiction of the counties or municipalities that

are party to the agreement.

(c) A county or municipality may deauthorize a program administrator through repeal of the ordinance or resolution adopted pursuant to paragraph (a) or other action. Any recorded financing agreements at the time of deauthorization shall continue, except any financing agreement for which the provisions of s. 163.086 apply.

(d) A program administrator may contract with one or more third-party administrators to implement the program as provided in s. 163.084.

(e) An authorized program administrator may levy non-ad valorem assessments to facilitate repayment of financing or refinancing qualifying improvements. Costs incurred by the program administrator for such purpose may be collected as a non-ad valorem assessment. A non-ad valorem assessment shall be collected pursuant to s. 197.3632 and, notwithstanding s. 197.3632(8)(a), is not subject to discount for early payment. However, the notice and adoption requirements of s. 197.3632(4) do not apply if this section is used and complied with, and the intent resolution, publication of notice, and mailed notices to the property appraiser, tax collector, and Department of Revenue required by s. 197.3632(3)(a) may be provided on or before August 15 of each year in conjunction with any non-ad valorem assessment authorized by this section, if the property appraiser, tax collector, and program administrator agree. The

program administrator shall only compensate the tax collector for the actual cost of collecting non-ad valorem assessments, not to exceed 2 percent of the amount collected and remitted.

(f) A program administrator may incur debt for the purpose of providing financing for qualifying improvements, which debt is payable from revenues received from the improved property or any other available revenue source authorized by law.

(2) APPLICATION.—The owner of record of the commercial property within the jurisdiction of the authorized program may apply to the program administrator to finance a qualifying improvement and enter into a financing agreement with the program administrator to make such improvement. The program administrator may only enter into a financing agreement with a property owner.

(3) CONSENT OF LIENHOLDERS AND SERVICERS.—The program administrator must receive the written consent of the current holders or loan servicers of any mortgage that encumbers or is otherwise secured by the commercial property or that will otherwise be secured by the property before a financing agreement may be executed.

(4) FINANCING AGREEMENTS.—

(a) A program administrator offering a program for financing qualifying improvements to commercial property must maintain underwriting criteria sufficient to determine the financial feasibility of entering into a financing agreement. To

enter into a financing agreement, the program administrator must, at a minimum, make each of the following findings based on a review of public records derived from a commercially accepted source and the statements, records, and credit reports of the commercial property owner:

1. There are sufficient resources to complete the project.

2. The combined mortgage-related debt and total amount of any non-ad valorem assessments under the program for the commercial property does not exceed 97 percent of the just value of the property as determined by the property appraiser.

3. All property taxes and any other assessments, including non-ad valorem assessments, levied on the same bill as the property taxes are current.

4. There are no involuntary liens greater than $5,000, including, but not limited to, construction liens on the commercial property.

5. No notices of default or other evidence of property-based debt delinquency have been recorded and not been released during the preceding 3 years or the property owner's period of ownership, whichever is less.

6. The property owner is current on all mortgage debt on the commercial property.

7. The term of the financing agreement does not exceed the weighted average useful life of the qualified improvements to which the greatest portion of funds disbursed under the

assessment contract is attributable, not to exceed 30 years. The program administrator shall determine the useful life of a qualifying improvement using established standards, including certification criteria from government agencies or nationally recognized standards and testing organizations.

8. The property owner is not currently the subject of a bankruptcy proceeding.

(b) Before entering into a financing agreement, the program administrator shall determine if there are any current financing agreements on the commercial property and whether the property owner has obtained or sought to obtain additional qualifying improvements on the same property which have not yet been recorded. The existence of a prior qualifying improvement non-ad valorem assessment or a prior financing agreement is not evidence that the financing agreement under consideration is affordable or meets other program requirements.

(c) The program administrator shall document and retain findings satisfying paragraphs (a) and (b), including supporting evidence relied upon, which were made prior to the financing agreement being approved and recorded, for the duration of the financing agreement.

(d) A property owner and the program administrator may agree to include in the financing agreement provisions for allowing change orders necessary to complete the qualifying improvement. Any financing agreement or contract for qualifying

improvements which includes such provisions must meet the requirements of this paragraph. If a proposed change order on a qualifying improvement will increase the original cost of the qualifying improvement by 20 percent or more or will expand the scope of the qualifying improvement by 20 percent or more, before the change order may be executed which would result in an increase in the amount financed through the program administrator for the qualifying improvement, the program administrator must notify the property owner, provide an updated written disclosure form as described in subsection (5) to the property owner, and obtain written approval of the change from the property owner.

(e) A financing agreement may not be entered into if the total cost of the qualifying improvement, including program fees and interest, is less than $2,500.

(5) DISCLOSURES.—In addition to the requirements imposed in subsection (4), a financing agreement may not be executed unless the program administrator provides, whether on a separate document or included with other disclosures or forms, a financing estimate and disclosure to the property owner which includes all of the following:

(a) The estimated total amount to be financed, including the total and itemized cost of the qualifying improvement, program fees, and capitalized interest;

(b) The estimated annual non-ad valorem assessment;

(c) The term of the financing agreement and the schedule for the non-ad valorem assessments;

(d) The interest charged and estimated annual percentage rate;

(e) A description of the qualifying improvement;

(f) The total estimated annual costs that will be required to be paid under the assessment contract, including program fees;

(g) The estimated due date of the first payment that includes the non-ad valorem assessment; and

(h) A disclosure of any prepayment penalties, fees, or fines as set forth in the financing agreement.

(6) RECORDING.—Any financing agreement executed pursuant to this section or a summary memorandum of such agreement must be submitted for recording in the public records of the county within which the commercial property is located by the program administrator within 10 business days after execution of the agreement. The recorded agreement must provide constructive notice that the non-ad valorem assessment to be levied on the property constitutes a lien of equal dignity to county taxes and assessments from the date of recordation. A notice of lien for the full amount of the financing may be recorded in the public records of the county where the property is located. Such lien is not enforceable in a manner that results in the acceleration of the remaining nondelinquent unpaid balance under the

assessment financing agreement.

(7) SALE OF COMMERCIAL PROPERTY.—At or before the time a seller executes a contract for the sale of any commercial property for which a non-ad valorem assessment has been levied under this section and has an unpaid balance due, the seller shall give the prospective purchaser a written disclosure statement in the following form, which must be set forth in the contract or in a separate writing:

QUALIFYING IMPROVEMENTS.—The property being purchased is subject to an assessment on the property pursuant to s. 163.082, Florida Statutes. The assessment is for a qualifying improvement to the property and is not based on the value of the property. You are encouraged to contact the property appraiser's office to learn more about this and other assessments that may be provided for by law.

(8) COMPLETION CERTIFICATE.—Upon disbursement of all financing and completion of installation of qualifying improvements financed, the program administrator shall retain a certificate that the qualifying improvements have been installed and are in good working order.

(9) CONSTRUCTION.—This section is additional and supplemental to county and municipal home rule authority and not

in derogation of such authority or a limitation upon such authority.

Section 4. Section 163.083, Florida Statutes, is created to read:

163.083 Qualifying improvement contractors.—

(1) A county or municipality shall establish a process, or approve a process established by a program administrator, to register contractors for participation in a program authorized by a county or municipality pursuant to s. 163.081. A qualifying improvement contractor may only perform such work that the contractor is appropriately licensed, registered, and permitted to conduct. At the time of application to participate and during participation in the program, contractors must:

(a) Hold all necessary licenses or registrations for the work to be performed which are in good standing. Good standing includes no outstanding complaints with the state or local government which issues such licenses or registrations.

(b) Comply with all applicable federal, state, and local laws and regulations, including obtaining and maintaining any other permits, licenses, or registrations required for engaging in business in the jurisdiction in which it operates and maintaining all state-required bond and insurance coverage.

(c) File with the program administrator a written statement in a form approved by the county or municipality that the contractor will comply with applicable laws and rules and

qualifying improvement program policies and procedures, including those on advertising and marketing.

(2) A third-party administrator or a program administrator, either directly or through an affiliate, may not be registered as a qualifying improvement contractor.

(3) A program administrator shall establish and maintain:

(a) A process to monitor qualifying improvement contractors for performance and compliance with requirements of the program and must conduct regular reviews of qualifying improvement contractors to confirm that each qualifying improvement contractor is in good standing.

(b) Procedures for notice and imposition of penalties upon a finding of violation, which may consist of placement of the qualifying improvement contractor in a probationary status that places conditions for continued participation, suspension, or termination from participation in the program.

(c) An easily accessible page on its website that provides information on the status of registered qualifying improvement contractors, including any imposed penalties, and the names of any qualifying improvement contractors currently on probationary status or that are suspended or terminated from participation in the program.

Section 5. Section 163.084, Florida Statutes, is created to read:

163.084 Third-party administrator for financing qualifying

improvements programs.—

(1)(a) A program administrator may contract with one or more third-party administrators to administer a program authorized by a county or municipality pursuant to s. 163.081 or s. 163.082 on behalf of and at the discretion of the program administrator.

(b) The third-party administrator must be independent of the program administrator and have no conflicts of interest between managers or owners of the third-party administrator and program administrator managers, owners, officials, or employees with oversight over the contract. A program administrator, either directly or through an affiliate, may not act as a third-party administrator for itself or for another program administrator. However, this paragraph does not apply to a third-party administrator created by an entity authorized in law pursuant to s. 288.9604.

(c) The contract must provide for the entity to administer the program according to the requirements of s. 163.081 or s. 163.082 and the ordinance or resolution adopted by the county or municipality authorizing the program. However, only the program administrator may levy or administer non-ad valorem assessments.

(2) A program administrator may not contract with a third-party administrator that, within the last 3 years, has been:

(a) Prohibited, after notice and a hearing, from serving as a third-party administrator for another program administrator

for program or contract violations in this state; or

(b) Found by a court of competent jurisdiction to have substantially violated state or federal laws related to the administration of ss. 163.081-163.086 or a similar program in another jurisdiction.

(3) The program administrator must include in any contract with the third-party administrator the right to perform annual reviews of the administrator to confirm compliance with ss. 163.081-163.086, the ordinance or resolution adopted by the county or municipality, and the contract with the program administrator. If the program administrator finds that the third-party administrator has committed a violation of ss. 163.081-163.086, the adopted ordinance or resolution, or the contract with the program administrator, the program administrator shall provide the third-party administrator with notice of the violation and may, as set forth in the adopted ordinance or resolution or the contract with the third-party administrator:

(a) Place the third-party administrator in a probationary status that places conditions for continued operations.

(b) Impose any fines or sanctions.

(c) Suspend the activity of the third-party administrator for a period of time.

(d) Terminate the agreement with the third-party administrator.

(4) A program administrator may terminate the agreement with a third-party administrator, as set forth by the county or municipality in its adopted ordinance or resolution or the contract with the third-party administrator, if the program administrator makes a finding that:

(a) The third-party administrator has violated the contract with the program administrator. The contract may set forth substantial violations that may result in contract termination and other violations that may provide for a period of time for correction before the contract may be terminated.

(b) The third-party administrator, or an officer, a director, a manager or a managing member, or a control person of the third-party administrator, has been found by a court of competent jurisdiction to have violated state or federal laws related to the administration of a program authorized of the provisions of ss. 163.081-163.086 or a similar program in another jurisdiction within the last 5 years.

(c) Any officer, director, manager or managing member, or control person of the third-party administrator has been convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication has been withheld, a crime related to administration of a program authorized of the provisions of ss. 163.081-163.086 or a similar program in another jurisdiction within the last 10 years.

(d) An annual performance review reveals a substantial

violation or a pattern of violations by the third-party administrator.

(5) Any recorded financing agreements at the time of termination or suspension by the program administrator shall continue, except any financing agreement for which the provisions of s. 163.086 apply.

Section 6. Section 163.085, Florida Statutes, is created to read:

163.085 Advertisement and solicitation for financing qualifying improvements programs under s. 163.081 or s. 163.082.—

(1) When communicating with a property owner, a program administrator, qualifying improvement contractor, or third-party administrator may not:

(a) Suggest or imply:

1. That a non-ad valorem assessment authorized under s. 163.081 or s. 163.082 is a government assistance program;

2. That qualifying improvements are free or provided at no cost, or that the financing related to a non-ad valorem assessment authorized under s. 163.081 or s. 163.082 is free or provided at no cost; or

3. That the financing of a qualifying improvement using the program authorized pursuant to s. 163.081 or s. 163.082 does not require repayment of the financial obligation.

(b) Make any representation as to the tax deductibility of

a non-ad valorem assessment. A program administrator, qualifying improvement contractor, or third-party administrator may encourage a property owner to seek the advice of a tax professional regarding tax matters related to assessments.

(2) A program administrator or third-party administrator may not provide to a qualifying improvement contractor any information that discloses the amount of financing for which a property owner is eligible for qualifying improvements or the amount of equity in a residential property or commercial property.

(3) A qualifying improvement contractor may not advertise the availability of financing agreements for, or solicit program participation on behalf of, the program administrator unless the contractor is registered by the program administrator to participate in the program and is in good standing with the program administrator.

(4) A program administrator or third-party administrator may not provide any payment, fee, or kickback to a qualifying improvement contractor for referring property owners to the program administrator or third-party administrator. However, a program administrator or third-party administrator may provide information to a qualifying improvement contractor to facilitate the installation of a qualifying improvement for a property owner.

(5) A program administrator or third-party administrator

may not reimburse a qualifying improvement contractor for its expenses in advertising and marketing campaigns and materials.

(6) A qualifying improvement contractor may not provide a different price for a qualifying improvement financed under s. 163.081 than the price that the qualifying improvement contractor would otherwise provide if the qualifying improvement was not being financed through a financing agreement. Any contract between a property owner and a qualifying improvement contractor must clearly state all pricing and cost provisions, including any process for change orders which meet the requirements of s. 163.081(3)(d).

(7) A program administrator, qualifying improvement contractor, or third-party administrator may not provide any direct cash payment or other thing of material value to a property owner which is explicitly conditioned upon the property owner entering into a financing agreement. However, a program administrator or third-party administrator may offer programs or promotions on a non-discriminatory basis that provide reduced fees or interest rates if the reduced fees or interest rates are reflected in the financing agreements and are not provided to the property owner as cash consideration.

Section 7. Section 163.086, Florida Statutes, is created to read:

163.086 Unenforceable financing agreements for qualifying improvements programs under s. 163.081 or s. 163.082;

attachment; fraud.—

(1) A recorded financing agreement may not be removed from attachment to a residential property or commercial property if the property owner fraudulently obtained funding pursuant to s. 163.081 or s. 163.082.

(2) A financing agreement may not be enforced, and a recorded financing agreement may be removed from attachment to a residential property or commercial property and deemed null and void, if:

(a) The property owner applied for, accepted, and canceled a financing agreement within the 3-business-day period pursuant to s. 163.081(6). A qualifying improvement contractor may not begin work under a canceled contract.

(b) A person other than the property owner obtained the recorded financing agreement. The court may enter an order which holds that person or persons personally liable for the debt.

(c) The program administrator, third-party administrator, or qualifying improvement contractor approved or obtained funding through fraudulent means and in violation of ss. 163.081-163.085, or this section for qualifying improvements on the residential property or commercial property.

(3) If a qualifying improvement contractor has initiated work on residential property or commercial property under a contract deemed unenforceable under this section, the qualifying improvement contractor:

(a) May not receive compensation for that work under the financing agreement.

(b) Must restore the residential property or commercial property to its original condition at no cost to the property owner.

(c) Must immediately return any funds, property, and other consideration given by the property owner. If the property owner provided any property and the qualifying improvement contractor does not or cannot return it, the qualifying improvement contractor must immediately return the fair market value of the property or its value as designated in the contract, whichever is greater.

(4) If the qualifying improvement contractor has delivered chattel or fixtures to residential property or commercial property pursuant to a contract deemed unenforceable under this section, the qualifying improvement contractor has 90 days after the date on which the contract was executed to retrieve the chattel or fixtures, provided that:

(a) The qualifying improvement contractor has fulfilled the requirements of paragraphs (3)(a) and (b).

(b) The chattel and fixtures can be removed at the qualifying improvement contractor's expense without damaging the residential property or commercial property.

(5) If a qualifying improvement contractor fails to comply with this section, the property owner may retain any chattel or

fixtures provided pursuant to a contract deemed unenforceable under this section.

(6) A contract that is otherwise unenforceable under this section remains enforceable if the property owner waives his or her right to cancel the contract or cancels the financing agreement pursuant to s. 163.081(6) or s. 163.082(6) but allows the qualifying improvement contractor to proceed with the installation of the qualifying improvement.

Section 8. Section 163.087, Florida Statutes, is created to read:

163.087 Reporting for financing qualifying improvements programs under s. 163.081 or s. 163.082.—

(1) Each program administrator that is authorized to administer a program for financing qualifying improvements to residential property or commercial property under s. 163.081 or s. 163.082 shall post on its website an annual report within 45 days after the end of its fiscal year containing the following information from the previous year for each program authorized under s. 163.081 or s. 163.082:

(a) The number and types of qualifying improvements funded.

(b) The aggregate, average, and median dollar amounts of annual non-ad valorem assessments and the total number of non-ad valorem assessments collected pursuant to financing agreements for qualifying improvements.

(c) The total number of defaulted non-ad valorem assessments, including the total defaulted amount, the number and dates of missed payments, and the total number of parcels in default and the length of time in default.

(d) A summary of all reported complaints received by the program administrator related to the program, including the names of the third-party administrator, if applicable, and qualifying improvement contractors and the resolution of each complaint.

(2) The Auditor General must conduct an operational audit of each program administrator authorized under s. 163.081 or s. 163.082, including any third-party administrators, for compliance with the provisions of ss. 163.08-163.086 and any adopted ordinance at least once every 3 years. The Auditor General may stagger evaluations; however, every program must be evaluated at least once by September 1, 2028. The Auditor General shall adopt rules pursuant to s. 218.39 requiring each program administrator to report whether it offers a program authorized pursuant to s. 163.081 or s. 163.082, and other pertinent information. Each program administrator and, if applicable, third-party administrator, must post the most recent report on its website.

Section 9. A current contract, agreement, authorization, or interlocal agreement between a county or municipality and a program administrator entered into before July 1, 2024, shall

continue without additional action by the county or municipality. However, the program administrator must comply with this act, and any contract, agreement, authorization, or interlocal agreement must be amended to comply with this act.

Section 10. This act shall take effect July 1, 2024.