

CHAPTER 2019-42

Committee Substitute for House Bill No. 7123

An act relating to taxation; amending s. 28.241, F.S.; requiring that all of the proceeds from filing fees for trial and appellate proceedings be deposited into the State Courts Revenue Trust Fund; creating s. 193.4517, F.S.; defining terms; providing a tangible personal property assessment limitation, during a certain timeframe and in certain counties, for certain agricultural equipment rendered unable to be used due to Hurricane Michael; specifying conditions for applying for and receiving the assessment limitation; providing procedures for petitioning the value adjustment board if an application is denied; providing retroactive application; amending s. 195.096, F.S.; specifying a requirement for the Department of Revenue in reviewing assessment rolls in certain counties in assessment years following a natural disaster; authorizing the department to use the best information available to estimate levels of assessment; providing applicability and retroactive operation; amending s. 201.02, F.S.; removing a limitation on the transfer of homestead property deeds between spouses that are exempt from documentary stamp tax; amending s. 212.031, F.S.; reducing tax rates on rental or licensee fees for the use of real property; amending s. 212.08, F.S.; exempting from sales and use tax property purchased for sale by a dealer and donated to a 501(c)(3) organization; amending s. 218.131, F.S.; revising the date of distribution of appropriated moneys to certain counties; amending s. 318.14, F.S.; providing a specified reduction in civil penalty for persons who are cited for certain noncriminal traffic infractions and who elect to attend a certain driver improvement course; removing a provision that required that a portion of a certain civil penalty be deposited in the State Courts Revenue Trust Fund; amending s. 318.15, F.S.; conforming a provision to changes made by the act; amending s. 624.51055, F.S.; specifying when an eligible contribution to certain nonprofit scholarship-funding organizations must be made for purposes of claiming a credit against the insurance premium tax; providing applicability; amending s. 741.01, F.S.; requiring that all of the proceeds from a fee paid to the clerk of the circuit court for the issuance of a marriage license be deposited monthly into the State Courts Revenue Trust Fund; amending s. 1002.395, F.S.; specifying that under the Florida Tax Credit Scholarship Program, a taxpayer may apply for a credit against the insurance premium tax to be used for a certain timeframe; revising an insurer's authority to reduce certain tax installment payments for purposes of determining if a certain tax penalty is imposed; providing applicability; amending s. 337.401, F.S.; specifying conditions under which certain persons who place or maintain a communications facility in the roads or rights-of-way are not considered pass-through providers; amending s. 1011.71, F.S.; defining the term "school operational purposes" to include charter schools sponsored by a school district; requiring that voted levies for school operational purposes be shared with charter schools in accordance with certain provisions; providing applicability; providing

sales tax exemptions for certain disaster preparedness supplies during a certain timeframe; specifying locations where the exemptions do not apply; authorizing the department to adopt emergency rules; providing sales tax exemptions for certain clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories during a certain timeframe; defining terms; specifying locations where the exemptions do not apply; authorizing certain dealers to opt out of participating in the exemptions, subject to certain conditions; authorizing the department to adopt emergency rules; providing an appropriation; providing a sales tax exemption for the purchase, within a certain timeframe, of certain fencing materials used to replace or repair fences damaged by Hurricane Michael on agricultural lands; specifying that the exemption is available only through a refund by the department of previously paid taxes; specifying requirements for applying for the refund; providing penalties for furnishing a false affidavit; providing construction and retroactive applicability; authorizing the department to adopt emergency rules; providing a sales tax exemption for the purchase, within a certain timeframe, of building materials used to replace or repair nonresidential farm buildings damaged by Hurricane Michael; specifying that the exemption is available only through a refund by the department of previously paid taxes; defining the terms “building materials” and “nonresidential farm building”; specifying requirements for applying for the refund; providing penalties for furnishing a false affidavit; providing construction and retroactive applicability; authorizing the department to adopt emergency rules; providing an exemption from certain fuel taxes for fuel purchased, within a certain timeframe, for use for agricultural shipment or hurricane debris removal after Hurricane Michael; specifying that the exemption is available only through a refund by the department; defining terms; specifying requirements for applying for the refund; providing penalties for furnishing a false affidavit; providing applicability and construction; providing for retroactive operation; authorizing the department to adopt emergency rules; providing an appropriation; providing effective dates.

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

Section 1. Effective January 1, 2020, subsection (6) of section 28.241, Florida Statutes, is amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(6) From each attorney appearing pro hac vice, the clerk of the circuit court shall collect a fee of \$100. ~~Of the fee,~~ The clerk must remit the fee \$50 to the Department of Revenue for deposit into the General Revenue Fund and \$50 to the Department of Revenue for deposit into the State Courts Revenue Trust Fund.

Section 2. Section 193.4517, Florida Statutes, is created to read:

193.4517 Assessment of agricultural equipment rendered unable to be used due to Hurricane Michael.—

(1) As used in this section, the term:

(a) “Farm” has the same meaning as provided in s. 823.14(3)(a).

(b) “Farm operation” has the same meaning as provided in s. 823.14(3)(b).

(c) “Unable to be used” means the tangible personal property was damaged, or the farm, farm operation, or agricultural processing facility was affected to such a degree that the tangible personal property could not be used for its intended purpose.

(2) For purposes of ad valorem taxation and applying to the 2019 tax roll only, tangible personal property owned and operated by a farm, farm operation, or agriculture processing facility located in Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, or Wakulla County is deemed to have a market value no greater than its value for salvage if the tangible personal property was unable to be used for at least 60 days due to the effects of Hurricane Michael.

(3) The deadline for an applicant to file an application with the property appraiser for assessment pursuant to this section is August 1, 2019.

(4) If the property appraiser denies an application, the applicant may file, pursuant to s. 194.011(3), a petition with the value adjustment board which requests that the tangible personal property be assessed pursuant to this section. Such petition must be filed on or before the 25th day after the mailing by the property appraiser during the 2019 calendar year of the notice required under s. 194.011(1).

(5) This section applies retroactively to January 1, 2019.

Section 3. Paragraph (g) is added to subsection (2) of section 195.096, Florida Statutes, to read:

195.096 Review of assessment rolls.—

(2) The department shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. The department need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value of each classification specified in subsection (3). Such in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property.

(g) Notwithstanding any other provision of this chapter, in one or more assessment years following a natural disaster in counties for which a state of emergency was declared by executive order or proclamation of the Governor

pursuant to chapter 252, if the department determines that the natural disaster creates difficulties in its statistical and analytical reviews of the assessment rolls in affected counties, the department shall take all practicable steps to maximize the representativeness and reliability of its statistical and analytical reviews and may use the best information available to estimate the levels of assessment. This paragraph first applies to the 2019 assessment roll and operates retroactively to January 1, 2019.

Section 4. Effective July 1, 2019, paragraph (b) of subsection (7) of section 201.02, Florida Statutes, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(7) Taxes imposed by this section do not apply to:

(b) A deed or other instrument that transfers or conveys homestead property or any interest in homestead property between spouses, if the only consideration for the transfer or conveyance is the amount of a mortgage or other lien encumbering the homestead property at the time of the transfer or conveyance ~~and if the deed or other instrument is recorded within 1 year after the date of the marriage.~~ This paragraph applies to transfers or conveyances from one spouse to another, from one spouse to both spouses, or from both spouses to one spouse. For the purpose of this paragraph, the term “homestead property” has the same meaning as the term “homestead” as defined in s. 192.001.

Section 5. Effective January 1, 2020, paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, are amended to read:

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

(1)

(c) For the exercise of such privilege, a tax is levied at the rate of ~~5.5~~ 5-7 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor’s or licensor’s property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(d) ~~If~~ When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.5 ~~5.7~~ percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

Section 6. Effective July 1, 2019, paragraph (p) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(p) *Section 501(c)(3) organizations.*—

1. Also Exempt from the tax imposed by this chapter are sales or leases to organizations determined by the Internal Revenue Service to be currently exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such leases or purchases are used in carrying on their customary nonprofit activities, unless such organizations are subject to a final disqualification order issued by the Department of Agriculture and Consumer Services pursuant to s. 496.430.

2. Exempt from the tax imposed by this chapter is tangible personal property purchased for resale by a dealer and subsequently donated to an organization determined by the Internal Revenue Service to be currently exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, unless such organization is subject to a final disqualification order issued by the Department of Agriculture and Consumer Services pursuant to s. 496.430. For the purpose of this paragraph, the term “donate” means any transfer of title or possession of tangible personal property to a Section 501(c)(3) organization for no consideration.

Section 7. Subsection (1) of section 218.131, Florida Statutes, is amended to read:

218.131 Offset for tax loss associated with reductions in value of certain residences due to specified hurricanes.—

(1) In the 2019-2020 fiscal year, the Legislature shall appropriate moneys to offset the reductions in ad valorem tax revenue experienced by Monroe County and by fiscally constrained counties, as defined in s. 218.67(1), and all taxing jurisdictions within such counties, which occur as a direct result of the implementation of s. 197.318. The moneys appropriated for this purpose shall be distributed in June ~~January~~ 2020 among the affected taxing jurisdictions based on each jurisdiction's reduction in ad valorem tax revenue resulting from the implementation of s. 197.318.

Section 8. Effective January 1, 2020, subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for an infraction under this section other than a violation of s. 316.183(2), s. 316.187, or s. 316.189 when the driver exceeds the posted limit by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld, any civil penalty that is imposed by s. 318.18(3) must be reduced by 18 ~~9~~ percent, and points, as provided by s. 322.27, may not be assessed. However, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may not make more than five elections within his or her lifetime under this subsection. The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court. ~~If a person makes an election to attend a basic driver improvement course under this subsection, 9 percent of the civil penalty imposed under s. 318.18(3) shall be deposited in the State Courts Revenue Trust Fund; however, that portion is not revenue for purposes of s. 28.36 and may not be used in establishing the budget of the clerk of the court under that section or s. 28.35.~~

Section 9. Effective January 1, 2020, paragraph (b) of subsection (1) of section 318.15, Florida Statutes, is amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.—

(1)

(b) However, a person who elects to attend driver improvement school and has paid the civil penalty as provided in s. 318.14(9) but who subsequently fails to attend the driver improvement school within the time specified by the court is deemed to have admitted the infraction and shall be adjudicated guilty. If the person received an 18-percent a 9-percent reduction pursuant to s. 318.14(9), the person must pay the clerk of the court that amount and a processing fee of up to \$18, after which additional penalties, court costs, or surcharges may not be imposed for the violation. In all other such cases, the person must pay the clerk a processing fee of up to \$18, after which additional penalties, court costs, or surcharges may not be imposed for the violation. The clerk of the court shall notify the department of the person's failure to attend driver improvement school and points shall be assessed pursuant to s. 322.27.

Section 10. Subsection (1) of section 624.51055, Florida Statutes, is amended to read:

624.51055 Credit for contributions to eligible nonprofit scholarship-funding organizations.—

(1) There is allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization under s. 1002.395 against any tax due for a taxable year under s. 624.509(1) after deducting from such tax deductions for assessments made pursuant to s. 440.51; credits for taxes paid under ss. 175.101 and 185.08; credits for income taxes paid under chapter 220; and the credit allowed under s. 624.509(5), as such credit is limited by s. 624.509(6). An eligible contribution must be made to an eligible nonprofit scholarship-funding organization on or before the date the taxpayer is required to file a return pursuant to ss. 624.509 and 624.5092. An insurer claiming a credit against premium tax liability under this section shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such credit. Section 624.5091 does not limit such credit in any manner.

Section 11. The amendment made by this act to s. 624.51055, Florida Statutes, first applies to insurance premium taxable years beginning on or after January 1, 2019.

Section 12. Effective January 1, 2020, subsection (3) of section 741.01, Florida Statutes, is amended to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(3) An additional fee of \$25 shall be paid to the clerk upon receipt of the application for issuance of a marriage license. Each month, the clerk shall remit ~~\$12.50~~ of the fee to the Department of Revenue for deposit ~~in the General Revenue Fund and \$12.50 of the fee to the Department of Revenue for deposit~~ into the State Courts Revenue Trust Fund.

Section 13. Paragraphs (b) and (g) of subsection (5) of section 1002.395, Florida Statutes, are amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

(b) A taxpayer may submit an application to the department for a tax credit or credits under one or more of s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

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. 220.1875 or s. 624.51055 and the applicable state fiscal year for a credit under s. 211.0251, s. 212.1831, or s. 561.1211. For purposes of s. 220.1875, 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. 624.51055, 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 department 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. 561.1211.

2. Within 10 days after approving or denying an application, the department shall provide a copy of its approval or denial letter to the eligible nonprofit scholarship-funding organization specified by the taxpayer in the application.

(g) For purposes of calculating the underpayment of estimated corporate income taxes pursuant to s. 220.34 and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, the final amount due is the amount after credits earned under s. 220.1875 or s. 624.51055 for contributions to eligible nonprofit scholarship-funding organizations are deducted.

1. For purposes of determining if a penalty or interest shall be imposed for underpayment of estimated corporate income tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning a credit under s. 220.1875, reduce any estimated payment in that taxable year by the amount of the credit. This subparagraph applies to contributions made on or after July 1, 2014.

2. For purposes of determining if a penalty under s. 624.5092 shall be imposed, an insurer ~~may~~, after earning a credit under s. 624.51055 for a taxable year, may reduce any the following installment payment for such taxable year of 27 percent of the amount of the net tax due as reported on the return for the preceding year under s. 624.5092(2)(b) by the amount of the credit. This subparagraph applies to contributions made on or after July 1, 2014.

Section 14. The amendment made by this act to s. 1002.395, Florida Statutes, first applies to insurance premium taxable years beginning on or after January 1, 2019.

Section 15. Paragraph (a) of subsection (6) of section 337.401, Florida Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(6)(a) As used in this subsection, the following definitions apply:

1.a. A “pass-through provider” is any person who places or maintains a communications facility in the roads or rights-of-way of a municipality or county that levies a tax pursuant to chapter 202 and who does not remit taxes imposed by that municipality or county pursuant to chapter 202.

b. Notwithstanding sub-subparagraph a., a person who does not remit taxes imposed by a municipality or county pursuant to chapter 202, but pursuant to s. 202.16(2) sells communications services for resale to a person who sells such services at retail or who integrates such services into communications services sold at retail in that municipality or county and who remits taxes imposed by that municipality or county pursuant to chapter 202, is not a pass-through provider.

2. A “communications facility” is a facility that may be used to provide communications services. Multiple cables, conduits, strands, or fibers located within the same conduit shall be considered one communications facility for purposes of this subsection.

Section 16. Subsection (9) of section 1011.71, Florida Statutes, is amended to read:

1011.71 District school tax.—

(9) In addition to the maximum millage levied under this section and the General Appropriations Act, a school district may levy, by local referendum or in a general election, additional millage for school operational purposes up to an amount that, when combined with nonvoted millage levied under this section, does not exceed the 10-mill limit established in s. 9(b), Art. VII of the State Constitution. Any such levy shall be for a maximum of 4 years and shall be counted as part of the 10-mill limit established in s. 9(b), Art. VII of the State Constitution. For the purpose of distributing taxes collected pursuant to this subsection, the term “school operational purposes” includes charter schools sponsored by a school district. Millage elections conducted under the authority granted pursuant to this section are subject to s. 1011.73. Funds generated by such additional millage do not become a part of the calculation of the Florida Education Finance Program total potential funds in 2001-2002 or any subsequent year and must not be incorporated in the calculation of any hold-harmless or other component of the Florida Education Finance Program formula in any year. If an increase in required

local effort, when added to existing millage levied under the 10-mill limit, would result in a combined millage in excess of the 10-mill limit, any millage levied pursuant to this subsection shall be considered to be required local effort to the extent that the district millage would otherwise exceed the 10-mill limit. Funds levied under this subsection shall be shared with charter schools based on each charter school's proportionate share of the district's total unweighted full-time equivalent student enrollment and used in a manner consistent with the purposes of the levy. The referendum must contain an explanation of the distribution methodology consistent with the requirements of this subsection.

Section 17. The provisions of this act relating to s. 1011.71, Florida Statutes, amending the use of certain voted discretionary operating millages levied by school districts, apply to such levies authorized by a vote of the electors on or after July 1, 2019.

Section 18. Disaster preparedness supplies; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on May 31, 2019, through 11:59 p.m. on June 6, 2019, on the sale of:

(a) A portable self-powered light source selling for \$20 or less.

(b) A portable self-powered radio, two-way radio, or weather-band radio selling for \$50 or less.

(c) A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.

(d) An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for \$50 or less.

(e) A gas or diesel fuel tank selling for \$25 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, selling for \$30 or less.

(g) A nonelectric food storage cooler selling for \$30 or less.

(h) A portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less.

(i) Reusable ice selling for \$10 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. 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.

Section 19. Clothing, school supplies, 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 12:01 a.m. on August 2, 2019, through 11:59 p.m. on August 6, 2019, 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 \$60 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 \$15 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, compasses, and calculators.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 2, 2019, through 11:59 p.m. on August 6, 2019, on the retail sale of personal computers or personal computer-related accessories having a sales price of \$1,000 or less per item and purchased for noncommercial home or personal use. As used in this subsection, the term:

(a) “Personal computers” includes electronic book readers, 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.

(b) “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, or peripherals that are

designed or intended primarily for recreational use. The term “monitor” does not include any device that includes a television tuner.

(3) 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.

(4) The tax exemptions provided in this section may apply at the option of a dealer if less than 5 percent of the dealer’s gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2019, 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.

(5) 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. 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.

(6) For the 2018-2019 fiscal year, the sum of \$237,000 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section. Funds remaining unexpended or unencumbered from this appropriation as of June 30, 2019, shall revert and be reappropriated for the same purpose in the 2019-2020 fiscal year.

Section 20. Fencing materials used in agriculture.—

(1) The purchase of fencing materials used to replace or repair farm fences on land classified as agricultural under s. 193.461, Florida Statutes, is exempt from the tax imposed under chapter 212, Florida Statutes, during the period from October 10, 2018, through June 30, 2019, if the fencing materials will be or were used to replace or repair fences that were damaged as a direct result of the impact of Hurricane Michael. The exemption provided by this section is available only through a refund from the Department of Revenue of previously paid taxes.

(2) To receive a refund pursuant to this section, the owner of the fencing materials or the real property into which the fencing materials were incorporated must apply to the Department of Revenue by December 31, 2019. The refund application must include the following information:

(a) The name and address of the person claiming the refund.

(b) The address and assessment roll parcel number of the agricultural land in which the fencing materials were or will be used.

(c) The sales invoice or other proof of purchase of the fencing materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the dealer from whom the materials were purchased.

(d) An affidavit executed by the owner of the fencing materials or the real property into which the fencing materials were or will be incorporated, including a statement that the fencing materials were or will be used to replace or repair fencing damaged as a direct result of the impact of Hurricane Michael.

(3) A person furnishing a false affidavit to the Department of Revenue pursuant to subsection (2) is subject to the penalty set forth in s. 212.085, Florida Statutes, and as otherwise authorized by law.

(4) This section is deemed a revenue law for the purposes of ss. 213.05 and 213.06, Florida Statutes, and s. 72.011, Florida Statutes, applies to this section.

(5) This section operates retroactively to October 10, 2018.

(6) 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. 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.

Section 21. Building materials used to replace or repair nonresidential farm buildings damaged by Hurricane Michael.—

(1) Building materials used to replace or repair a nonresidential farm building damaged as a direct result of the impact of Hurricane Michael and purchased during the period from October 10, 2018, through June 30, 2019, are exempt from the tax imposed under chapter 212, Florida Statutes. The exemption provided by this section is available only through a refund of previously paid taxes.

(2) As used in this section, the term:

(a) “Building materials” means tangible personal property that becomes a component part of a nonresidential farm building.

(b) “Nonresidential farm building” has the same meaning as provided in s. 604.50, Florida Statutes.

(3) To receive a refund pursuant to this section, the owner of the building materials or of the real property into which the building materials will be or

were incorporated must apply to the Department of Revenue by December 31, 2019. The refund application must include the following information:

- (a) The name and address of the person claiming the refund.
 - (b) The address and assessment roll parcel number of the real property where the building materials were or will be used.
 - (c) The sales invoice or other proof of purchase of the building materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the dealer from whom the materials were purchased.
 - (d) An affidavit executed by the owner of the building materials or the real property into which the building materials will be or were incorporated, including a statement that the building materials were or will be used to replace or repair the nonresidential farm building damaged as a direct result of the impact of Hurricane Michael.
- (4) A person furnishing a false affidavit to the Department of Revenue pursuant to subsection (3) is subject to the penalty set forth in s. 212.085, Florida Statutes, and as otherwise provided by law.
- (5) This section is deemed a revenue law for the purposes of ss. 213.05 and 213.06, Florida Statutes, and s. 72.011, Florida Statutes, applies to this section.
- (6) This section operates retroactively to October 10, 2018.
- (7) 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. 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.

Section 22. Refund of fuel taxes used for agricultural shipment or hurricane debris removal after Hurricane Michael.—

(1) Fuel purchased and used in this state during the period from October 10, 2018, through June 30, 2019, which is or was used in any motor vehicle driven or operated upon the public highways of this state for agricultural shipment or hurricane debris removal, is exempt from all state and county taxes authorized or imposed under parts I and II of chapter 206, Florida Statutes, excluding the taxes imposed under s. 206.41(1)(a) and (h), Florida Statutes. The exemption provided by this section is available to the fuel purchaser in an amount equal to the fuel tax imposed on fuel that was purchased for agricultural shipment or hurricane debris removal during the period from October 10, 2018, through June 30, 2019. The exemption provided by this section is only available through a refund from the Department of Revenue.

(2) As used in this section, the term:

(a) “Agricultural processing or storage facility” means property used or useful in separating, cleaning, processing, converting, packaging, handling, storing, and other activities necessary to prepare crops, livestock, related products, and other products of agriculture, and includes nonfarm facilities that produce agricultural products, in whole or in part, through natural processes, animal husbandry, and apiaries.

(b) “Agricultural product” means the natural products of a farm, nursery, forest, grove, orchard, vineyard, garden, or apiary, including livestock as defined in s. 585.01(13), Florida Statutes.

(c) “Agricultural shipment” means the transport of any agricultural product from a farm, nursery, forest, grove, orchard, vineyard, garden, or apiary located in Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, or Wakulla County to an agricultural processing or storage facility.

(d) “Fuel” means motor fuel or diesel fuel, as those terms are defined in ss. 206.01 and 206.86, Florida Statutes, respectively.

(e) “Fuel tax” means all state and county taxes authorized or imposed on fuel under chapter 206, Florida Statutes.

(f) “Hurricane debris removal” means the transport of Hurricane Michael debris from a farm, nursery, forest, grove, orchard, vineyard, or apiary located in Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon or Wakulla County.

(g) “Motor vehicle” and “public highways” have the same meanings as provided in s. 206.01, Florida Statutes.

(3) To receive a refund pursuant to this section, the fuel purchaser must apply to the Department of Revenue by December 31, 2019. The refund application must include the following information:

(a) The name and address of the person claiming the refund.

(b) The names and addresses of up to three owners of farms, nurseries, forests, groves, orchards, vineyards, gardens, or apiaries whose agricultural products were shipped or hurricane debris was removed by the person seeking the refund pursuant to this section.

(c) The sales invoice or other proof of purchase of the fuel, showing the number of gallons of fuel purchased, the type of fuel purchased, the date of purchase, and the name and place of business of the dealer from whom the fuel was purchased.

(d) The license number or other identification number of the motor vehicle that used the exempt fuel.

(e) An affidavit executed by the person seeking the refund pursuant to this section, including a statement that he or she purchased and used the fuel for which the refund is being claimed during the period from October 10, 2018, through June 30, 2019, for an agricultural shipment or hurricane debris removal.

(4) A person furnishing a false affidavit to the Department of Revenue pursuant to subsection (3) is subject to the penalty set forth in s. 206.11, Florida Statutes, and as otherwise provided by law.

(5) The tax imposed under s. 212.0501, Florida Statutes, does not apply to fuel that is exempt under this section and for which a fuel purchaser received a refund under this section.

(6) This section is deemed a revenue law for the purposes of ss. 213.05 and 213.06, Florida Statutes, and s. 72.011, Florida Statutes, applies to this section.

(7) This section operates retroactively to October 10, 2018.

(8) 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. 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.

Section 23. For the 2019-2020 fiscal year, the sum of \$91,319 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue to administer this act.

Section 24. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 15, 2019.

Filed in Office Secretary of State May 15, 2019.