

RULE HEARING RELATING TO PROPOSED RULE

12A-16 RENTAL CAR SURCHARGE

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DATE: Wednesday, September 22, 2021

TIME: Commenced at 10:00 a.m.
Concluded at 10:17 a.m.

LOCATION: Webinar

REPORTED BY: JULIE CULVER
Notary Public in and for
The State of Florida at
Large

For the Record Reporting, Inc.
1500 Mahan Drive, Suite 140
Tallahassee, Florida 32308

1 COMMITTEE MEMBERS PRESENT:

2 DANIELLE BOUDREAU

3 BRINTON HEVEY

4 LEE GONZALEZ

5 ALSO PRESENT:

6 TOM BUTCHER

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10 CERTIFICATE OF REPORTER:

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PROCEEDINGS

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2 MS. BOUDREAU: All right. Good morning,
3 everyone. Thank you for joining us. Currently,
4 we do not have any members of the public in the
5 room with us, everybody has joined online, so we
6 appreciate you joining this morning.

7 My name is Danielle Boudreaux. I am a
8 revenue program administrator in the Department's
9 Technical Assistance and Dispute Resolution
10 section, which may be referred to as "TADR" or
11 T-A-D-R during the course of this rule development
12 workshop. I will be presenting the proposed rules
13 and forms implementing the changes to the rental
14 car surcharge imposed by Section 212.0606, Florida
15 Statutes.

16 At this time, I want to make sure that our
17 court reporter is on the line. If you could,
18 raise your hand or put something in the chat
19 message to make sure that we have our court
20 reporter here.

21 (COURT REPORTER RAISED HAND IN
22 ACKNOWLEDGEMENT.)

23 MS. BOUDREAU: All right. Thank you very
24 much.

25 MR. HEVEY: Good morning. My name is Brinton

1 Hevey. I am a revenue program administrator in
2 the Department's General Tax Administration
3 section. I am a sales and use tax coordinator in
4 GTA. I will be moderating any questions and
5 comments that we receive.

6 MS. BOUDREAUX: All right. After I go over
7 information regarding the workshop and webinar, I
8 will list each proposed rule, including any
9 applicable forms, and an explanation of the
10 changes made to the rule. Finally, we will open
11 the floor for any questions or comments regarding
12 the proposed rule text and forms.

13 This workshop is taking place both in-person
14 and using electronic media. If anyone attending
15 this workshop via webinar experiences technical
16 difficulty, use the chat option to send a message.
17 And I will also check at this point -- well, I was
18 going to ask to see if anybody had any issues
19 hearing us, but they would not know so hopefully
20 everybody has access to audio and is able to hear
21 us.

22 As with other Department of Revenue rule
23 workshops and hearings, we do have a court
24 reporter present to record this rule development
25 workshop. The court reporter is participating

1 remotely, so we ask that meeting participants
2 state their name each time they speak. If it is
3 necessary, please spell your first and last name
4 the first time you speak during the workshop. We
5 ask that everybody be as clear as possible so that
6 the court reporter can accurately record all of
7 the public comments or questions.

8 At this time, I will ask the members of my
9 panel to introduce themselves, giving their name
10 and position.

11 We have, myself, Danielle Boudreaux and Brian
12 Hevey on the panel and we have one other person.

13 MR. GONZALES: Lee Gonzales, compliance
14 coordinator.

15 MS. BOUDREAUX: Go ahead, Tom.

16 MR. BUTCHER: Tom Butcher from the Office of
17 General Counsel.

18 MS. BOUDREAUX: Today is September 22, 2021,
19 and this is a public rule development workshop,
20 held pursuant to Section 120.54(3), Florida
21 Statutes, for the purpose of discussing the
22 proposed rules, including two forms, implementing
23 2021 legislative changes to the rental car
24 surcharge. A notice of rule development was
25 published in the September 8, 2021, edition of the

1 Florida Administrative Register, Volume 47, Number⁶
2 174, page 4099.

3 For reference, the draft rules and forms are
4 on the Department's proposed rules webpage at
5 floridarevenue.com/rules. Select the General Tax
6 Proposed Rules drop-down at the bottom of the
7 page, then select rule chapter 12A-16.

8 I will now explain the process that we will
9 use for taking questions and comments regarding
10 the agenda items. Please note, we will take
11 questions and comments after I have presented all
12 of the rules. Before asking a question or
13 providing comment, participants will need to state
14 their name and whom they represent.

15 Questions and comments from participants
16 attending in-person will be taken first.
17 Currently, we still do not have any members of the
18 public in our conference room, but if anybody
19 joins us and has comments their's will be taken
20 first and then we will follow by those attending
21 via webinar. Currently, all webinar participants
22 are muted to avoid accidental background noise or
23 interruptions. We will unmute participants if
24 they have a comment or question.

25 To let our staff know that you would like to

1 speak, webinar participants should raise their
2 hand using the icon on the Grab Tab, left of your
3 Control Panel. Staff will call on participants
4 when it's their turn to speak. If you do not wish
5 to speak, please send your question or comment,
6 along with whom you represent, using the chat
7 option. Staff will state your name and read your
8 question or comment out loud.

9 All comments received during the workshop
10 will be recorded by the court reporter. Do we
11 have any questions at this time regarding the
12 order of the workshop or the process?

13 (WHEREUPON, THERE WAS NO RESPONSE.)

14 MS. BOUDREAUX: All right. We don't see any
15 questions, or comments, or hand raises, so I will
16 move forward.

17 Please remember to hold any further questions
18 or comments until the explanation of the proposed
19 rules is completed.

20 Currently, under Section 212.0606, Florida
21 Statutes, a rental car surcharge is imposed on the
22 rental or lease of a for-hire passenger motor
23 vehicle through a motor vehicle rental company or
24 a car-sharing service. The statute was amended
25 during the 2021 legislative session by Senate Bill

1 566, which became Chapter 2021-175, Laws of
2 Florida. Section 2 of the chapter law amends
3 Section 212.0606, Florida Statutes, to provide
4 that a \$1 per day rental car surcharge applies to
5 the first 30 days of the rental of shared vehicles
6 through peer-to-peer car-sharing programs. The
7 proposed amendments to Rules 12A-16.002,
8 12A-16.004, 12A-16.005, 12A-16.006, and
9 12A-16.008, as well as Form DR-15SWN (Instructions
10 for Solid Waste and Surcharge Returns) and Form
11 DR-15SWS (Schedule of Rental Car Surcharge by
12 County), reflect these provisions. These
13 provisions become effective January 2, 2022.

14 While this workshop addresses amendments to
15 rules in Chapter 12A-16, we would like to address
16 the revision of the rental car surcharge question
17 on Form DR-1, Florida Business Tax Application,
18 and form DR-1A, Application for Registered
19 Businesses to Add a New Florida Location. Both
20 forms are incorporated by reference in Rule
21 12A-1.07, Public Use Forms. A notice of rule
22 development was published in the September 20,
23 2021 issue of the Florida Administrative Register,
24 to inform the public of this revision.

25 The question currently reads as follows: Do

1 you rent, lease, or sell car-sharing membership
2 services at this location for the use of motor
3 vehicles that transport fewer than nine
4 passengers?

5 The question has been revised to read as
6 follows: Do you operate a car-sharing service, a
7 peer-to-peer car sharing program, or motor vehicle
8 rental company at this location that provides
9 motor vehicles that transport fewer than nine
10 passengers?

11 The revised draft forms are available on the
12 Department's proposed rules webpage under 12A-1.

13 And now, the rules for 12A-16:

14 12A-16.002 Imposition and Payment of the
15 Surcharge.

16 This rule has been substantially reworded as
17 proposed revisions would have caused difficulty in
18 reading the proposed rule language. The
19 definitions have been updated to expand the
20 meaning of for-hire passenger motor vehicles and
21 add terms related to peer-to-peer car-sharing
22 services. The surcharge imposed on peer-to-peer
23 car-sharing program agreements has been added to
24 the rule and incorporated throughout as necessary.
25 The proposed language also clarifies when the

1 rental car surcharge is due for all three types of
2 rentals.

3 12A-16.004 Registration.

4 This rule has also been substantially
5 revised. The proposed rule language incorporates
6 peer-to-peer car sharing programs and provides
7 direction as to how motor vehicle rental
8 companies, car-sharing services, and peer-to-peer
9 car-sharing programs should register as a dealer
10 for the purpose of remitting the rental car
11 surcharge.

12 12A-16.005 Exemption Permits, Certificates,
13 and Affidavits.

14 The proposed rule language adds the term
15 "shared vehicle" to incorporate the addition of
16 peer-to-peer car-sharing programs.

17 12A-16.006 Surcharge Returns and filing
18 Requirements.

19 The proposed rule language has been amended
20 to include how peer-to-peer car-sharing programs
21 attribute the rental car surcharge to the
22 appropriate county when filing the rental car
23 surcharge return.

24 12A-16.008 Public Use Forms.

25 The proposed rule language incorporates

1 revisions to two forms incorporated by reference.
 2 Those two forms are the DR-15SWN, Instructions for
 3 DR-15SW Solid Waste and Surcharge Returns, the
 4 DR-15SWS, Schedule of Rental Car Surcharge by
 5 County. These forms have been revised to
 6 incorporate the rental car surcharge imposed on
 7 peer-to-peer car-sharing program agreements.

8 At this time, we will now open the floor for
 9 questions or comments. We currently do not have
 10 any members in the conference room so if we have
 11 any questions from our webinar participants we
 12 would be happy to take those now.

13 (WHEREUPON, THERE WAS NO RESPONSE.)

14 MS. BOUDREAUX: Again, if you would like to
 15 submit a question, or comment, or ask your
 16 question aloud you can go ahead and raise your
 17 hand within the webinar or you can type your
 18 question into the chat box. And if you are typing
 19 your question into the chat box make sure you are
 20 sending it to either the entire audience or to the
 21 organizer.

22 Okay. We have a question from David Rosen.
 23 You have been unmuted so Mr. Rosen, if you can, go
 24 ahead -- well, sorry. You have been muted again.
 25 Sorry. We are having technical difficulties. Oh,

1 Mr. Rosen, you have muted yourself. Okay. So you¹²
2 are unmuted. So if you would like to go, ahead
3 and ask your question now.

4 MR. ROSEN: Good morning. My name is David
5 Rosen. I am an attorney with Ackerman, LLC in
6 Orlando, Florida.

7 My comment is on behalf of myself, although,
8 I practice -- primarily work with motor vehicle
9 rental leasing companies. One comment that I have
10 regards the obligation of long-term motor vehicle
11 leasing companies to collect and remit the rental
12 car surcharge. The chapter law here, 2021-175
13 adds a definition of motor vehicle rental company,
14 which is incorporated by reference into a proposed
15 regulation 12A-16.002(1)(d). That is a new
16 definition, but one point that may want to be
17 clarified by the Department in the proposed
18 regulation, once it is formally published, is to
19 clarify that long-term motor vehicle leasing
20 companies, which most often take assignment of
21 leases from a motor vehicle dealer that originates
22 a lease and serves as a lessor, are not required
23 to collect the tax, to the extent that the motor
24 vehicle dealer, that is the original leasing
25 company, has indeed collected and remitted the

1 tax as is common practice in the motor vehicle
2 leasing industry and as has been opined by the
3 Department in technical assistance advisements
4 96A-032 and technical assistance advisement
5 06A-019. Thank you.

6 MS. BOUDREAUX: Thank you for your comment.
7 We will take that into consideration. And if you
8 would like, since it was a lengthy comment and I
9 want to make sure that we have the full extent of
10 your comment, if you could, also submit that in
11 writing to rule comments at floridareveune.com; I
12 just want to make sure that we have your complete
13 comment.

14 MR. ROSEN: Yes, ma'am, thank you.

15 MS. BOUDREAUX: Thank you.

16 Do we have any other questions or comments?

17 (WHEREUPON, THERE WAS NO RESPONSE.)

18 MS. BOUDREAUX: Okay. We don't have any
19 other questions or comments at this time or we
20 don't have anybody else that has indicated that
21 they have a question or comments.

22 If anybody has any written comments or
23 questions subsequent to this meeting, please
24 remember that they become public record. And we
25 would like for you to submit those by close of

1 business October 7, 2021. Comments may be
2 submitted via e-mail at
3 rulecomments@floridarevenue.com.

4 On behalf of the Department, I want to thank
5 each of you for participating and sharing your
6 comments with us. Your participation is very
7 helpful during the rule promulgation process.

8 This concludes the rule development workshop.
9 Thank you.

10 (WHEREUPON, THE MEETING WAS CONCLUDED AT
11 10:17 A.M.)

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CERTIFICATE OF REPORTER

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STATE OF FLORIDA)
COUNTY OF LEON)

I, JULIE CULVER, certify that I was authorized to and did stenographically report the Zoom deposition of the rule development workshop. The transcript is a true and complete record of my stenographic notes to the best of my ability within the limits and quality of the audio for the remote proceedings.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 22nd day of September, 2021.

JULIE CULVER, Court Reporter

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