

STORAGE NAME: h0029.gg

DATE: April 1, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 29

RELATING TO: Ad Valorem Tax Exemption

SPONSOR(S): The Committee on Community Affairs and Representative Greene and others

COMPANION BILL(S): SB 864 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 5 NAYS 0
 - (2) FINANCE & TAXATION YEAS 11 NAYS 2
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill requires property appraisers to grant the charitable exemption from ad valorem taxation to property owners who fail to timely file an application for the exemption due to an inadvertent error but who otherwise are entitled to the exemption. Any taxes assessed on the property are to be canceled and, if paid, refunded. Any tax certificates outstanding on the property are to be canceled and a refund made. This special process only applies to 1994 tax year exemptions and it expires 1 year after the bill takes effect.

There is an amendment traveling with the bill which modifies the guidelines for determining profit or nonprofit status for purposes of the property tax exemption. It provides that use of property to conduct activities which cause a corporation to qualify for a consumer certificate of exemption under Florida law, and which has a valid exemption from federal income tax under the Internal Revenue Code, is a nonprofit and therefore considered an exempt use.

This bill has no fiscal impact on state agencies or state funds.

This bill has a negative indeterminate fiscal impact on local governments. The minimum impact is estimated to be (\$0.1) million on local governments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 196.011, F.S., states that every person or organization who, on January 1, has the legal right to exemption from property tax must file an application for the exemption with the county property appraiser on or before March 1 of each year. The Department of Revenue prescribes the forms upon which the application is made. The application lists and describes the property for which the exemption is claimed and certifies its ownership and use. Failure to make application, when required, on or before March 1 of any year constitutes a waiver of the exemption privilege for that year.

The value adjustment board, however, has the authority to grant any exemption for an otherwise eligible applicant if the applicant can clearly document that failure to apply by March 1 was the result of postal error. In addition, any applicant who is qualified to receive any exemption but who fails to file an application by March 1, may file an application for the exemption and may file a petition with the value adjustment board requesting that the exemption be granted. Such petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser. The applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the exemption and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the exemption, the property appraiser or the value adjustment board may grant the exemption.

When the owner of property otherwise entitled to a religious exemption from ad valorem taxation fails to timely file an application for exemption, and because of a misidentification of property ownership on the property tax roll, the owner is not properly notified of the tax obligation by the property appraiser and the tax collector, the owner of the property may file an application for exemption with the property appraiser. The property appraiser must consider the application, and if he or she determines the owner of the property would have been entitled to the exemption had the property owner timely applied, the property appraiser must grant the exemption. Any taxes assessed on such property shall be canceled, and if paid, refunded. Any tax certificates outstanding on such property shall be canceled and a refund made.

B. EFFECT OF PROPOSED CHANGES:

This bill requires property appraisers to grant the charitable exemption from ad valorem taxation to property owners who fail to timely file an application for the exemption due to an inadvertent error but who otherwise are entitled to the exemption. To qualify the property must be a charitable organization under section 501(c)(3) of the Internal Revenue Code. The exemption can only be granted for an error made during the 1994 tax year. The bill expires 1 year after the date it takes effect.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

By requiring that the property appraiser grant the charitable exemption when an error occurred during the 1994 tax year, this bill directly increases the authority of the property appraisers in each county to adjudicate disputes over late filed applications for charitable exemptions from ad valorem taxation. It also directly increases the authority of each county property appraiser to grant the exemption if he or she determines a late filing was due to an inadvertent error. However, since the bill is only in effect for one year, and only affects the 1994 tax year, this increased authority is time limited.

The bill directly decreases the authority of the Department of Revenue to determine that an exemption cannot be granted if an application was not timely filed. Again, however, since the bill is only in effect for one year, and only affects the 1994 tax year, this decreased authority is time limited.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

By requiring that the property appraiser grant the charitable exemption when an error occurred during the 1994 tax year, this bill increases the responsibilities of the property appraisers in each county. However, since the bill is only in effect for one year, and only affects the 1994 tax year, these increased responsibilities are time limited.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

This bill decreases taxes on charitable organizations who will be granted an exemption that otherwise would not be given the exemption under current law.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Beneficiaries of the bill do not pay the cost of implementation of the provisions of the bill. Costs would be passed on to individuals and organizations that pay taxes.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill increases the allowable options of charitable organizations to conduct their affairs by allowing property appraisers some flexibility in adjudicating errors in filing.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 196.011, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Adds subsection (13) to section 196.011, F.S., to require property appraisers to grant charitable exemptions from property tax to property owners which qualify as a charitable organization (under section 501(c)(3) of the Internal Revenue Code) otherwise entitled to the exemption but who fail to timely file an application for exemption due to an inadvertent error. Any taxes assessed on the property are to be canceled and, if paid, refunded. Any tax certificates outstanding on the property are to be canceled and a refund made. Provides that this process only applies for the 1994 tax year. Provides that the bill expires 1 year after it takes effect.

Section 2: Provides that the act shall take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. **Non-recurring Effects:**

None.

2. **Recurring Effects:**

None.

3. **Long Run Effects Other Than Normal Growth:**

None.

4. **Total Revenues and Expenditures:**

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. **Non-recurring Effects:**

The sponsor has filed this bill to correct an inadvertent error that occurred in Palm Beach County. According to the Palm Beach County Tax Collector, the fiscal impact of this bill for that situation would be a loss of tax revenue and costs associated with sale of the tax certificate in Palm Beach County of approximately \$80,000.

It is difficult, however, to determine how many other properties might qualify for an exemption under the provisions of this bill. Therefore, the fiscal impact on local governments is indeterminate.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Charitable entities that fail to meet the deadline for filing for an ad valorem tax exemption for the 1994 tax year due to an error will be allowed to file at any time and be granted the exemption.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill potentially reduces the authority counties and municipalities to raise revenue in the aggregate. The fiscal impact of this bill is indeterminate, however, the minimum impact is (\$0.1) million for Palm Beach County. Therefore, since the reduction in revenue raising authority is insignificant, the bill is not determined to be a mandate on local government.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

The sponsor has indicated that she has filed this legislation to correct an error whereby the NOAH Development Corporation, a non-profit 501(c)(3) charitable organization in Palm Beach County, failed to properly file for a tax exemption for a property known as Doveland Villas. Doveland Villas is a multi-family housing project renting to mostly indigent farm workers. Because the NOAH Development Corporation has another project named Doveland, Inc., an inadvertent error occurred when it was assumed that the two were included together in the exemption application. The Department of Revenue has issued an opinion that under current law it cannot issue a correction to the 1994 tax roll for this error. The NOAH Development Corporation does not have the \$80,000 in taxes that would be due and therefore the property would be sold if this exemption is not granted. The concern is that this needed affordable housing would be lost.

The Palm Beach Property Appraiser is supportive of this bill, however, there is a potential adverse impact to property appraisers in general if there are numerous charitable organizations that take advantage of this law and file for exemptions.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 29, 1997, the House Committee on Community Affairs adopted a committee substitute. Committee Substitute for HB 29 makes three changes to the bill as originally filed. First, it requires that the charitable organization have section 501(c)(3) status in Florida. Second, the charitable exemption must have been for the 1994 tax year. Third, the law expires one year from the date that it becomes law.

On April 18, 1997, the House Committee on Finance and Taxation adopted one amendment to CS/HB 29. The amendment modifies the guidelines for determining profit or nonprofit status of applicants seeking property tax exemptions to include proof that a corporation is organized as nonprofit under chapter 617, F.S.; has a valid consumer certificate of exemption pursuant to section 212.08(7)(o), F.S.; and has a valid exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code. It also provides that use of property to conduct activities which cause a corporation to qualify for a consumer certificate of exemption under section 212.08(7)(o), F.S., is considered an exempt use.

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VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

Jenny Underwood Dietzel

AS REVISED BY THE COMMITTEE ON FINANCE & TAXATION:

Prepared by:

Legislative Research Director:

Sharon A. Zahner

Keith G. Baker, Ph.D.

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

Cynthia P. Kelly