

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1750

SPONSOR: Senator McKay

SUBJECT: Florida Statutes

DATE: March 13, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 1750 repeals obsolete provisions of law:

- Establishing the 20 year period for which judgements entered prior to 1939 and 1971 would continue as liens on property;
- Stating the October 1, 1965 effective date of certain eminent domain proceedings;
- Stating the January 1, 1975 effective date of certain limitations of actions and actions for adverse possession;
- Providing a one year extension for charitable organizations that failed to file and applications for exemption for the 1994 tax year; and
- Providing for retroactive application to 1933 of certain estate tax provisions which have now expired under the statute of limitations.

This bill repeals the following sections of the Florida Statutes: s. 55.08, 55.09, 55101, 74.121, 95.022, 196.011(13), and 198.331.

II. Present Situation:

During the 1999-2000 legislative interim, staff of the House of Representatives reviewed each chapter of the five volumes of the Florida Statutes to find provisions which were outdated or obsolete. Upon completion of the first draft, staff of Senate counterpart committees reviewed the work product to further refine the sections identified. The final list of some one thousand original sections of Florida law contained an identification of statutory sections which shared one or more of the following characteristics:

1. A reference to a dormant board, council or other non-governing authority;
2. A provision rendered obsolete due to passage of time;
3. A requirement which was nonrecurring due to the completion of the activity;
4. A statement of legislative intent, findings or purpose so generalized as to provide no specific interpretive guidance on the context or particularity of the statute or its application;
5. A cross-reference to another section which was otherwise repealed;
6. The use of boilerplate language, such as a severability clause, which is assumed as part of legislative style and drafting or of judicial interpretation;
7. The creation of a short title, or popular name, unrelated to the purpose of the statute;
8. The use of archaic language or descriptions; and
9. A redundancy in text or reference no longer needed.

Chapter 55, F.S., relates to judgments. Section 55.08, F.S., relating to “Judgments entered prior to June 5, 1939”, states that a circuit court judgment shall be a lien on property of the defendant for twenty years. Judgments in effect prior to June 5, 1939, have since expired. The statute is obsolete.

Section 55.09, F.S., relating to “Judgments of inferior courts entered prior to June 5, 1939, states that a court judgment entered by a court other than a circuit court shall be a lien on property of the defendant for twenty years. Judgments in effect prior to June 5, 1939, have since expired. The statute is obsolete.

Section 55.101, F.S., enacted in 1971, provides that judgments recorded pursuant to the provisions of former s. 28.21(1), F.S., or former s. 28.221, F.S., are validated, that the judgments and decrees are declared to be liens on real property in the counties where certified copies thereof are recorded from the date of recordation, and that any judgment or decree recorded subsequent to June 26, 1967, shall not be a lien on property unless recorded according to s. 55.10, F.S. (which section was also amended by the same act in 1971). Any affected judgments have since expired. The statute is obsolete.

Chapter 74, F.S., relates to proceedings supplemental to eminent domain. The chapter was enacted in 1965,¹ and subsequently amended. Section 74.121, F.S., provides an initial effective date of October 1, 1965, for the original enactment of the chapter. The effective date has passed and thus it is no longer necessary to state the effective date. Section 74.121, F.S., is obsolete.

Chapter 95, F.S., relates to limitations of actions and actions for adverse possession. The chapter was substantially re-written in 1974.² Section 95.022, F.S., a part of that 1974 enactment, states an effective date of January 1, 1975, for those re-written sections, which effective date has

¹Chapter 65-369, L.O.F.

²Chapter 74-382, L.O.F.

passed. The section also contains a savings clause, which expired January 1, 1976. The provisions at s. 95.022, F.S., are obsolete.

Chapter 196, F.S., relates to exemption from ad valorem taxation. Section 196.011, F.S., relates to the annual application required to renew an exemption from ad valorem taxation. Section 196.011(13), F.S., states that particular charitable organizations that failed to timely file an application for exemption for the 1994 tax year may file an untimely application. The statute specified that it would expire one year after enactment.³ The statute is now obsolete.

Chapter 198, F.S., relates to liens for estate taxes. Section 198.331, F.S., enacted in 1957,⁴ makes tax liens against estates with unpaid estate taxes under Chapter 198, F.S., retroactive to October 1, 1933. Because the statute of limitation on collection under an estate tax lien is 20 years,⁵ the statute has expired on its terms and is obsolete.

III. Effect of Proposed Changes:

Section 1: Repeals ss. 55.08, 55.09, and 55.101, F.S. The repeal of this section does not impact the validity of any lien filed and executed within the time periods allowed by law.

Section 2: Repeals s. 74.121, F.S. The repeal of the effective date only removes from the statute a date which has passed. The removal of the date does not repeal or alter the provisions of law which became effective on the date stated.

Section 3: Repeals s. 95.022, F.S. The repeal of the effective date only removes from the statute a date which has passed. The removal of the date does not repeal or alter the provisions of law which became effective on the date stated.

Section 4: Repeals s. 196.011(13), F.S.

Section 5: Repeals s. 198.331, F.S.

Section 6: Provides an effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³That time period expired May 28, 1999.

⁴Chapter 57-108, L.O.F.

⁵Section 198.33, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.