

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 1918

SPONSOR: Senator Carlton

SUBJECT: Florida Taxpayer's Bill of Rights

DATE: April 4, 2000 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill creates a new section in Chapter 192 called the Florida Taxpayer's bill of Rights, which compiles taxpayers' rights with respect to taxes on real and personal property, as found in the Florida Statutes and rules of the Department of Revenue

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 192.0105.

II. Present Situation:

Art. I, sec. 25 of the Florida Constitution, adopted in 1992, requires the legislature to prescribe and adopt a Taxpayers' Bill of Rights that, in clear and concise language, sets forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers under the laws of the state. The Taxpayers' Bill of Rights is found in s. 213.015, F.S. It addresses revenue laws administered and enforced by the Department of Revenue.

Taxpayers' rights and responsibilities with respect to property taxes and assessments are found in several places in the Florida Statutes and rules of the Department of Revenue.

III. Effect of Proposed Changes:

This bill compiles these statutes and rules into a single section of Chapter 192, to be know as a Florida Taxpayers' Bill of Rights for property taxes and assessments.

The section is organized into four subsections: The Right to Know, the Right to Due Process, The Right to Redress, and the Right to Confidentiality.

THE RIGHT TO KNOW - The right to be mailed notice of proposed property 5 taxes and proposed or adopted non-ad valorem assessments. (found in ss. 194.011(1), 200.065(2)(b), (2)(d) and (13)(a), and 200.069.) The notice must also inform the taxpayer that the final tax bill may

contain additional non-ad valorem 9 assessments. (See s. 200.069(12).) The right to notification of a public hearing on each taxing authority's tentative budget and proposed millage rate and advertisement of a public hearing to finalize the budget and adopt a millage rate. (See ss. 200.065(2)(c) and (2)(d).) The right to advertised notice of the amount by which the tentatively adopted millage rate results in taxes that exceed the previous year's taxes. (See ss. 200.065(2)(d) and (3).) The right to notification by first-class mail of a comparison of the amount of the taxes to be levied from the tentatively adopted millage rate under the tentative budget change, compared to the previous year's taxes, and also compared to the taxes that would be levied if no budget change is made. (See ss. 200.065(2)(b) and 200.069(9).) The right that the adopted millage rate will not exceed the tentatively adopted millage rate. If the tentative rate exceeds the proposed rate, each taxpayer shall be mailed notice comparing his or her taxes under the tentatively adopted millage rate to the taxes under the previously proposed rate, before a hearing to finalize the budget and adopt millage. (See s. 200.065(2)(d).) The right to be sent notice by first-class mail or non-ad valorem assessment hearing at least 20 days before the hearing with pertinent information including the total amount to be levied against each parcel. All affected property owners have the right to appear at the hearing and to file written objections with the local governing board. (See ss. 197.3632(4)(b), (8)(b), and (10)(b)3.) The right of an exemption recipient to be sent a renewal application for that exemption, the right to a receipt for homestead exemption claim when filed, and the right to notice of denial of the exemption. (See ss. 196.011(6), 196.131(1), 196.151, and 196.193(1)(c) and (5).) The right to notice of intent from property appraiser to record notice of tax lien on property determined not to have been entitled to homestead exemption in prior years and the right to pay tax, penalty, and interest before a tax lien is recorded for any prior year. (See s. 196.161(1)(b).) The right to be informed during the tax collection process, including: notice of tax due; notice of back taxes; notice of late taxes and assessments and consequences of nonpayment; opportunity to pay estimated taxes and non-ad valorem assessments when the tax roll will not be certified in time; notice when interest begins to accrue on delinquent provisional taxes; notice of the right to prepay estimated taxes by installment; a statement of the taxpayer's estimated tax liability for use in making installment payments; and notice of right to defer taxes and non-ad valorem assessments on homestead property. (See ss. 197.102(04), 197.322(3), 197.3635, 197.3635(10), 197.343(1), (2), (3), and (4), 197.363(2)(c), 197.222(5), 197.2301(3), 197.3632(8)(a), 193.1145(10)(a), 197.222(3), and 197.254(1).) The right to an advertisement in a newspaper listing names of taxpayers who are delinquent in paying tangible personal property taxes with amounts and giving notice that interest is accruing at 18 percent and that, unless taxes are paid, warrants will be issued, prior to petition made with the circuit court for an order to seize and sell property. (See s. 197.402(2).) The right to be mailed notice when a petition has been filed with the court for an order to seize and sell property and the right to be mailed notice, and to be served notice by the sheriff, before the date of sale, that application for tax deed has been made and property will be sold unless back taxes are paid. (See ss. 197.413(5), 16 197.502(4)(a), and 197.522(1)(a) and (2).)

THE RIGHT TO DUE PROCESS - The right to an informal conference with the property appraiser to present facts the taxpayer considers to support changing the assessment and to have the property appraiser present facts supportive of the assessment upon proper request of any taxpayer who objects to the assessment placed on his or her property. (See s. 194.011(2).) The right to petition the value adjustment board over objections to assessments; denial of exemption; denial of agricultural classification; denial of historic classification; denial of high-water recharge classification; disapproval of tax deferral; and any penalties on deferred taxes imposed for

incorrect information willfully filed. Payment of estimated taxes does not preclude the right of the taxpayer to challenge his or her assessment. (See ss. 194.011(3), 196.011(6), 196.15, 196.193(1)(c) and (5), 193.461(2), 193.503(7), 193.625(2), 197.253(2)(a) and (b), 197.301(2) and 197.2301(11).) The right to file a petition for exemption or agricultural classification with the value adjustment board when an application deadline is missed, upon demonstration of particular extenuating circumstances for filing late. (See ss.193.461(2) and 196.011(1), (7), (8) and (9)(a) and (9)(c).) The right to prior notice of the value adjustment board's hearing date and the right to the hearing within 4 hours of scheduled time. (See ss. 194.032(2) and 194.032(2).) The right to notice of date of certification of tax rolls and receipt of property record card if requested. (See ss. 193.122(2) and (3) and 194.032(2).) The right, in value adjustment board proceedings, to have all evidence presented and considered at a public hearing at the scheduled time; to be represented by attorney or agent; to have witnesses sworn and cross-examined; and to examine property appraisers or evaluators employed by the board who present testimony. (See ss. 194.034(1)(c), 21 194.034(1)(a) and (4), 194.034(1)(a), and 194.035(2).) The right to be mailed a timely written decision by the value adjustment board containing findings of fact and conclusions of law and reasons for upholding or overturning the determination of the property appraiser and the right to advertised notice of all board actions, including appropriate narrative and column descriptions, in brief and nontechnical language. (See ss. 194.034(2) and 194.037(3).) The right at public hearing, on non-ad valorem assessments and municipal special assessments, to object and testify to the local governing board. (See ss. 197.3632(4)(c) and 170.08.) The right to bring action in circuit court to contest a tax assessment or appeal value adjustment board decisions to disapprove exemption or deny tax deferral. (See ss. 194.036(1)(c) and (2), 196.151, and 197.253(2)(a) and (b).)

THE RIGHT TO REDRESS - The right to discounts for early payment on all taxes and non-ad valorem assessments collected by the tax collector, the right to pay installment payments with discounts, and the right to pay delinquent personal property taxes under an installment payment program when implemented by the county tax collector. (See ss. 197.162, 197.3632(8)(a), 197.222(1)(e) and 197.4155(1), (2) and (3).) The right, upon filing a challenge in circuit court and paying taxes admitted in good faith to be owing, to be issued a receipt and have suspended all procedures for the collection of taxes until the final disposition of the action. (See s. 194.171(3).) The right to have penalties reduced or waived upon a showing of good cause when a return is not intentionally filed late and the right to pay interest at a reduced rate if the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid. (See ss. 193.072(4) and 194.192(2).) The right to a refund when overpayment of taxes has been made under specified circumstances. (See ss. 193.1145(8)(e) and 197.182(1)(a) and (b).) The right to an extension to file a tangible personal property tax return upon making proper and timely request. (See s. 193.063.) The right to redeem real property and redeem tax certificates at any time before a tax deed is issued and the right to have tax certificates canceled if sold where taxes had been paid or if other error makes it void or correctable. Property owners have the right to be free from contact by a certificate holder for 2 years. (See ss. 197.432(14) and (15), 197.442(1), 197.443, and 197.472(1) and (7).) The right of the taxpayer, property appraiser, tax collector, or the department, as the prevailing party in a judicial or administrative action brought or maintained without the support of justiciable issues of fact or law, to recover all costs of the administrative or judicial action, including reasonable attorney's fees, and of the department and the taxpayer to settle such claims through negotiations. (See ss. 57.105 and 57.111.)

THE RIGHT TO CONFIDENTIALITY - The right to have information kept confidential, including federal tax information, ad valorem tax returns, social security numbers, all financial records produced by the taxpayer, Form DR-219 return for documentary stamp tax information, and sworn statements of gross income, copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents. (See ss. 192.105(1) and (2), 193.074, 193.114(6), 195.027(3), 195.027(6), and 196.101(4)(c).) The right to limiting access to a taxpayer's records by the property appraiser, the Department of Revenue, and the Auditor General only to those instances in which it is determined that such records are necessary to determine either the classification or the value of the taxable nonhomestead property. All records produced by the taxpayer under this subsection shall be deemed to be confidential in the hands of the property appraiser, the department, the tax collector, and the Auditor General. (See s. 195.027(3).)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

This bill could help taxpayers understand their rights under Florida law with respect to ad valorem taxation.

C. Government Sector Impact:

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
