SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/SB 8A

SPONSOR: Government Efficiency Appropriations Committee and Senators Atwater and Lynn

SUBJECT: Relief for persons whose primary residences were damaged by a named tropical system

DATE: December 15, 2004 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Johansen	GE	**Fav/CS**
2.				
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5.				
6.				

I. Summary:

This committee substitute provides for owners of homestead property to be reimbursed for a portion of the property taxes levied on their property if it was rendered uninhabitable for at least 60 days in 2004 by a hurricane or tropical storm. Property owners must apply for reimbursement by March 1, 2005, and the property appraiser must investigate the claims made in the applications. The property appraiser must calculate the reimbursement due for each approved application and forward a list of property owners entitled to reimbursement to the Department of Revenue by April 1, 2005. The amount of each reimbursement is capped at $1,500. The Department of Revenue will issue reimbursement checks, and must reduce all reimbursement payments proportionately if the total amount claimed exceeds the amount appropriated to pay for reimbursement. The committee substitute provides a process by which the property appraisers' determinations with respect to eligibility may be appealed.

The committee substitute also provides for mobile home owners to be reimbursed for the state sales tax paid on mobile homes purchased to replace mobile homes damaged by a hurricane or tropical storm. Mobile home owners must apply for reimbursement by May 1, 2005, and the property appraiser must investigate the claims made in the applications. The property appraiser must calculate the reimbursement due for each approved application and forward a list of mobile home owners entitled to reimbursement to the Department of Revenue by June 1, 2005. The amount of each reimbursement is capped at $1,500. The Department of Revenue will issue reimbursement checks, and must reduce all reimbursement payments proportionately if the total amount claimed exceeds the amount appropriated to pay for reimbursement. The committee substitute provides a process by which the property appraisers' determinations with respect to eligibility may be appealed.

This committee substitute provides General Revenue appropriations of $20 million for the partial reimbursement of ad valorem taxes, $15 million for sales tax reimbursements, and $70,000 to the Department of Revenue to administer these programs. Based on Red Cross damage assessments and property values in the most severely damaged counties, these amounts are expected to cover all applications for reimbursement and administrative costs.

II. Present Situation:

2004 Hurricanes
In August and September of 2004, four hurricanes struck the state of Florida, causing widespread damage. According to the American Red Cross, nearly 15,000 single family homes were destroyed by hurricanes or tropical storms in 2004, and almost 40,000 suffered major damage. Over 14,000 mobile homes were also severely damaged as a result of these storms. Based on the Red Cross damage assessments, it has been estimated that over 12,000 homesteads were destroyed by storm activity, and over 28,000 suffered major damage.

January 1 Assessment for Property Tax Purposes
Section 192.042, F.S., provides that all property must be assessed for ad valorem tax purposes on January 1 of each year. Improvements to the property that are not substantially complete as of that date have no value placed on them. The practical effect of this provision is that the value of a parcel of real property for property tax purposes is set on January 1, and if the value changes during the calendar year it does not affect taxes on the property for that year. If a new building is completed and occupied in February the taxes for that year are based on the value of the land, but not the building. Conversely, if a building is destroyed in February and not rebuilt, it is taxed at its value as of January 1.

Homestead Exemption
Section 6, art. VII, of the Florida Constitution provides that every person who has the legal or equitable title to real estate and maintains his or her permanent residence thereon is entitled to a homestead exemption. The specific requirements for obtaining this exemption are spelled out in ch. 196, F.S., including definitions of “permanent resident” and “permanent residence” and the criteria by which the property appraiser may determine permanent residency. Many other property tax exemptions are tied to the homestead exemption, including exemptions for certain permanently and totally disabled veterans and their surviving spouses (s. 196.081, F.S.), disabled veterans confined to wheelchairs (s. 196.091, F.S.), and totally and permanently disabled persons (s. 196.101, F.S.)

Mobile Homes
Mobile homes comprise a significant part of the housing stock of Florida. The 2000 Census reported 7,302,947 housing units in Florida, 849,304 of which were mobile homes, indicating that mobile homes were 11.6 percent of all housing units in the state. Under Florida law, mobile homes are subject to either a license tax or are real property subject to ad valorem taxation. The distinction between classes of mobile homes for purposes of taxation, based on ownership characteristics, was first introduced in a 1965 amendment to the Florida Constitution of 1885, as amended in 1929, and has been preserved to this day. Current law governing the taxation of mobile homes is found in s. 193.075, F.S., which provides for mobile homes to be taxed as real

property if the owner of the mobile home is also the owner of the real property to which the mobile home is permanently affixed. If a mobile home is not taxed as real property it must have a current license plate, as provided in s. 320.08(11), F.S.

Purchases of mobile homes are subject to state and local sales taxes. Purchases of real property are not subject to sales tax, but materials used in the construction of improvements to real property are taxable.

III. Effect of Proposed Changes:

CS for SB 8A provides relief for persons whose primary residences were damaged by a hurricane or tropical storm in 2004 by reimbursing some of the taxes levied on storm-damaged homesteads. In order to qualify for the reimbursement, the following conditions must exist:

- The homestead must have been damaged by a hurricane or tropical storm in 2004.
- The homestead must be uninhabitable for at least 60 days in 2004 due to the effects of the storm.
- The property owner must submit an application to the property appraiser by March 1, 2005, identifying the damaged property, the date the damage occurred, and the number of days the property was uninhabitable. Supporting documentation must accompany the application.

For purposes of this committee substitute "uninhabitable" means a building or structure cannot be used for the purpose for which it was constructed during a period of 60 days or more. If a property owner is living in an otherwise uninhabitable structure because alternative living quarters are not available the owner is eligible for reimbursement.

The property appraiser in each county is charged with investigating each application and determining whether the applicants are entitled to reimbursement. For each application eligible for reimbursement, the property appraiser must calculate each reimbursement as the amount equal to the total ad valorem taxes levied on the homestead property for 2004, multiplied by a ratio equal to the number of days the property was uninhabitable in 2004 divided by 366, not to exceed $1,500.

By April 1, 2005, the property appraiser must submit a list of property owners eligible for reimbursement to the Department of Revenue through an electronic, web-based application provided by the department. By this date the property appraiser must also notify by mail any applicant who is determined to be ineligible to receive the reimbursement for which he or she applied. The applicant may petition the value adjustment board (VAB) for a review of the property appraiser's decision, and the value adjustment board must consider these petitions as expeditiously as possible at the same time it considers denials of homestead exemptions.

By May 10, 2005, the property appraiser must notify the Department of Revenue of the total amount of reimbursements denied for which a VAB petition has been filed. The department must retain an amount equal to the total amount of claims denied for which petitions were filed, or $1 million, whichever is less. The retained amount shall be used for paying the claims that were denied by the property appraiser but granted by the VAB. With the amount not retained, the department must disburse reimbursement checks in the amounts and to the persons indicated in the lists provided by the property appraisers. If the total of all reimbursement requests exceeds the amount appropriated by the committee substitute less the amount retained, the Department of Revenue must make pro rata reductions in all reimbursement checks to stay within General Revenue appropriation provided by the committee substitute.

The Department of Revenue may not pay claims for reimbursement from the retained funds until all appeals to the VAB are final. If reimbursements made from the non-retained funds were reduced by the Department of Revenue, reimbursements granted by the VABs must be reduced by the same percentage. If the total adjusted reimbursements approved by the VABs exceed the amount retained by the department for paying the claims, the department shall further reduce all reimbursement checks by a percentage sufficient to reduce total reimbursement payments to equal the amount retained.

CS for SB 8A provides relief for persons who purchase replacement mobile homes if their mobile homes sustained major damage because of a hurricane or tropical storm. This relief is a reimbursement of state sales taxes paid on the replacement mobile home, up to $1,500. To qualify for reimbursement, the mobile home must be the permanent residence of a permanent resident of this state, and the mobile home owner must submit an application to the property appraiser by May 1, 2005, identifying the damaged mobile home, the date the damage occurred, and a copy of the invoice for the replacement mobile home. Supporting documentation must accompany the application.

For purposes of this committee substitute "major damage" means that a mobile home is more than 50 percent destroyed or that a mobile home cannot be inhabited an cannot be repaired for less than the amount of its value before it was damaged.

The property appraiser in each county is charged with investigating each application and determining whether the applicants are entitled to reimbursement. For each application eligible for reimbursement, the property appraiser must calculate each reimbursement as the amount of state sales tax paid on the purchase price of the replacement mobile home, not to exceed $1,500.

By June 1, 2005, the property appraiser must submit a list of mobile home owners eligible for reimbursement to the Department of Revenue through an electronic, web-based application provided by the department. By this date the property appraiser must also notify by mail any applicant who is determined to be ineligible to receive the reimbursement for which he or she applied. The applicant may petition the value adjustment board (VAB) for a review of the property appraiser's decision, and the value adjustment board must consider these petitions as expeditiously as possible at the came time it considers denials of homestead exemptions.

By July 10, 2005, the property appraiser must notify the Department of Revenue of the total amount of reimbursements denied for which a VAB petition has been filed. The department must retain an amount equal to the total amount of claims denied for which petitions were filed, or $665,000, whichever is less. The retained amount shall be used for paying the claims that were denied by the property appraiser but granted by the VAB. With the amount not retained, the department must disburse reimbursement checks in the amounts and to the persons indicated in the lists provided by the property appraisers. If the total of all reimbursement requests exceeds the amount appropriated by the committee substitute less the amount retained, the

Department of Revenue must make pro rata reductions in all reimbursement checks to stay within General Revenue appropriation provided by the committee substitute.

The Department of Revenue may not pay claims for reimbursement from the retained funds until all appeals to the VAB are final. If reimbursements made from the non-retained funds were reduced by the Department of Revenue, reimbursements granted by the VABs must be reduced by the same percentage. If the total adjusted reimbursements approved by the VABs exceed the amount retained by the department for paying the claims, the department shall further reduce all reimbursement checks by a percentage sufficient to reduce total reimbursement payments to equal the amount retained.

The committee substitute provides that anyone who knowingly and willfully makes a claim for reimbursement based on false information commits a first degree misdemeanor punishable as provided in s. 775.082, F.S., or by a fine of up to $5,000, or both. It also provides legislative intent that payments made to residents under this act shall be considered disaster-relief with the meaning of section 139 of the Internal Revenue Code.

The committee substitute appropriates $20 million for property tax reimbursements, $15 million for sales tax reimbursements, and $70,000 to the Department of Revenue for the costs of administering the reimbursement programs.

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:

Florida residents whose homesteads were made uninhabitable for at least 60 days by a hurricane or tropical storm in 2004 will be reimbursed for some of their ad valorem taxes for 2004. The amount of reimbursement will be based on the amount of taxes levied and the length of time the residence was uninhabitable, up to a cap of $1,500. Permanent residents whose mobile homes were severely damaged by a hurricane or tropical storm in 2004 will be reimbursed for the state sales tax paid on replacement mobile homes, up to $1,500.

C. Government Sector Impact:

This committee substitute provides General Revenue appropriations of $20 million for the partial reimbursement of ad valorem taxes, $15 million for sales tax reimbursements, and $70,000 to the Department of Revenue to administer these programs. Based on Red Cross damage assessments and property values in the most severely damaged counties, these amounts are expected to cover all applications for reimbursement and administrative costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.