

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 49 Ad Valorem Taxation

SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee; Eagle

TIED BILLS: **IDEN./SIM. BILLS:** SB 272

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| 1) Local, Federal & Veterans Affairs Subcommittee | 13 Y, 0 N | Darden | Miller |
| 2) Ways & Means Committee | | | |
| 3) Government Accountability Committee | | | |

SUMMARY ANALYSIS

The Florida Constitution authorizes local governments to levy ad valorem taxes and prohibits the state from levying ad valorem taxes on real and tangible personal property. All ad valorem taxation must be assessed based on the just value of the property. Ad valorem taxes are levied based on the assessed value, which is measured by applying any assessment limitation or use classification modifications to the just value of the property.

The bill provides for a disaster relief tax credit for the owners of residential properties rendered uninhabitable by a natural disaster. The affected property owner would submit an application to the property appraiser identifying the damaged property, the natural disaster that caused the damage, and the period of the time the property was uninhabitable. The property appraiser would verify the information contained in the application and submit to the tax collector the information necessary to calculate the value of the tax credit. The tax collector would calculate the value of the tax credit, apply the credit to taxes for the current tax year, and inform the Department of Revenue and the board of county commissioners of the total reduction in revenue from properties receiving the credit. The provisions of the bill would apply retroactively to January 1, 2016.

The bill does not appear to have a fiscal impact on state government. The bill may impact local government revenues to the extent residential property is rendered uninhabitable by natural disasters. The bill may impact local government expenditures to the extent the property appraiser will need to devote resources to calculating post-disaster just value.

The bill would take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and provides for specified assessment limitations, property classifications, and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Ad Valorem Process

Each property appraiser must complete an assessment of the value of all property⁶ within the appraiser's jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue (DOR).⁷ The taxable value of a residential parcel includes both the value of structures and other improvements on the parcel and the value of the land on which those structures and improvement sit.⁸ The property appraiser also ensures that all real property is listed on the real property assessment roll.⁹

The assessment roll must be submitted to DOR by July 1 of the assessment year to determine if the rolls meet all the appropriate requirements of law relating to form and just value.¹⁰ Assessment rolls include, in addition to taxable value, other information on the property located within the property appraiser's jurisdiction, such as just value, assessed value, and the amount of each exemption or discount.¹¹

The taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate (i.e., tax rate) that is levied on each property's taxable value.¹² Within 35 days of certification of the taxable value by the property appraiser (typically by August 4 of the assessment year), the taxing authority must advise the property appraiser of its proposed millage rates.¹³ The

¹ Art. VII, s. 1(a), Fla. Const.

² Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Art. VII, s. 4, Fla. Const.

⁴ Art. VII, ss. 3, 4, and 6, Fla. Const.

⁵ Section 196.031, F.S.

⁶ For purposes of clarity and administration of the tax credit, the bill distinguishes between a "residential parcel" and "residential improvement," avoiding the broad term "property." For appraisal purposes, a "residential parcel" includes the land and improvements. For readability, this analysis will use the broader term "property" unless the context requires otherwise.

⁷ Section 193.023(1), F.S.

⁸ See *The Appraisal Process and Your Taxes*, Hillsborough County Property Appraiser, available at <http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes> (last accessed Feb. 15, 2017) (process for calculating property tax values).

⁹ Section 193.085(1), F.S.

¹⁰ Section 193.1142(1)(a), F.S.

¹¹ Section 193.114, F.S.

¹² Section 200.065(2)(a)1., F.S.

¹³ Section 200.065(2)(b), F.S.

property appraiser uses the proposed millage rates provided by the taxing authorities to prepare the notice of proposed property taxes, commonly referred to as the Truth in Millage (TRIM) notice.¹⁴

Any property owner who disagrees with the assessment in the TRIM notice or who was denied an exemption or property classification may request an informal meeting with the property appraiser,¹⁵ appeal to the county value adjustment board (VAB),¹⁶ or challenge the assessment in circuit court.¹⁷

After challenges to assessed value of the property have been concluded, the VAB submits the VAB-adjusted assessment roll to the property appraiser¹⁸ and to the DOR.¹⁹ After making any adjustments to the assessment rolls caused by the VAB hearings, the property appraiser will certify the tax roll to the tax collector (typically before November 1 of the assessment year or as soon thereafter as the certified tax roll is received by the tax collector).²⁰

The tax collector will then send tax bills within twenty working days to the owners of all properties owing tax within his or her jurisdiction.²¹ Property taxes are due once a year, and can be paid beginning November 1st of the assessment year.²² Generally, taxes become delinquent if not paid in full as of April 1st of the year after assessment.²³ Delinquent taxes will accrue interest until paid,²⁴ and may accrue penalties in certain circumstances.²⁵

The following chart summarizes key dates in this process:²⁶

| Date | Entity | Action |
|----------------------------|--------------------|--|
| January 1 | Property Appraiser | Property value is determined as of this date ("assessment date") |
| July 1 | Property Appraiser | Submit assessment roll to DOR |
| July 1 | Property Appraiser | Certify taxable value to tax collector |
| August 24 | Property Appraiser | Mail TRIM notice to property owners |
| October 10 | Local Governments | Finalize millage rate |
| October 10 | Property Appraiser | Certifies assessment roll to tax collector |
| November 1 | Tax Collector | Sends notice of taxes |
| March 31 of following year | Property Owner | Pay tax bill |

Tax Relief for Natural Disasters

The Legislature has provided tax relief for the victims of natural disasters on at least four occasions.²⁷

For example, chapter 88-101, Laws of Fla., created s. 196.295(3), F.S., providing an abatement of taxes for properties damaged by windstorms or tornadoes.²⁸ To receive the abatement, the property owner was required to file an application with the property appraiser by March 1 of the year following the year in which the windstorm or tornado occurred.²⁹ After making a determination on the validity of

¹⁴ Section 200.069, F.S.

¹⁵ Section 194.011(2), F.S.

¹⁶ Section 194.011(3), F.S.

¹⁷ Section 194.171, F.S.

¹⁸ Section 193.122(2), F.S.

¹⁹ Section 193.122(1), F.S.

²⁰ Section 193.122(2), F.S.

²¹ Section 197.322(2), (3), F.S.

²² Section 197.333, F.S.

²³ *Id.*

²⁴ Section 197.152, F.S.

²⁵ See s. 196.161, F.S. (penalties for properties granted homestead exemption when homeowner was no a permanent resident).

²⁶ *Florida Property Tax Calendar*, Florida Department of Revenue, available at <http://floridarevenue.com/dor/property/cofficials/pdf/taxcalendar.pdf> (last assessed Feb. 6, 2017).

²⁷ Chapters 88-101, 98-185, 2004-474, and 2007-106 Laws of Fla.

²⁸ Section 196.295(3), F.S., *repealed* by ch. 92-173, s. 8, Laws of Fla.

²⁹ Section 196.295(3)(a), F.S., *repealed* by ch. 92-173, s. 8, Laws of Fla.

the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of the months the property was uninhabitable due to the damage or destruction, the value of the property prior to the damage or destruction, the total taxes due on the property as reduced by the number of months the property was uninhabitable, and the amount of the reduction in taxes.³⁰ Upon receipt of the official statement, the tax collector reduced the amount of taxes due on the property on the tax collection roll and informed the board of county commissioners and DOR of the total reduction in taxes for all property in the county receiving the abatement.³¹ The law was applied retroactively to January 1, 1988 and included a repeal effective of July 1, 1989.³² The language was removed from statute in 1992.³³

Effect of Proposed Changes

The bill creates s. 196.2003, providing a disaster relief tax credit for residential parcels on which the defined residential improvements were damaged or destroyed by a natural disaster.³⁴ If a residential improvement is rendered uninhabitable by a natural disaster, the property owner must submit an application to the property appraiser by March 1 of the year following the event to qualify for the disaster relief credit. Failing to file the application before March 1 constitutes a waiver of the credit.

The application must identify the residential parcel on which the residential improvement was damaged or destroyed by the natural disaster, the natural disaster that caused the damage, the date of the natural disaster, and the number of months the residential improvement was rendered uninhabitable during the year in which the damage occurred. The application must be verified under oath and is subject to the penalty of perjury.

Upon receipt of the application, the property appraiser investigates the statements contained therein and determines if the property owner qualifies for the disaster relief credit. If the property owner qualifies, the property appraiser shall issue an official written statement to the tax collector by April 1 containing:

- The number of months during the calendar year the residential improvement was uninhabitable.³⁵
- The just value of the residential parcel on January 1 of the year in which the natural disaster occurred.
- The post-disaster just value of the residential parcel, reflecting the damage caused by a natural disaster.³⁶
- The percentage difference between the residential parcel's just value as of January 1 of the year in which the natural disaster occurred and the post-disaster just value of the parcel.

The tax collector, after receiving the written statement from the property appraiser, is responsible for calculating the difference in values of the residential parcel as a result of the disaster and using this figure to calculate the disaster relief tax credit. The amount of the disaster relief tax credit is subtracted from the amount of property taxes due in the year in which application is made for the credit. If the value of the disaster relief tax credit is greater than amount of property taxes due, the difference can be carried over and used to reduce property tax liability in subsequent tax years.

By May 1, the tax collector must notify DOR and the governing board of each affected local government of the total reduction in taxes for all property receiving a credit pursuant to this section.

³⁰ Section 196.295(3)(d), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

³¹ Section 196.295(3)(e)-(f), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

³² Section 196.295(3)(h), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

³³ Chapter 92-173, s. 8, Laws of Fla.

³⁴ The bill defines a "natural disaster" as an event for which the Governor has declared a state of emergency under s. 252.36, F.S. or a sinkhole as defined in s. 627.706(2)(h), F.S..

³⁵ Under the bill, periods of at least 16 days are considered a full month for the purpose of calculating the credit.

³⁶ For the purposes of calculating the post-disaster just value of the property, uninhabitable improvements are treated as having no value.

The bill also provides for retroactivity of this section for natural disasters that occurred in 2016. The deadline for applying for the disaster relief tax credit on properties damaged by natural disasters in 2016 is March 1, 2018. This subsection expires to January 1, 2020.

B. SECTION DIRECTORY:

Section 1: Creates s. 196.2003, F.S., providing a property tax credit for residential property rendered uninhabitable by a natural disaster.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may impact local government revenues to the extent residential property is rendered uninhabitable by natural disasters and affected property owners seek and receive the tax credit.

2. Expenditures:

The bill may impact local government expenditures to the extent the property appraiser will need to devote resources to calculating post-disaster just value.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 15, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted a strike-all amendment to the proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute revised the definition of natural disaster to include events for which the Governor has declared a state of emergency and to provide a definition for sinkhole. The committee substitute clarifies that the property appraiser shall place no taxable value on the damaged structure for the period the structure was uninhabitable. The committee substitute also makes technical corrections to more clearly define the process for calculating the tax credit. This analysis is drafted to the committee substitute as passed by the Local, Federal & Veterans Affairs Subcommittee.