

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1610

INTRODUCER: Appropriations Committee; Finance and Tax Committee; and Senator Rodriguez and others

SUBJECT: Abatement of Ad Valorem Taxes and Non-ad Valorem Assessments for Residential Improvements Destroyed Due to a Sudden and Unforeseen Collapse

DATE: March 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	<u>Gross</u>	<u>Sadberry</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1610 provides property tax relief to parcel owners affected by a sudden and unforeseen collapse of a residential building. The bill requires the tax collector to abate all property taxes and non-ad valorem assessments for each affected parcel and the property appraiser must notify all parcel owners of the abatement. Parcel owners are not required to remit payment and tax collectors and property appraisers may not issue tax notices.

The section of the Florida Statutes being created by the bill is repealed December 31, 2023, unless reenacted by the Legislature.

The Revenue Estimating Conference estimated that the bill will reduce local property tax revenue by \$0.8 million in Fiscal Year 2022-2023 and by an insignificant amount each year thereafter. School district revenue is estimated to decrease by \$0.3 million in Fiscal Year 2022-2023.

The bill takes effect upon becoming a law and applies retroactively to January 1, 2021.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.⁷

Tax Abatement for Natural Disasters

The Legislature has provided tax relief for property damaged by natural disasters on at least five occasions.⁸ In 1988, the Legislature provided an abatement of taxes for properties damaged by windstorms or tornadoes.⁹ 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.¹⁰ After making a determination on the validity of the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of months the property was uninhabitable due to the damage or

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art. VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4.

⁸ Chapters 88-101, 98-185, 2004-474, 2007-106, and 2018-118, Laws of Fla.

⁹ Section 196.295(3), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

¹⁰ Section 196.295(3)(a), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

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.¹¹

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 the Department of Revenue (DOR) of the total reduction in taxes for all property in the county receiving the abatement.¹² The law was applied retroactively to January 1, 1988, and included a repeal effective July 1, 1989.¹³ The language was removed from statute in 1992.¹⁴

Most recently, the Legislature applied a similar process to abate taxes for homestead parcels damaged or destroyed by Hurricanes Hermine and Matthew in 2016 or Hurricane Irma in 2017. If the residential improvement was rendered uninhabitable for at least 30 days due to such a hurricane, taxes initially levied in 2019 could be abated.¹⁵ The Legislature was required to appropriate funds to fiscally constrained counties to offset the reduction in ad valorem tax revenue resulting from the abatement.¹⁶

The Value Adjustment Board Process

Each county has a Value Adjustment Board (VAB), comprised of two members of the governing body of the county, one member of the school board, and two citizen members appointed by the governing body of the county.¹⁷ The county clerk acts as the clerk of the VAB.¹⁸ A property owner may initiate an assessment valuation challenge by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.¹⁹

The clerk of the VAB will schedule the petition for a hearing, during which a special magistrate will hear testimony and make a recommendation to the VAB on how the petition should be resolved.²⁰ The VAB renders a written decision within 20 calendar days after the last day the VAB is in session.²¹ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.²² The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB.²³

¹¹ Section 196.295(3)(d), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

¹² Section 196.295(3)(e)-(f), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

¹³ Section 196.295(3)(h), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

¹⁴ Chapter 92-173, s. 8, Laws of Fla.

¹⁵ Chapter 2018-118, s. 17, Laws of Fla. enacting s. 197.318, F.S.

¹⁶ Section 218.135, F.S., (2018) (Repealed 2019).

¹⁷ Section 194.015, F.S.

¹⁸ *Id.*

¹⁹ Section 194.011(3)(d), F.S. With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser.

²⁰ Section 194.035, F.S.

²¹ Section 194.034(2), F.S.

²² *Id.*

²³ *Id.*

Champlain Towers South

On the morning of June 24, 2021, a 12-story condominium in Surfside, Florida unexpectedly experienced structural failure and partially collapsed, resulting in the death of ninety-eight people. The standing portion of the building, rendered uninhabitable, was demolished 10 days later.

Alongside an extensive emergency management effort, the Governor issued Executive Order 21-160 to suspend deadlines related to property tax administration for taxpayers whose property was destroyed or rendered uninhabitable by the collapse.²⁴ The suspensions include deadlines regarding the notification and collection of ad valorem taxes. The executive order also requested “the Florida Legislature to explore additional legislative acts as may be necessary to alleviate the taxpayers’ property tax obligations.”²⁵

III. Effect of Proposed Changes:

The bill creates s. 197.319, F.S., to provide tax relief to parcel owners affected by a sudden and unforeseen collapse of a residential building. The bill requires the tax collector to abate all taxes and non-ad valorem assessments for destroyed parcels and the property appraiser must notify the owners of the abatement.

The bill defines “residential improvement” to mean a multistory residential building comprised of at least 50 dwelling units. The condition of the residential improvement on the January 1 of the year the property was destroyed must have been in such a state that the residential improvement had no value due to a latent defect of the property not readily discernable by inspection.

Parcel owners whose property tax is abated are not required to make a payment and property appraisers and tax collectors are prohibited from issuing tax notices.

The bill requires value adjustment boards to dismiss petitions from parcel owners challenging the value of the parcel for the year of the collapse.

For purposes of determining the “Save Our Homes” assessment limitation for property newly homesteaded by an affected parcel owner, the property appraiser shall look to the just value and assessed value of the destroyed parcel on the January 1 of the year preceding the year of the destruction.

The bill requires tax collectors to refund tax payments made for taxes levied in the year of collapse.

The section of the Florida Statutes being created by the bill is repealed December 31, 2023, unless reenacted by the Legislature.

²⁴ Executive Order 21-160, Office of the Governor, Jul. 9, 2021, *available at*: <https://www.flgov.com/wp-content/uploads/2021/07/EO-21-160.pdf> (last visited January 20, 2022).

²⁵ *Id.*, s.2.

The bill takes effect upon becoming a law and applies retroactively to January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 (b) of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact,^{26, 27} which for Fiscal Year 2022-2023, is forecast at \$2.3 million.²⁸

The Revenue Estimating Conference's estimate of the reduction to local property tax revenue is less than \$2.3 million. Therefore, this bill is not a mandate subject to the provisions of Article VII, s. of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise a state tax or fee. Therefore, the requirements of Article VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimated that the bill will reduce local property tax revenue by \$0.8 million in Fiscal Year 2022-2023 and by an insignificant amount each

²⁶ FLA. CONST. art. VII, s. 18(d).

²⁷ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.fl.senate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 26, 2022).

²⁸ Based on the Demographic Estimating Conference's population estimates adopted on March 3, 2021. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/archives/210303demographic.pdf> (last visited Jan. 26, 2022).

year thereafter. School district revenue is estimated to decrease by \$0.3 million in Fiscal Year 2022-2023.

B. Private Sector Impact:

Property owners who apply for and receive the tax abatement authorized by the bill will benefit by a reduced tax burden.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 197.319 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on February 28, 2022:

The committee substitute makes technical changes to clarify that a property appraiser should look to the value of the destroyed parcel to determine the Save Our Homes benefit that can be transferred to a new homestead. The CS clarifies that eligible persons may receive a refund of non-ad valorem assessments, along with property taxes.

CS by Finance and Tax on February 10, 2022:

The CS:

- Abates all taxes and non-ad valorem assessments for property destroyed by a sudden and unforeseen collapse.
- Defines a residential improvement as a multistory residential building consisting of at least 50 dwelling units.
- Requires the condition of the building on the January 1 immediately preceding the collapse to have had no value due to a latent defect not readily discernable by inspection.
- Does not require parcel owners to remit a payment.
- Prohibits property appraisers and tax collectors to issue tax notices.

- Requires the property appraiser to notify the taxpayer that all taxes and non-ad valorem assessments have been abated for the year in which the property was destroyed.
- Requires the value adjustment board to dismiss petitions pertaining to a challenge by a parcel owner.
- Instructs property appraisers to use the values from the year before the collapse to determine the assessed value for those who establish a new homestead and wish to transfer their “Save Our Homes” benefit to the new property.
- Requires tax collectors to refund any payments made for the taxes levied in the year in which the property collapsed.
- Repeals this section December 31, 2023, unless reviewed and saved from repeal.

B. Amendments:

None.