

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 71 Abatement of Taxes for Residential Dwellings Rendered Uninhabitable by Catastrophic Event

SPONSOR(S): Local Administration & Veterans Affairs Subcommittee, Woodson and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 568

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|---------|--|
| 1) Local Administration & Veterans Affairs Subcommittee | 16 Y, 0 N, As CS | Darden | Miller |
| 2) Ways & Means Committee | | | |
| 3) State Affairs 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 (i.e., market value) of the property. The taxable value on which actual tax levies are made reflects reductions to just value by applying any applicable assessment limitations, use classification modifications, and exemptions.

The bill provides an abatement to owners of residential properties rendered uninhabitable by a catastrophic event. The amount of the abatement reflects the reduction in a property's just value as a result of a catastrophic event for the portion of the calendar year that the property is uninhabitable. The amount of the abatement is determined by applying this reduction to the taxes initially levied on a property in year the catastrophic event occurred.

The bill defines "catastrophic event" as an event of misfortune or calamity that renders one or more residential improvements uninhabitable, excluding events caused by the property owner with the intent to damage or destroy the residential improvement. In order to apply for the abatement, an owner of damaged property must submit an application to the property appraiser identifying the property damaged, the date of the catastrophic event, and the period of time the property was uninhabitable. The property appraiser then verifies the information contained in the application, determines the value reduction attributable to the catastrophic event, and submits the information to the tax collector. The tax collector uses the information submitted to calculate the value of the abatement, and processes a refund for the amount of the abatement. The bill applies retroactively to January 1, 2021.

The bill does not appear to have a fiscal impact on state government. The Revenue Estimating Conference estimates the bill will reduce local government revenues by \$9.5 million in FY 2022-23, \$5.1 million in FY 2023-24, and increasing each year thereafter to approximately \$6.0 million by FY 2026-27.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

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

Appraisers must submit their assessment rolls 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

Each 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 S. 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 S. 196.031, F.S.

⁶ For purposes of clarity and administration of the tax abatement, 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 S. 193.023(1), F.S.

⁸ See *The Appraisal Process and Your Taxes*, Hillsborough Cnty. Prop. Appraiser, <http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes> (last visited Feb. 8, 2022) (process for calculating property tax values).

⁹ S. 193.085(1), F.S.

¹⁰ S. 193.1142(1)(a), F.S.

¹¹ S. 193.114, F.S.

¹² S. 200.065(2)(a)1., F.S.

¹³ S. 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 the assessed value of the property have been concluded, the VAB submits the VAB-adjusted assessment roll to the property appraiser and to DOR.¹⁸ After making any adjustments to the assessment rolls caused by 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).¹⁹

The tax collector will then send tax bills within 20 working days to the owners of all properties owing tax within his or her jurisdiction.²⁰ Property taxes are due once a year, and can be paid beginning November 1st of the assessment year.²¹ Generally, taxes become delinquent if not paid in full as of April 1st of the year after assessment.²² Delinquent taxes will accrue interest until paid,²³ and may accrue penalties in certain circumstances.²⁴

Tax Relief for Natural Disasters

The Legislature has provided tax relief for the victims of natural disasters on at least five occasions.²⁵

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.²⁶ 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.²⁷ 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 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.²⁸ 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.²⁹ The law was applied retroactively to January 1, 1988 and included a repeal effective of July 1, 1989.³⁰ The language was removed from statute in 1992.³¹

Effect of Proposed Changes

The bill provides an abatement to owners of residential properties rendered uninhabitable by a catastrophic event. The bill defines a “catastrophic event” as an event of misfortune or calamity that

¹⁴ S. 200.069, F.S.

¹⁵ S. 194.011(2), F.S.

¹⁶ S. 194.011(3), F.S.

¹⁷ S. 194.171, F.S.

¹⁸ S. 193.122(1), (2), F.S.

¹⁹ S. 193.122(2), F.S.

²⁰ S. 197.322(2), (3), F.S.

²¹ S. 197.333, F.S.

²² *Id.*

²³ S. 197.152, F.S.

²⁴ See s. 196.161, F.S. (penalties for properties granted homestead exemption when homeowner was not a permanent resident).

²⁵ Chs. 88-101, 98-185, 2004-474, 2007-106, and 2018-118, Laws of Fla.

²⁶ S. 196.295(3), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

²⁷ S. 196.295(3)(a), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

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

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

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

³¹ Ch. 92-173, s. 8, Laws of Fla.

renders one or more residential improvements uninhabitable, excluding events caused by the property owner with the intent to damage or destroy the residential improvement.

If a residential improvement is rendered uninhabitable by a catastrophic event, the property owner must submit an application to the property appraiser either:

- Within 30 days of the date the dwelling is restored to an inhabitable condition, if the restoration happens prior to December 1 of the year the catastrophic event occurs; or
- No later than March 1 of the year immediately following the catastrophic event.³²

The application must identify the residential parcel containing the residential improvement was damaged or destroyed by the catastrophic event, the date of the catastrophic event, and the number of days the residential improvement was rendered uninhabitable. The application must be verified under oath and is subject to 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 catastrophic event abatement. If the property owner qualifies, the property appraiser must issue an official written statement to the tax collector within 30 days of making the determination, but no later than April 1 of the year following the catastrophic event, containing:

- The number of days during the calendar year that the residential improvement was uninhabitable;
- The just value of the residential parcel on January 1 of the year in which the catastrophic event occurred;
- The just value of the residential parcel after the catastrophic event, reflecting the damage caused by a natural disaster; and
- The percentage difference between the residential parcel's just value as of January 1 of the year in which the catastrophic event occurred and the just value of the parcel after the event.

The tax collector uses the property appraiser's written statement to calculate the value of the catastrophic event abatement. The amount of the abatement is determined in a two-step process. First, a "damage differential" is calculated as the percentage reduction in a property's just value due to the catastrophic event, multiplied by the proportion of calendar year (measured in days) that the property was uninhabitable. Second, the abatement is calculated by multiplying the damage differential by the amount of timely paid taxes that were initially levied in the year the catastrophic event occurred.

After determining the value of the credit, the tax collector issues a refund to the property owner for the amount of the abatement.

By September 1 of each year, 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 an abatement pursuant to the new section.

The bill applies retroactively January 1, 2021.

B. SECTION DIRECTORY:

- Section 1: Amends s. 194.032, F.S., concerning value adjustment board hearings.
- Section 2: Creates s. 197.319, F.S., concerning the abatement of taxes for residential improvements rendered uninhabitable by a catastrophic event.
- Section 3: Provides that notwithstanding the application deadline in section 2 of the bill, the deadline to file for abatement for catastrophic events that occurred in 2021 is June 1, 2022.

³² The bill provides a deadline of June 1, 2022 for catastrophic events that occurred during 2021.

- Section 4: Authorizes the Department of Revenue to adopt emergency rules for the purpose of implementing the bill.
- Section 5: Provides that the bill takes effect upon becoming law and shall apply retroactively to January 1, 2021.

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 Revenue Estimating Conference estimates the bill will reduce local government revenues by \$9.5 million in FY 2022-23, \$5.1 million in FY 2023-24, and increasing each year thereafter to approximately \$6.0 million by FY 2026-27.

2. Expenditures:

The bill may impact local government expenditures to the extent the property appraiser will need to devote resources to calculate a revised just value after a catastrophic event.

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 county/municipality mandates provision of Art. VII, subsection 18(b), of the Florida Constitution may apply because this bill reduces local government's ability to collect ad valorem taxes. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt emergency rules for the purpose of implementing the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 14, 2022, the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS clarifies definitions, establishes timeframes for submitting an application for abatement and for required reporting, provides the Department of Revenue with emergency rulemaking authority, and conforms a cross-reference.

This analysis is drafted to the committee substitute adopted by the Local Administration & Veterans Affairs Subcommittee.