

STORAGE NAME: h4261z.ca
DATE: June 22, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: 1ST ENG/HB 4261
RELATING TO: Ad Valorem/Tornado Damaged Property
SPONSOR(S): Representative Bronson and other
COMPANION BILL(S): SB 1954 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (2) FINANCE AND TAXATION YEAS 13 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

On April 1, 1998, HB 4261 was referred to the House Committees on Community Affairs and Finance and Taxation. On April 15, 1998, the Community Affairs Committee passed the bill and adopted one amendment that traveled with the bill. On April 21, 1998, the Finance and Taxation Committee passed HB 4261 and adopted one amendment to the traveling amendment, clarifying the retroactive intent of the bill and two additional amendments, relating to "natural disasters." The amendments traveled with the bill. HB 4261 was placed on the Consent Calendar on April 23, 1998. The two "natural disaster" amendments failed to pass while the "retroactive" amendment was adopted on April 24, 1998. The House passed the bill as amended by a vote of 119 YEAS and 0 NAYS. HB 4261 was substituted for SB 1954 and on April 30, 1998, the Senate passed the bill by a vote of 38 YEAS and 0 NAYS. The bill became law without the Governor's signature on May 23, 1998 as chapter 98-185, Laws of Florida.

II. SUMMARY:

This bill allows a partial abatement of ad valorem taxes for residential property destroyed or damaged by a tornado. The bill establishes a procedure for obtaining such partial abatements.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

All real and tangible personal property which is substantially complete or acquired is assessed for ad valorem purposes on January 1 of each year. Property owners are billed for taxes in November of that year, and have until April of the following year to pay. If structures on the property are damaged by a natural or manmade disaster, the assessed value of the property remains as it was established on January 1 of that year. The property is reassessed the following January 1, with changes to the property as an essential consideration in the reassessment. There is currently no mechanism for property tax abatement or rebate on property damaged by natural or manmade disaster.

However, chapter 88-101, Laws of Florida, provided for property tax abatement for residential buildings and structures damaged by tornadoes or windstorms during tax years 1988 and 1989. Chapter 85-322, Laws of Florida, also provided for property tax abatement of residential buildings and structures damaged by fire during tax years 1985 and 1986.

On February 3, 22, and 23, 1998, a number of tornadoes caused extensive damage to property in seven counties in South and Central Florida. As a result, many residences became and continue to be uninhabitable. The Department of Community Affairs estimates that 4,755 houses, apartments, and mobile homes were damaged or destroyed in these two storms. In Osceola County, the property appraiser indicates that 1060 residences were damaged or destroyed during the February 22-23 tornadoes, resulting in \$11.3 million in property value losses.

B. EFFECT OF PROPOSED CHANGES:

This bill creates a process for obtaining a partial abatement of ad valorem taxes for a residential building damaged or destroyed by a tornado.

To qualify for the tax abatement, the building must be incapable of being used and occupied. Property owners must file an application with the property appraiser before March 1, following the year in which the destruction or damage occurred. The property appraiser must determine whether the property is eligible for a partial abatement, and submit an official written statement to the tax collector with the following information:

- The number of months the building was not capable of use and occupancy;
- The value of the building or structure before the damage or destruction;
- The total taxes due on building or structure, based on the ratio that the number of months of loss of use and occupancy bears to 12; and
- The amount of reduction in taxes.

The tax collector is then responsible for reducing the taxes on the property on the tax roll to the amount specified by the property appraiser. By May 1, the tax collector must notify the Board of County Commissioners and the Department of Revenue of the total reduction in taxes resulting from the partial abatement of taxes granted in the county.

“Loss of use and occupancy” is defined to mean that the building or structure, or some self-sufficient unit within it, cannot be used for the purpose for which it was constructed

during a period of 60 days or more. The bill specifies that "house or other residential building or structure" does not include amenities not essential to use and occupancy, such as detached utility buildings, bulkheads, fences, detached carports, swimming pools, or other similar items or property.

The provisions of this bill are retroactive to January 1, 1998 and apply only to ad valorem taxes levied in 1998. The provisions of this bill expire July 1, 1999.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill requires county property appraisers to process applications for partial tax abatements from residential owners whose property has been destroyed or damaged by a tornado. The bill further requires county tax collectors to adjust the tax roll for each application approved.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

Yes. The bill fails to provide how the tax abatements will be funded. By providing for a partial abatement of taxes on certain destroyed properties, the bill also has the effect of reducing ad valorem taxes.

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. Owners of residential structures made uninhabitable by a tornado may be eligible to receive partial property tax abatement on their property.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

None.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Creates provisions that allow a partial abatement of ad valorem taxes for residential property destroyed or damaged by a tornado; provides a July 1, 1999, expiration date.

Section 2: Provides that this bill takes effect upon becoming law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None, unless there is a General Revenue appropriations to recompense the lost tax revenues due to the tax abatement.

2. Recurring Effects:

None, unless there is a General Revenue appropriations to recompense the lost tax revenues due to the tax abatement.

3. Long Run Effects Other Than Normal Growth:

None, unless there is a General Revenue appropriations to recompense the lost tax revenues due to the tax abatement.

4. Total Revenues and Expenditures:

None, unless there is a General Revenue appropriations to recompense the lost tax revenues due to the tax abatement.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

This bill grants a temporary abatement of property taxes on residential property destroyed by a tornado. Thus, there will be a reduction in local revenues, if the local government does not increase the millage rate to offset this loss. SEE AMENDMENTS SECTION.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Property owners may seek temporary ad valorem tax relief in the wake of crippling destruction and damage to their residential structures caused by recent tornados. SEE AMENDMENTS SECTION

3. Effects on Competition, Private Enterprise and Employment Markets:

The bill may stimulate the construction industry economy by assisting property owners in financing repairs.

D. **FISCAL COMMENTS:**

While the bill does not specify where the abated taxes would come from, it is presumed that funds would come from those taxing authorities which levy the tax. These taxing authorities (including counties, cities, school boards, and special district) may either have to cut their budgets or may increase property taxes in the following fiscal year to cover their financial losses.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

Under the bill, counties are responsible for the cost of processing applications for an ad valorem tax abatement relating to residential property damaged by tornados. However, the cost of such processing is likely to be insignificant or less than \$1.4 million. As such, counties and cities are exempt from the provisions of Article VII, section 18, of the Florida Constitution.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

Article VII, section 18, subsection (b), of the Florida Constitution, requires two-thirds vote of the membership of each house in order to enact a general law reducing the authority that counties and cities had on February 1, 1989, to raise revenues in the aggregate. By providing for a partial abatement of taxes on certain destroyed

properties, the bill also has the effect of reducing ad valorem taxes. However, since the annual local revenue loss is estimated to be less than \$1.4 million, the bill is exempt from the requirements of subsection (b) due to insignificant fiscal impact.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 15, 1998, the House Committee on Community Affairs adopted an amendment clarifying that the bill's provisions must apply to ad valorem taxes levied in 1998. The amendment is traveling with the bill.

On April 21, 1998, the House Committee on Finance and Taxation adopted one amendment to the traveling amendment and two additional amendments.

The amendment to the amendment clarifies that the bill is intended to be retroactive to January 1, 1998.

The two additional amendments expand the scope of this bill by replacing the words "tornado" and "tornadoes" with the phrase "hurricane, sinkhole, tornado, flood, or other natural disaster." These amendments increase the fiscal impact of the bill. The Revenue Estimating Conference estimates that this bill, as amended, will reduce local revenues by 50 million in the 1998 tax year. As such, the bill as amended is a mandate and will need to be passed by a two-thirds majority in both houses.

The bill as amended does not provide a definition of "natural disaster". This may cause problems in interpretation as each property appraiser will need to determine what events and circumstances constitute a natural disaster. In addition, the expansion of this partial abatement of ad valorem taxes increases the volatility of the tax rolls as massive reductions in the local tax roll may occur after the local taxing authorities have set their millage rates.

On April 24, 1998, the House adopted amendment one clarifying that the bill is intended to be retroactive and apply only to ad valorem taxes levied in 1998. In addition, the House failed to adopt amendments two and three adding "other natural disasters" to the provisions of this bill.

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VIII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Nayola R. Frazier

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Legislative Research Director:

Kama D.S. Monroe, Esq.

Keith G. Baker, Ph.D.

FINAL RESEARCH PREPARED BY COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Legislative Research Director:

Nayola R. Frazier

Joan Highsmith-Smith