STORAGE NAME: h1771.ft
DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FINANCE AND TAXATION
ANALYSIS**

BILL #: HB 1771

RELATING TO: Local Government/Tax Certificates & Deeds

SPONSOR(S): Representative Sublette

COMPANION BILL(S): SB 1534 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY AFFAIRS YEAS 9 NAYS 0
(2) FINANCE AND TAXATION
(3)
(4)
(5)

I. SUMMARY:

The bill authorizes a board of county commissioners to sell real property which is of insufficient size and shape for a building permit for any type of development.

The bill increases the authorization of a board of county commissioners to sell any parcel of real property valued at less than $10,000.

The bill reduces the time before which a tax certificate becomes void from 7 years to 4 years.

The bill revises the time which needs to lapse prior to the tax certificate holder filing an application for a tax deed with the tax collector. The bill reduces the time within which the tax certificate holder, other than a county, must file an application for a tax deed. An application must be filed prior to the tax certificate expiring in 4 years.

The bill requires a county to make applications for deeds on all certificates on property within one year after April 1 of the year of issuance of the tax certificate.

The bill changes the event which starts the 90-day period in which the county may purchase land that was not purchased at a public sale. The bill provides that the 90 days begin when the land is listed on the "lands available for taxes" list.

The bill expands who may purchase the property after the 90 days has run to include the county and any other governmental unit. The bill allows the omitted years' taxes (taxes which have not been extended against parcels on the list are treated as omitted taxes) to be canceled by the board of county commissioners if a governmental body purchases the property for its own use.

The bill decreases the period of when the property will escheat to the State from 7 years to 3 years from the day the land was offered for public sale.

The bill provides that the board of county commissioners may cancel county-held tax certificates and omitted years' taxes on properties acquired by the county for the express purpose of providing infill housing. The bill prohibits the transfer of property acquired for infill housing from being transferred to a taxpayer who failed to pay the delinquent taxes or charges that led to the tax certificate or lien. The bill defines tax payer to include taxpayer's family or any entity in which the taxpayer or taxpayer's family has an interest.

The bill provides that property acquired by the county for delinquent taxes, when such property is acquired for infill housing, does not have to be conveyed to a municipality even if located in the municipality.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 125.35, Florida Statutes, describes the procedures for the sale of real and personal property by counties. Pursuant to subsection (2), a board of county commissioners may sell real property in a private sale when the property is valued at less than $5,000 *and* that property is of such a size, shape, and location that the board determines it is only of use to one or more adjacent property owners. When the board is selling property pursuant to this section, the board is required to send notice of its intended action to adjacent property owners, and may sell the property without receiving bids or publishing notices. If more than one adjacent property owner notifies the board of its desire to purchase the property, the owners then submit sealed bids for the parcel. The board may convey the property to the highest bidder or may reject all offers.

Section 196.001, Florida Statutes, requires ad valorem taxation, unless expressly exempt, of all real and personal property in this state. Property is taxed as either real property, personal property, or intangible personal property.

Chapter 197, Florida Statutes, is the exclusive method for enforcing liens created through the sale of tax certificates for unpaid ad valorem taxes and special assessments. Section 197.333, Florida Statutes, provides that all taxes are due and payable on November 1 of each year, or as soon thereafter as the certified tax roll is received by the tax collector. Taxes become delinquent on April 1 following the year in which they are assessed or immediately after 60 days have expired from the mailing of the original tax notice, whichever is later. Tax collectors have the authority and the obligation to collect all ad valorem taxes by the date of delinquency or to collect delinquent ad valorem taxes by sale of tax certificates on the real property. As defined in s. 197.102(3), Florida Statutes, a tax certificate is a legal document, representing unpaid delinquent real property taxes and related costs and charges, issued against a specific parcel of real property and becoming a first lien thereon, superior to all other liens.

Section 197.482, Florida Statutes, provides that a tax certificate is “null and void” if a tax deed has not been applied for 7 years after a tax certificate was issued on the property.

Section 197.502, Florida Statutes, governs the process for obtaining tax deeds by holders of tax sale certificates for real property. This section provides different processes for county and non-county holders of tax sale certificates. Subsection (1) provides that noncounty tax certificate holders may apply for a tax deed on that property between 2 to 7 years after the certificate was issued. Subsection (3) provides that county tax certificate holders must apply for a tax deed on property valued at or over $5,000, and may apply for a tax deed on property valued under $5,000, 2 years after the certificate was issued.

Subsection (6) of s. 197.503, Florida Statutes, provides guidelines for the public sale of property with matured tax certificates against it. The opening bid on county held certificates on non-homesteaded property is the sum of the value of all outstanding certificates against the land, plus omitted years’ taxes, delinquent taxes, interest, and all costs and fees paid by the county. The opening bid on non-homestead property includes the amount of money paid to the tax collector by the certificate holder at the time of application, the amount required to redeem the applicant’s tax certificate, and all other costs and fees paid by the applicant. The opening bid on homestead property includes the amount of money required for an opening bid on non-homesteaded property and an amount equal to one-half of the latest assessed value of the homestead.

Subsection (7) of s. 197.503, Florida Statutes, states that if there are no bidders at the public sale, the property is listed as “land available for taxes” and the clerk must notify the county commission and all persons holding the certificates against the land that the land is available. At any time within 90 days of the public sale, the county may purchase the land for the opening bid. After 90 days, any person or governmental unit may purchase the land for the opening bid. If the land is not bought, subsection (8) provides that 7 years from the day the land was offered for public sale, ownership of the land is transferred to the county, and all tax certificates and liens against the property are canceled.

Section 197.592, Florida Statutes, provides that the county may return land it has acquired for delinquent taxes, under certain conditions, to the record fee simple owner on the date the county obtained title to the land. Property not sold, dedicated by the county, or conveyed to the previous owner, if located in a municipality, must be conveyed to that municipality.

Section 197.447, Florida Statutes, provides procedures for the cancellation of tax liens by the county commission on property acquired by the U.S. Government for a variety of public purposes.

B. EFFECT OF PROPOSED CHANGES:

The bill authorizes a board of county commissioners to sell real property which is of insufficient size and shape for a building permit for any type of development, and is of such a size, shape, and location that the board determines it is only of use to one or more adjacent property owners.

The bill increases the authorization of a board of county commissioners to sell any parcel of real property from property valued at less than $5,000 to property valued at less than $10,000. The property must be of such a size, shape, and location that the board determines it is only of use to one or more adjacent property owners.

The bill reduces the time before which a tax certificate becomes void from 7 years to 4 years.

The bill revises the time which needs to lapse prior to the tax certificate holder filing an application for a tax deed with the tax collector from 2 years to 1 year. The bill reduces the time within which the tax certificate holder, other than a county, must file an application for a tax deed from 7 years to 4 years. An application must be filed prior to the tax certificate expiring in four years.

The bill requires a county to make applications for deeds on all certificates on property within 1 year after April 1 of the year of issuance of the tax certificate.

The bill changes the event which starts the 90-day period in which the county may purchase land which was not purchased at a public sale. The bill provides that the 90 days begin when the land is listed on the “lands available for taxes” list, not 90 days after the day of offering for public sale.

The bill expands who may purchase the property after the 90 days has run to include the county and any other governmental unit. The bill allows the omitted years’ taxes (taxes which have not been extended against parcels on the list are treated as omitted taxes) to be canceled by the board of county commissioners if a governmental body purchases the property for its own use.

The bill decreases the period of when the property will escheat to the State from 7 years to 3 years from the day the land was offered for public sale.

The bill provides that the board of county commissioners may cancel county-held tax certificates and omitted years’ taxes on properties acquired by the county for the express purpose of providing infill housing. The bill prohibits the transfer of property acquired for infill housing from being transferred to a taxpayer who failed to pay the delinquent taxes or charges that led to the tax certificate or lien. The bill defines taxpayer to include taxpayer’s family or any entity in which the taxpayer or taxpayer’s family has an interest.

The bill provides that property acquired by the county for delinquent taxes, when such property is acquired for infill housing, does not have to be conveyed to a municipality even if located in the municipality.

The bill makes technical changes to current statutory language.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

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. This bill increases the board of county commissioners' authorization to sell real property. The board will now be able to sell any real property valued at under $10,000 which is of such a size, shape, and location that the board determines it is only of use to one or more adjacent property owners. In addition, the board may sell any parcel of real property which is of insufficient size and shape for a building permit for any type of development and which is of such a size, shape, and location that the board determines it is only of use to one or more adjacent property owners.

Owners of tax certificates are required to file an application for a tax deed within 4 years of its issuance, rather than 7 years. After the expiration of 4 years from the date of issuance, the tax certificate is canceled by the tax collector. The bill requires the tax certificate holder to act more promptly (4 rather than 7 years), or lose its right to file an application for a tax deed.

(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?

None.

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

None.

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

Not Applicable.

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?

No.

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

No.

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?

No.

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?

No.

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:

Subsection 125.35(2), Florida Statutes; section 197.482, Florida Statutes; subsection 197.502 (1), (3), (7), (8), & (11), Florida Statutes; subsection 197.592(3), Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends subsection (2) of section 125.35, Florida Statutes, to authorize a board of county commissioners to sell real property which is of insufficient size and shape for a building permit for any type of development or when the real property is valued at less than $10,000.

Section 2: Amends section 197.482, Florida Statutes, by reducing the time in which a tax certificate becomes void from 7 years to 4 years.

Section 3: Amends subsection (1) of section 197.502, Florida Statutes, by revising the time which needs to lapse prior to the tax certificate holder filing an application for a tax deed with the tax collector; reduces the time within which the tax certificate holder, other than a county, must file an application for a tax deed; provides that an application must be filed prior to the tax certificate expiring in 4 years.

Section 4: Amends subsection (3) of section 197.502, Florida Statutes, to require a county to make applications for deeds on all certificates on property within 1 year after April 1 of the year of issuance of the tax certificate.

Section 5: Amends subsection (7) of section 197.502, Florida Statutes, by revising the event which starts the 90-day period in which the county may purchase land; expands who may purchase the property after the 90 days has run to include the county and any other governmental unit; allows the omitted years' taxes (taxes which have not been extended against parcels on the list are treated as omitted taxes) to be canceled by the board of county commissioners if a governmental body purchases it for its own use.

Section 6: Amends subsection (8) of section 197.502, Florida Statutes, by decreasing the period of time when the property will escheat to the State from 7 years to 3 years from the day the land was offered for public sale.

Section 7: Amends subsection (11) of section 197.502, Florida Statutes, by providing that the board of county commissioners may cancel county-held tax certificates and omitted years' taxes on properties acquired by the county for the express purpose of providing infill housing; prohibits the transfer of property acquired for infill housing from being transferred to a taxpayer who failed to pay the delinquent taxes or charges that led to the tax certificate or lien; defines taxpayer to include taxpayer's family or any entity in which the taxpayer or taxpayer's family has an interest.

Section 8: Amends subsection (3) of section 197.592, Florida Statutes, to provide that property acquired by the county for delinquent taxes, when such property is acquired for infill housing, does not have to be conveyed to a municipality even if located in a municipality.

Section 9: Provides effective date of upon becoming law; provides that sections (2), (3), (4), and (6) of the bill only apply to tax certificates issued after May 15, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

4. Total Revenues and Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   Indeterminate. This bill has been reviewed by the Revenue Impact Conference and they determined that this bill has an indeterminate fiscal impact on local government.

2. Recurring Effects:

   Indeterminate. This bill has been reviewed by the Revenue Impact Conference and they determined that this bill has an indeterminate fiscal impact on local government.

3. Long Run Effects Other Than Normal Growth:

   Indeterminate. This bill has been reviewed by the Revenue Impact Conference and they determined that this bill has an indeterminate fiscal impact on local government.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   Section 3 amends subsection 197.502(1), Florida Statutes, to provide that noncounty tax certificate holders may apply for a tax deed on that property between 1 and 4 years, rather than 2 and 7 years, after the certificate was issued. This may result in allowing taxpayers less time to satisfy tax and penalty obligations against their property.

2. Direct Private Sector Benefits:

   None.

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

   The bill allows the county to purchase property which was not purchased at a public sale after its exclusive 90-day period has expired. Currently, the purchase is limited to any person.

D. FISCAL COMMENTS:

There may be a fiscal impact due to the possible cancellation of county-held tax certificates and omitted years' taxes when the county purchases property for the express purpose of providing infill housing.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise the revenue in the aggregate.

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

The bill does not reduce the tax authority that counties or municipalities have to raise revenue in the aggregate.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Community Affairs at its meeting on March 30, 1999, adopted the following three amendments by Representative Sublette:

AMENDMENT #1 -- Authorizes the board of county commissioners to sell a parcel if it is valued at less than $15,000, rather than $10,000. This amendment conforms this bill to its Senate companion;

AMENDMENT #2 -- Clarifies language regarding the county extending or modifying a lease; and

AMENDMENT #3 -- Changes the effective date from May 15 to July 1 in order to avoid confusion as to what statutory guidelines apply. This amendment conforms this bill to its Senate companion.

VII. SIGNATURES:

COMMITTEE ON Community Affairs:

Prepared by:	Staff Director:
Laura L. Jacobs	Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:	Staff Director:
Kama D.S. Monroe, Esq.	Alan Johansen