

By Senator Carlton

24-880-00

1                                   A bill to be entitled  
2           An act relating to ad valorem taxation;  
3           creating s. 192.0105, F.S.; creating the  
4           Florida Taxpayer's Bill of Rights, which  
5           compiles taxpayers' rights as found in the  
6           Florida Statutes and rules of the Department of  
7           Revenue, including the right to know, the right  
8           to due process, the right to redress, and the  
9           right to confidentiality; providing an  
10          effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Section 192.0105, Florida Statutes, is  
15 created to read:

16           192.0105 Taxpayer rights.--There is created a Florida  
17 Taxpayer's Bill of Rights for property taxes and assessments  
18 to guarantee that the rights, privacy, and property of the  
19 taxpayers of this state are adequately safeguarded and  
20 protected during tax levy, assessment, collection, and  
21 enforcement processes administered under the revenue laws of  
22 this state. The Taxpayer's Bill of Rights compiles, in one  
23 document, brief but comprehensive statements that summarize  
24 the rights and obligations of the property appraisers, tax  
25 collectors, clerks of the court, local governing boards,  
26 Department of Revenue, and taxpayers. The rights afforded  
27 taxpayers to assure that their privacy and property are  
28 safeguarded and protected during tax levy, assessment, and  
29 collection are available only insofar as they are implemented  
30 in other parts of the Florida Statutes or rules of the  
31 Department of Revenue. The rights so guaranteed state

1 taxpayers in the Florida Statutes and the departmental rules  
2 include:

3 (1) THE RIGHT TO KNOW.--

4 (a) The right to be mailed notice of proposed property  
5 taxes and proposed or adopted non-ad valorem assessments. (See  
6 ss. 194.011(1), 200.065(2)(b), (2)(d) and (13)(a), and  
7 200.069.) The notice must also inform the taxpayer that the  
8 final tax bill may contain additional non-ad valorem  
9 assessments. (See s. 200.069(12).)

10 (b) The right to notification of a public hearing on  
11 each taxing authority's tentative budget and proposed millage  
12 rate and advertisement of a public hearing to finalize the  
13 budget and adopt a millage rate. (See ss. 200.065(2)(c) and  
14 (2)(d).)

15 (c) The right to advertised notice of the amount by  
16 which the tentatively adopted millage rate results in taxes  
17 that exceed the previous year's taxes. (See ss. 200.065(2)(d)  
18 and (3).) The right to notification by first-class mail of a  
19 comparison of the amount of the taxes to be levied from the  
20 tentatively adopted millage rate under the tentative budget  
21 change, compared to the previous year's taxes, and also  
22 compared to the taxes that would be levied if no budget change  
23 is made. (See ss. 200.065(2)(b) and 200.069(9).)

24 (d) The right that the adopted millage rate will not  
25 exceed the tentatively adopted millage rate. If the tentative  
26 rate exceeds the proposed rate, each taxpayer shall be mailed  
27 notice comparing his or her taxes under the tentatively  
28 adopted millage rate to the taxes under the previously  
29 proposed rate, before a hearing to finalize the budget and  
30 adopt millage. (See s. 200.065(2)(d).)

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1       (e) The right to be sent notice by first-class mail or  
2 non-ad valorem assessment hearing at least 20 days before the  
3 hearing with pertinent information including the total amount  
4 to be levied against each parcel. All affected property owners  
5 have the right to appear at the hearing and to file written  
6 objections with the local governing board. (See ss.  
7 197.3632(4)(b), (8)(b), and (10)(b)3.)

8       (f) The right of an exemption recipient to be sent a  
9 renewal application for that exemption, the right to a receipt  
10 for homestead exemption claim when filed, and the right to  
11 notice of denial of the exemption. (See ss. 196.011(6),  
12 196.131(1), 196.151, and 196.193(1)(c) and (5).)

13       (g) The right to notice of intent from property  
14 appraiser to record notice of tax lien on property determined  
15 not to have been entitled to homestead exemption in prior  
16 years and the right to pay tax, penalty, and interest before a  
17 tax lien is recorded for any prior year. (See s.  
18 196.161(1)(b).)

19       (h) The right to be informed during the tax collection  
20 process, including: notice of tax due; notice of back taxes;  
21 notice of late taxes and assessments and consequences of  
22 nonpayment; opportunity to pay estimated taxes and non-ad  
23 valorem assessments when the tax roll will not be certified in  
24 time; notice when interest begins to accrue on delinquent  
25 provisional taxes; notice of the right to prepay estimated  
26 taxes by installment; a statement of the taxpayer's estimated  
27 tax liability for use in making installment payments; and  
28 notice of right to defer taxes and non-ad valorem assessments  
29 on homestead property. (See ss. 197.102(04), 197.322(3),  
30 197.3635, 197.3635(10), 197.343(1), (2), (3), and (4),  
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1 197.363(2)(c), 197.222(5), 197.2301(3), 197.3632(8)(a),  
2 193.1145(10)(a), 197.222(3), and 197.254(1).

3 (i) The right to an advertisement in a newspaper  
4 listing names of taxpayers who are delinquent in paying  
5 tangible personal property taxes with amounts and giving  
6 notice that interest is accruing at 18 percent and that,  
7 unless taxes are paid, warrants will be issued, prior to  
8 petition made with the circuit court for an order to seize and  
9 sell property. (See s. 197.402(2).)

10 (j) The right to be mailed notice when a petition has  
11 been filed with the court for an order to seize and sell  
12 property and the right to be mailed notice, and to be served  
13 notice by the sheriff, before the date of sale, that  
14 application for tax deed has been made and property will be  
15 sold unless back taxes are paid. (See ss. 197.413(5),  
16 197.502(4)(a), and 197.522(1)(a) and (2).)

17 (2) THE RIGHT TO DUE PROCESS.--

18 (a) The right to an informal conference with the  
19 property appraiser to present facts the taxpayer considers to  
20 support changing the assessment and to have the property  
21 appraiser present facts supportive of the assessment upon  
22 proper request of any taxpayer who objects to the assessment  
23 placed on his or her property. (See s. 194.011(2).)

24 (b) The right to petition the value adjustment board  
25 over objections to assessments; denial of exemption; denial of  
26 agricultural classification; denial of historic  
27 classification; denial of high-water recharge classification;  
28 disapproval of tax deferral; and any penalties on deferred  
29 taxes imposed for incorrect information willfully filed.  
30 Payment of estimated taxes does not preclude the right of the  
31 taxpayer to challenge his or her assessment. (See ss.

1 194.011(3), 196.011(6), 196.15, 196.193(1)(c) and (5),  
2 193.461(2), 193.503(7), 193.625(2), 197.253(2)(a) and (b),  
3 197.301(2) and 197.2301(11).)

4 (c) The right to file a petition for exemption or  
5 agricultural classification with the value adjustment board  
6 when an application deadline is missed, upon demonstration of  
7 particular extenuating circumstances for filing late. (See ss.  
8 193.461(2) and 196.011(1), (7), (8) and (9)(a) and (9)(c).)

9 (d) The right to prior notice of the value adjustment  
10 board's hearing date and the right to the hearing within 4  
11 hours of scheduled time. (See ss. 194.032(2) and 194.032(2).)

12 (e) The right to notice of date of certification of  
13 tax rolls and receipt of property record card if requested.  
14 (See ss. 193.122(2) and (3) and 194.032(2).)

15 (f) The right, in value adjustment board proceedings,  
16 to have all evidence presented and considered at a public  
17 hearing at the scheduled time; to be represented by attorney  
18 or agent; to have witnesses sworn and cross-examined; and to  
19 examine property appraisers or evaluators employed by the  
20 board who present testimony. (See ss. 194.034(1)(c),  
21 194.034(1)(a) and (4), 194.034(1)(a), and 194.035(2).)

22 (g) The right to be mailed a timely written decision  
23 by the value adjustment board containing findings of fact and  
24 conclusions of law and reasons for upholding or overturning  
25 the determination of the property appraiser and the right to  
26 advertised notice of all board actions, including appropriate  
27 narrative and column descriptions, in brief and nontechnical  
28 language. (See ss. 194.034(2) and 194.037(3).)

29 (h) The right at public hearing, on non-ad valorem  
30 assessments and municipal special assessments, to object and  
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1 testify to the local governing board. (See ss. 197.3632(4)(c)  
2 and 170.08.)

3 (i) The right to bring action in circuit court to  
4 contest a tax assessment or appeal value adjustment board  
5 decisions to disapprove exemption or deny tax deferral. (See  
6 ss. 194.036(1)(c) and (2), 196.151, and 197.253(2)(a) and  
7 (b).)

8 (3) THE RIGHT TO REDRESS.--

9 (a) The right to discounts for early payment on all  
10 taxes and non-ad valorem assessments collected by the tax  
11 collector, the right to pay installment payments with  
12 discounts, and the right to pay delinquent personal property  
13 taxes under an installment payment program when implemented by  
14 the county tax collector. (See ss. 197.162, 197.3632(8)(a),  
15 197.222(1)(e) and 197.4155(1), (2) and (3).)

16 (b) The right, upon filing a challenge in circuit  
17 court and paying taxes admitted in good faith to be owing, to  
18 be issued a receipt and have suspended all procedures for the  
19 collection of taxes until the final disposition of the action.  
20 (See s. 194.171(3).)

21 (c) The right to have penalties reduced or waived upon  
22 a showing of good cause when a return is not intentionally  
23 filed late and the right to pay interest at a reduced rate if  
24 the court finds that the amount of tax owed by the taxpayer is  
25 greater than the amount the taxpayer has in good faith  
26 admitted and paid. (See ss. 193.072(4) and 194.192(2).)

27 (d) The right to a refund when overpayment of taxes  
28 has been made under specified circumstances. (See ss.  
29 193.1145(8)(e) and 197.182(1)(a) and (b).)

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1       (e) The right to an extension to file a tangible  
2 personal property tax return upon making proper and timely  
3 request. (See s. 193.063.)

4       (f) The right to redeem real property and redeem tax  
5 certificates at any time before a tax deed is issued and the  
6 right to have tax certificates canceled if sold where taxes  
7 had been paid or if other error makes it void or correctable.  
8 Property owners have the right to be free from contact by a  
9 certificateholder for 2 years. (See ss. 197.432(14) and (15),  
10 197.442(1), 197.443, and 197.472(1) and (7).)

11       (g) The right of the taxpayer, property appraiser, tax  
12 collector, or the department, as the prevailing party in a  
13 judicial or administrative action brought or maintained  
14 without the support of justiciable issues of fact or law, to  
15 recover all costs of the administrative or judicial action,  
16 including reasonable attorney's fees, and of the department  
17 and the taxpayer to settle such claims through negotiations.  
18 (See ss. 57.105 and 57.111.)

19       (4) THE RIGHT TO CONFIDENTIALITY.--

20       (a) The right to have information kept confidential,  
21 including federal tax information, ad valorem tax returns,  
22 social security numbers, all financial records produced by the  
23 taxpayer, Form DR-219 return for documentary stamp tax  
24 information, and sworn statements of gross income, copies of  
25 federal income tax returns for the prior year, wage and  
26 earnings statements (W-2 forms), and other documents. (See ss.  
27 192.105(1) and (2), 193.074, 193.114(6), 195.027(3),  
28 195.027(6), and 196.101(4)(c).)

29       (b) The right to limiting access to a taxpayer's  
30 records by the property appraiser, the Department of Revenue,  
31 and the Auditor General only to those instances in which it is

1 determined that such records are necessary to determine either  
2 the classification or the value of the taxable nonhomestead  
3 property. All records produced by the taxpayer under this  
4 subsection shall be deemed to be confidential in the hands of  
5 the property appraiser, the department, the tax collector, and  
6 the Auditor General. (See s. 195.027(3).)

7 Section 2. This act shall take effect upon becoming a  
8 law.

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11 SENATE SUMMARY

12 Creates the Florida Taxpayer's Bill of Rights, which  
13 compiles a listing of rights that pertain to ad valorem  
14 taxation and are set forth in the Florida Statutes and  
15 rules of the Department of Revenue. Organizes these  
rights under four topics: the right to know, the right to  
due process, the right to redress, and the right to  
confidentiality.