

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1721 w/CS Subdivision Property

SPONSOR(S): Bilirakis

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>7 Y, 0 N</u>	<u>Grayson</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>16 Y, 0 N w/CS</u>	<u>Grayson</u>	<u>Highsmith-Smith</u>
3) <u>Finance and Tax</u>	<u></u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends existing law to increase the fee for tax deed applications to be paid to the tax collector from \$15 to \$75.

The bill adds to existing law to provide that titleholders of lands contiguous to either submerged land or common elements in a subdivision be given notice prior to sales of those properties for delinquent taxes.

The bill provides that prior notice be given to the legal titleholder of contiguous property before property is placed on the list of lands available for taxes.

The bill excludes legal titleholders of property contiguous to either submerged land or common elements from the requirement that the clerk of court retain certain fund balances for their benefit.

The bill creates a requirement that the clerk shall give notice to certain individuals by certified mail with return receipt requested or by registered mail that the application for tax deed has been made.

Creates a requirement that such notice be mailed 20 days prior to the date of sale; creates the allowance for no notice in certain circumstances; and creates notice language.

The bill creates a requirement for the clerk of court to give certain prior notice to persons listed in the tax collector's statement regarding proposed sale of tax delinquent properties.

The bill creates a prohibition of the assessment of an ad valorem tax, or non-ad valorem assessment by certain entities against property constituting the common elements of a subdivision.

The bill creates a requirement that the property appraisers prorate the value of taxes and special assessments against recreational facilities, easements, and other common elements of a subdivision and include such prorated value among the lots within the subdivision conveyed or intended to be conveyed into private ownership.

The bill creates definition of the term "common element" for purposes of the act.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1721c.ft.doc

DATE: April 17, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

This bill amends existing law to increase the fee for tax deed applications to be paid to the tax collector from \$15 to \$75.

The bill adds to existing law to provide that titleholders of lands contiguous to either submerged land or common elements in a subdivision be given notice prior to sales of those properties for delinquent taxes.

The bill provides that prior notice be given to the legal titleholder of lands contiguous to lands available for tax sales.

The bill excludes legal titleholders of property contiguous to either submerged land or common elements from the requirement that the clerk of court retain certain fund balances for their benefit.

The bill creates a requirement that the clerk shall give notice to certain individuals by certified mail with return receipt requested or by registered mail that the application for tax deed has been made. Creates a requirement that such notice be mailed 20 days prior to the date of sale; creates the allowance for no notice in certain circumstances; and creates notice language.

The bill creates a requirement for the clerk of court to give certain prior notice to persons listed in the tax collector's statement regarding proposed sale of tax delinquent properties.

The bill creates a prohibition of the assessment of an ad valorem tax, or non-ad valorem assessment by certain entities against property constituting the common elements of a subdivision.

The bill creates a requirement that the property appraisers prorate the value of taxes and special assessments against recreational facilities, easements, and other common elements of a subdivision and include such prorated value among the lots within the subdivision conveyed or intended to be conveyed into private ownership.

The bill creates definition of the term "common element" for purposes of the act.

Background

According to a representative¹ of the Sponsor, this legislation is intended to address situations like the ones which have occurred in various residential subdivisions located in Pinellas County. In one such

¹ Chandy Kime, Legislative Assistant to Representative Bilrakis, 3/27/03.

instance, the East Lake situation, an individual purchased a neighborhood lake at a tax sale, erected a bright pink fence around it and suggested that neighbors buy the property back for \$30,000, per family.²

Current Law

Only common elements owned by specified entities are entitled to apportionment of their value into the units or lots to which they are common elements. See ss. 193.023(5), 718.120(1), and 719.114, F.S.

s. 193.023(5), F.S. In assessing any parcel of a condominium or any parcel of any other residential development having common elements appurtenant to the parcels, if such common elements are owned by the condominium association or owned jointly by the owners of the parcels, the assessment shall apply to the parcel and its fractional or proportionate share of the appurtenant common elements.

s. 718.120(1), F.S. Ad valorem taxes, benefit taxes, and special assessments by taxing authorities shall be assessed against the condominium parcels and not upon the condominium property as a whole. No ad valorem tax, benefit tax, or special assessment, including those made by special districts, drainage districts, or water management districts, may be separately assessed against recreational facilities or other common elements if such facilities or common elements are owned by the condominium association or are owned jointly by the owners of the condominium parcels. Each condominium parcel shall be separately assessed for ad valorem taxes and special assessments as a single parcel. The taxes and special assessments levied against each condominium parcel shall constitute a lien only upon the condominium parcel assessed and upon no other portion of the condominium property.

s. 719.114(1), F.S. Ad valorem taxes and special assessments by taxing authorities shall be assessed against the cooperative parcels and not upon the cooperative property as a whole. No ad valorem tax or special assessment may be separately assessed against common areas if the common areas are owned by the cooperative association or are jointly owned by the owners of the cooperative parcels. Each cooperative parcel shall be separately assessed for ad valorem taxes and special assessments as a single parcel. The property appraiser must be provided the necessary documents, as evidenced in the official records of the clerk of the circuit court of the county, to make a determination as to the ownership of a cooperative parcel for assessment and homestead tax exemption purposes. The taxes and special assessments levied against each cooperative parcel shall constitute a lien only upon the cooperative parcel assessed and upon no other portion of the cooperative property.

C. SECTION DIRECTORY:

Section 1.

- Amends s 197.502(1), F.S. to increase the fee for tax deed applications to be paid to tax collector.
- Amends s. 197.502(4)(h), F.S., to provide that titleholders of lands contiguous to either submerged land or common elements in a subdivision be given notice prior to sales of those properties for delinquent taxes.
- Amends s. 197.502(7), F.S., to provide that prior notice be given to the legal titleholder of lands contiguous to lands available for tax sales.

² "Almost Happy Ever After," *St. Petersburg Times*, St. Petersburg, February 19, 2003.

Section 2. Amends s. 197.582(2), F.S., excepting persons described in s. 197.502(4)(h), F.S., from the requirement that the clerk of court retain certain fund balances for their benefit.

Section 3. Creates s. 197.522(2)(b), F.S., to require:

- o that the clerk shall give notice to certain individuals by certified mail with return receipt requested or by registered mail that the application for tax deed has been made.
- o that such notice be mailed 20 days prior to the date of sale; creates the allowance for no notice in certain circumstances; and creates notice language.
- o that the clerk of court gives certain prior notice to persons listed in the tax collector's statement regarding proposed sale of tax delinquent properties.

Section 4. Creates two provisions as follows:

(1) Provides that ad valorem, benefit taxes and special assessments shall be assessed against the lots within a platted subdivision and not upon the subdivision property as a whole; provides that certain taxes may not be assessed separately against recreational facilities or other common elements, regardless of ownership; provides that common elements shall be prorated by the property appraiser and included in the assessment of all the lots within the subdivision.

(2) Defines the term common element as used within the act.

Section 5. Provides for an effective date of January 1, 2004.

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:

Indeterminate. See Fiscal Comments Section

2. Expenditures:

Insignificant. This bill will require the mailing of additional notices which should result in an insignificant increase in local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Purchasers of tax deeds may see an increase in the purchase price of \$60. See Fiscal Comments Section.

D. FISCAL COMMENTS:

This bill raises the fee for applying for a tax deed from \$15 to \$75. This fee applies only if an individual tax certificate holder applies for the tax deed. It does not apply if the county is the applicant. No data is

available on how many individual applications are made on an annual basis, so no estimate of the impact of this increase is available.

The Tax Collector will benefit from this increase in the fee which is used to cover the expenses of the tax deed sale.

Ultimately, the burden of this fee will fall on the purchaser of the tax deed since the minimum bid for a tax deed includes the cost of fees paid by the applicant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

On line 172 of the Committee substitute by Local Government and Veterans Affairs there should be a blank line between the second set of ellipses and the word "neither" to separate the text of the warning from the directory language. In addition, indenting that text which is to be included in the warning would help clarify which text is required to be included in that notice.

Other Comments

Both the Florida Association of Property Appraisers and The Property Appraisers Association of Florida were contacted for comment.

A representative³ of The Property Appraisers Association of Florida is concerned about the inclusion of the term "recreational facilities" in the language of the bill as filed. He would prefer that the term was removed leaving the bill to apply only to "common elements" which is defined in the bill to avoid unintended consequences.

No comments have yet been received from the Florida Association of Property Appraisers.

³ Larry E. Levy, Esq., General Counsel, The Property Appraisers Association of Florida, 3/31/03.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Local Affairs Subcommittee, at its meeting on April 2, 2003, recommended favorably one Strike All amendment. The Amendment accomplishes the following:

- Amends s. 197.502(4)(h), F.S., to provide that titleholders of lands contiguous to either submerged land or common elements in a subdivision be given notice prior to sales of those properties for delinquent taxes.
- Amends s. 197.502(7), F.S., to provide that prior notice be given to the legal titleholder of lands contiguous to lands available for tax sales.
- Amends s. 197.582(2), F.S., excepting persons described in s. 197.502(4)(h), F.S., from the requirement that the clerk of court retain certain fund balances for their benefit.
- Creates s. 197.522(3), F.S., to require:
 - that the clerk shall give notice to certain individuals by certified mail with return receipt requested or by registered mail that the application for tax deed has been made.
 - that such notice be mailed 20 days prior to the date of sale; creates the allowance for no notice in certain circumstances; and creates notice language.
 - that the clerk of court gives certain prior notice to persons listed in the tax collector's statement regarding proposed sale of tax delinquent properties.
- Amends s 197.502(1), F.S. to increase the fee for tax deed applications to be paid to tax collector.

The Committee on Local Government & Veterans' Affairs, at its meeting on April 8, 2003, adopted the Strike All addressed above.