

Bill No. CS for CS for SB 1316

Barcode 623582

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

Senate Amendment (with title amendment)

On page 16, line 5, through page 24, line 17, delete those lines

and insert:

Section 12. Sections 197.303, 197.304, 197.3041, 197.3042, 197.3043, 197.3044, 197.3045, 197.3046, and 197.3047, Florida Statutes, are created to read:

197.303 Ad valorem tax deferral for recreational and commercial working waterfront properties.--

(1) The board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow for ad valorem tax deferrals for recreational and commercial working waterfront properties if the owners are engaging in the operation, rehabilitation, or renovation of such properties in accordance with guidelines established in this section.

(2) The board of county commissioners or the governing authority of the municipality by ordinance may authorize the

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1 deferral of ad valorem taxation and non-ad valorem assessments
2 for recreational and commercial working waterfront properties.

3 (3) The ordinance shall designate the type and
4 location of working waterfront property for which deferrals
5 may be granted, which may include any property meeting the
6 provisions of s. 342.07(2), which property may be further
7 required to be located within a particular geographic area or
8 areas of the county or municipality.

9 (4) The ordinance must specify that such deferrals
10 apply only to taxes levied by the unit of government granting
11 the deferral. The deferrals do not apply, however, to taxes or
12 non-ad valorem assessments defined in s. 197.3632(1)(d) levied
13 for the payment of bonds or to taxes authorized by a vote of
14 the electors pursuant to s. 9(b) or s. 12, Art. VII of the
15 State Constitution.

16 (5) The ordinance must specify that any deferral
17 granted remains in effect regardless of any change in the
18 authority of the county or municipality to grant the deferral.
19 In order to retain the deferral, however, the use and
20 ownership of the property as a working waterfront must be
21 maintained over the period for which the deferral is granted.

22 (6)(a) If an application for deferral is granted on
23 property that is located in a community redevelopment area,
24 the amount of taxes eligible for deferral shall be reduced, as
25 provided for in paragraph (b), if:

26 1. The community redevelopment agency has previously
27 issued instruments of indebtedness that are secured by
28 increment revenues on deposit in the community redevelopment
29 trust fund; and

30 2. Those instruments of indebtedness are associated
31 with the real property applying for the deferral.

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1 (b) If the provisions of paragraph (a) apply, the tax
 2 deferral shall not apply to an amount of taxes equal to the
 3 amount that must be deposited into the community redevelopment
 4 trust fund by the entity granting the deferral based upon the
 5 taxable value of the property upon which the deferral is being
 6 granted. Once all instruments of indebtedness that existed at
 7 the time the deferral was originally granted are no longer
 8 outstanding or have otherwise been defeased, the provisions of
 9 this paragraph shall no longer apply.

10 (c) If a portion of the taxes on a property were not
 11 eligible for deferral because of the provisions of paragraph
 12 (b), the community redevelopment agency shall notify the
 13 property owner and the tax collector 1 year before the debt
 14 instruments that prevented said taxes from being deferred are
 15 no longer outstanding or otherwise defeased.

16 (d) The tax collector shall notify a community
 17 redevelopment agency of any tax deferral that has been granted
 18 on property located within the community redevelopment area of
 19 that agency.

20 (e) Issuance of debt obligation after the date a
 21 deferral has been granted shall not reduce the amount of taxes
 22 eligible for deferral.

23 197.304 Tax deferral for recreational and commercial
 24 working waterfronts.--

25 (1) Any property owner in a jurisdiction that has
 26 adopted a tax deferral ordinance pursuant to s. 197.303 that
 27 owns a recreational and commercial working waterfront facility
 28 as defined in s. 342.07 may elect to defer payment of those ad
 29 valorem taxes and non-ad valorem assessments designated in the
 30 ordinance authorizing the deferral by filing an annual
 31 application for tax deferral with the county tax collector on

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1 or before January 31 following the year in which the taxes and
2 non-ad valorem assessments are assessed. The applicant has the
3 burden to affirmatively demonstrate compliance with the
4 requirements of this section.

5 (2) Approval of an application for tax deferral shall
6 defer that portion of the combined total of ad valorem taxes
7 and any non-ad valorem assessments that are authorized to be
8 deferred by the ordinance authorizing the deferral.

9 (3) A tax deferral may not be granted if:

10 (a) The total amount of deferred taxes, non-ad valorem
11 assessments, and interest plus the total amount of all other
12 unsatisfied liens on the property exceeds 85 percent of the
13 assessed value of the property; or

14 (b) The primary financing on the property is for an
15 amount that exceeds 70 percent of the assessed value of the
16 property.

17 (4) The amount of taxes, non-ad valorem assessments,
18 and interest deferred shall accrue interest at a rate equal to
19 the semiannually compounded rate of one-half of 1 percent plus
20 the average yield to maturity of the long-term fixed-income
21 portion of the Florida Retirement System investments as of the
22 end of the quarter preceding the date of the sale of the
23 deferred payment tax certificates; however, the interest rate
24 may not exceed 9.5 percent.

25 (5) The taxes, non-ad valorem assessments, and
26 interest deferred pursuant to this section constitute a prior
27 lien and shall attach as of the date and in the same manner
28 and be collected as other liens for taxes, as provided for
29 under this chapter, but such deferred taxes, non-ad valorem
30 assessments, and interest shall only be due, payable, and
31 delinquent as provided in ss. 197.303-197.3047.

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1 197.3041 Tax deferral for recreational and commercial
2 working waterfronts; application.--

3 (1) The application for deferral must be made annually
4 upon a form prescribed by the department and furnished by the
5 county tax collector. The application form must be signed upon
6 oath by the applicant before an officer authorized by the
7 state to administer oaths. The tax collector may require the
8 applicant to submit any other evidence and documentation as
9 deemed necessary by the tax collector in considering the
10 application. The application form must provide notice to the
11 applicant of the manner in which interest is computed. Each
12 application form must contain an explanation of the conditions
13 to be met for approval and the conditions under which deferred
14 taxes and interest become due, payable, and delinquent. Each
15 application must clearly state that all deferrals pursuant to
16 ss. 197.303-197.3047 constitute a lien on the applicant's
17 property.

18 (2)(a) The tax collector shall consider and render his
19 or her findings, determinations, and decision on each annual
20 application for a tax deferral for recreational and commercial
21 working waterfronts within 45 days after the date the
22 application is filed. The tax collector shall exercise
23 reasonable discretion based upon applicable information
24 available under this section. The determinations and findings
25 of the tax collector as provided for in this paragraph are not
26 quasi judicial and are subject exclusively to review by the
27 value adjustment board as provided by this section. A tax
28 collector who finds that the applicant is entitled to the tax
29 deferral shall approve the application and file the
30 application in the permanent records. A tax collector who
31 finds that the applicant is not entitled to the deferral shall

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1 send a notice of disapproval within 45 days after the date the
2 application is filed, giving reasons for the disapproval to
3 the applicant. The notice must be sent by personal delivery or
4 registered mail to the mailing address given by the applicant
5 in the manner in which the original notice thereof was served
6 upon the applicant and must be filed among the permanent
7 records of the tax collector's office. The original notice of
8 disapproval sent to the applicant shall advise the applicant
9 of the right to appeal the decision of the tax collector to
10 the value adjustment board and inform the applicant of the
11 procedure for filing such an appeal.

12 (b) An appeal of the decision of the tax collector to
13 the value adjustment board must be in writing on a form
14 prescribed by the department and furnished by the tax
15 collector. The appeal must be filed with the value adjustment
16 board within 20 days after the applicant's receipt of the
17 notice of disapproval, and the board must approve or
18 disapprove the appeal within 30 days after receipt. The value
19 adjustment board shall review the application and the evidence
20 presented to the tax collector upon which the applicant based
21 his or her claim for tax deferral and, at the election of the
22 applicant, shall hear the applicant in person, or by agent on
23 the applicant's behalf, on his or her right to the tax
24 deferral. The value adjustment board shall reverse the
25 decision of the tax collector and grant a tax deferral to the
26 applicant if, in its judgment, the applicant is entitled to
27 the tax deferral or shall affirm the decision of the tax
28 collector. Action by the value adjustment board is final
29 unless the applicant or tax collector or other lienholder,
30 within 15 days after the date of disapproval of the
31 application by the board, files in the circuit court of the

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1 county in which the property is located a de novo proceeding
2 for a declaratory judgment or other appropriate proceeding.

3 (3) Each application must contain a list of, and the
4 current value of, all outstanding liens on the applicant's
5 property.

6 (4) For approved applications, the date of receipt by
7 the tax collector of the application for tax deferral shall be
8 used in calculating taxes due and payable net of discounts for
9 early payment.

10 (5) If such proof has not been furnished with a prior
11 application, each applicant shall furnish proof of fire and
12 extended coverage insurance in an amount that is in excess of
13 the sum of all outstanding liens and deferred taxes and
14 interest with a loss payable clause to the county tax
15 collector.

16 (6) The tax collector shall notify the property
17 appraiser in writing of those parcels for which taxes have
18 been deferred.

19 (7) The property appraiser shall promptly notify the
20 tax collector of changes in ownership or use of properties
21 that have been granted a tax deferral.

22 197.3042 Deferred payment tax certificates.--

23 (1) The tax collector shall notify each local
24 governing body of the amount of taxes and non-ad valorem
25 assessments deferred which would otherwise have been collected
26 for such governing body. The county shall then, at the time of
27 the tax certificate sale held pursuant to s. 197.432, strike
28 each certificate off to the county. Certificates issued
29 pursuant to this section are exempt from the public sale of
30 tax certificates held pursuant to s. 197.432.

31 (2) The certificates so held by the county shall bear

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1 interest at a rate equal to the semiannually compounded rate
 2 of 0.5 percent plus the average yield to maturity of the
 3 long-term fixed-income portion of the Florida Retirement
 4 System investments as of the end of the quarter preceding the
 5 date of the sale of the deferred payment tax certificates;
 6 however, the interest rate may not exceed 9.5 percent.

7 197.3043 Change in use or ownership of property.--

8 (1) If there is a change in use or ownership of the
 9 tax-deferred property such that the owner is no longer
 10 entitled to claim the property as a recreational or commercial
 11 working waterfront facility, or there is a change in the legal
 12 or beneficial ownership of the property, or the owner fails to
 13 maintain the required fire and extended insurance coverage,
 14 the total amount of deferred taxes and interest for all
 15 previous years becomes due and payable November 1 of the year
 16 in which the change in use or ownership occurs or on the date
 17 failure to maintain insurance occurs, and is delinquent on
 18 April 1 of the year following the year in which the change in
 19 use or ownership or failure to maintain insurance occurs.

20 (2) Whenever the property appraiser discovers that
 21 there has been a change in the use or ownership of the
 22 property that has been granted a tax deferral, the property
 23 appraiser shall notify the tax collector in writing of the
 24 date such change occurs, and the tax collector shall collect
 25 any taxes and interest due or delinquent.

26 (3) During any year in which the total amount of
 27 deferred taxes, interest, and all other unsatisfied liens on
 28 the property exceeds 85 percent of the assessed value of the
 29 property, the tax collector shall immediately notify the owner
 30 of the property on which taxes and interest have been deferred
 31 that the portion of taxes and interest which exceeds 85

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1 percent of the assessed value of the property is due and
 2 payable within 30 days after receipt of the notice. Failure to
 3 pay the amount due shall cause the total amount of deferred
 4 taxes and interest to become delinquent.

5 (4) If deferred taxes become delinquent under this
 6 chapter, on or before June 1 following the date the taxes
 7 become delinquent, the tax collector shall sell a tax
 8 certificate for the delinquent taxes and interest in the
 9 manner provided by s. 197.432.

10 197.3044 Prepayment of deferred taxes.--

11 (1) All or part of the deferred taxes and accrued
 12 interest may at any time be paid to the tax collector by:

13 (a) The owner of the property.

14 (b) The next of kin of the owner, heir of the owner,
 15 child of the owner, or any person having or claiming a legal
 16 or equitable interest in the property, if no objection is made
 17 by the owner within 30 days after the tax collector notifies
 18 the owner of the fact that such payment has been tendered.

19 (2) Any partial payment made pursuant to this section
 20 shall be applied first to accrued interest.

21 197.3045 Distribution of payments.--When any deferred
 22 taxes or interest is collected, the tax collector shall
 23 maintain a record of the payment, setting forth a description
 24 of the property and the amount of taxes or interest collected
 25 for the property. The tax collector shall distribute payments
 26 received in accordance with the procedures for distributing ad
 27 valorem taxes or redemption moneys as prescribed in this
 28 chapter.

29 197.3046 Construction.--Sections 197.303-197.3047 do
 30 not prevent the collection of personal property taxes that
 31 become a lien against tax-deferred property, defer payment of

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1 special assessments to benefited property other than those
2 specifically allowed to be deferred, or affect any provision
3 of any mortgage or other instrument relating to property
4 requiring a person to pay ad valorem taxes or non-ad valorem
5 assessments.

6 197.3047 Penalties.--

7 (1) The following penalties shall be imposed on any
8 person who willfully files information required under ss.
9 197.303-197.3047 which is incorrect:

10 (a) The person shall pay the total amount of taxes and
11 interest deferred, which amount shall immediately become due;

12 (b) The person shall be disqualified from filing a tax
13 deferral application for the next 3 years; and

14 (c) The person shall pay a penalty of 25 percent of
15 the total amount of taxes and interest deferred.

16 (2) Any person against whom the penalties prescribed
17 in this section have been imposed may appeal the penalties
18 imposed to the value adjustment board within 30 days after the
19 penalties are imposed.

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21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 On page 2, line 22 through page 3, line 16, delete
25 those lines

26
27 and insert:

28 commercial working waterfront properties;
29 requiring bonding periods effective prior to
30 the deferral to remain in effect for certain
31 properties; providing requirements for deferral

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1 notification and application for certain
2 properties; providing a tax deferral for ad
3 valorem taxes an non-ad valorem assessments
4 authorized to be deferred by ordinance and
5 levied on recreational and commercial working
6 waterfronts; providing certain exceptions;
7 specifying the rate of the deferral; providing
8 that the taxes, assessments, and interest
9 deferred constitute a prior lien on the
10 property; providing an application process;
11 providing notice requirements; providing for a
12 decision of the tax collector to be appealed to
13 the value adjustment board; providing an
14 application process; providing notice
15 requirements; providing for a decision of the
16 tax collector to be appealed to the value
17 adjustment board; providing for calculating the
18 deferral; providing requirements for deferred
19 payment tax certificates; providing for the
20 deferral to cease under certain circumstances;
21 requiring notice to the tax collector;
22 requiring payment of deferred taxes,
23 assessments, and interest under certain
24 circumstances; authorizing specified parties to
25 make a prepayment of deferred taxes; providing
26 for distribution of payments; providing for
27 construction of provisions authorizing the
28 deferments; providing penalties; providing for
29 a penalty to be appealed to the value
30 adjustment board; amending s. 253.002, F.S.;

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