

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1035

Duties of a Tax Collector

SPONSOR(S): Waldman

TIED BILLS:

IDEN./SIM. BILLS: SB 2412

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>8 Y, 0 N</u>	<u>Fudge</u>	<u>Kruse</u>
2) <u>Government Efficiency & Accountability Council</u>	<u>12 Y, 0 N</u>	<u>Fudge</u>	<u>Cooper</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Tax collectors are authorized to file a petition in circuit court seeking an order directing the tax collector to levy upon and seize the tangible personal property of each delinquent taxpayer to satisfy unpaid personal property taxes. The tax collector may employ counsel for conducting such suits. This bill authorizes tax collectors to employ in-house counsel or outside collection agents to collect delinquent taxes.

This bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – This bill may ensure lower taxes by increasing the collection of delinquent personal property taxes.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 197.413, F.S., provides a process for the tax collector to prepare warrants against delinquent taxpayers providing levy upon, and seizure of, tangible personal property. Once the warrants are prepared, the tax collector files a petition in circuit court seeking an order directing the tax collector to levy upon and seize the tangible personal property of each delinquent taxpayer to satisfy the unpaid taxes. The tax collector may employ counsel for conducting such suits.

Effect of Proposed Changes

The bill requires the tax collector to notify taxpayers that any delinquent tangible personal property tax may be referred to a contract collection agent. The costs of collection would become part of the underlying tax lien under s. 197.413, F.S. The bill also authorizes the tax collector to employ in-house counsel in suits to levy upon and seize tangible personal property, or contract with an outside collection agent, either an attorney or a person in good standing under ch. 559, F.S., for collection by suit or otherwise. The bill authorizes a collection fee equal to 20 percent of the total amount owed to be added to the amount referred for collection. The agent fee is 20 percent of the total amount collected.

C. SECTION DIRECTORY:

Section 1: Provides for notice to taxpayer of possible referral to contract collection agent and that collection costs become part of underlying tax lien.

Section 2: Authorizes in-house counsel or contract collection agent to collect delinquent taxes and establishes fee.

Section 3: Provides an effective date of upon becoming law.

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:

The bill may increase revenues for local governments by increasing the collection of delinquent personal property taxes, interest, and penalties.

2. Expenditures:

The expenditures authorized by this bill are collected from the delinquent taxpayer.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take an action requiring expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Section 559.715, F.S., requires notice to a debtor within 30 days after assignment of debt to a debt collector. Likewise, s. 213.27, F.S., authorizing the Department of Revenue to contract with debt collection agencies, requires the Department to notify the taxpayer at least 30 days prior to the initial assignment of the taxpayer's account for collection by a debt collection agency. This bill does not require notification of the assignment of debt, only that it may be assigned.

In addition, s. 213.27, F.S., authorizes the sharing of confidential information with the debt collection agency, requirements for keeping that information confidential, and penalties for breach of confidentiality of the information. This bill does not address what information will be shared with the collection agent and how such information will be protected.

D. STATEMENT OF THE SPONSOR

This bill is necessary to give Tax Collectors additional tools for improving the collection of delinquent tangible personal property taxes.

Even though tax collectors may employ in house counsel to conduct suits to collect delinquent tangible personal property taxes, some counties are falling behind in their collection efforts. The Florida Association of Counties, Miami-Dade County and Broward County all support this legislation to give Tax Collectors an option to contract with private firms to collect these difficult accounts, with the collection fee payable by the individual property owner. This bill also makes the property owner liable for the taxes which, when coupled with liability for collection costs, creates a second new incentive to pay timely. It also increases the probability of collection in cases where the delinquent's property has

been sold, removed from the county's jurisdiction or otherwise made unavailable for seizure in satisfaction of the delinquent taxes due.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.