

By Senator Margolis

35-1015-07

1                                   A bill to be entitled  
2           An act relating to affordable housing;  
3           authorizing a county commission or municipality  
4           to adopt an ordinance providing for the  
5           deferral of ad valorem taxes for affordable  
6           rental housing under certain conditions;  
7           providing specifications for such ordinances;  
8           providing eligibility requirements; authorizing  
9           a property owner to defer payment of ad valorem  
10          taxes and certain assessments; providing  
11          circumstances in which taxes may not be  
12          deferred; specifying the rate for deferment;  
13          providing that the taxes, assessments, and  
14          interest deferred constitute a prior lien on  
15          the property; providing an application process;  
16          providing notice requirements for applications  
17          that are not approved for deferment; providing  
18          an appeals process; requiring applications for  
19          deferral to contain a list of outstanding  
20          liens; providing the date for calculating taxes  
21          due and payable; requiring that an applicant  
22          furnish proof of certain insurance coverage  
23          under certain conditions; requiring the tax  
24          collector to notify the property appraiser of  
25          parcels for which taxes have been deferred;  
26          requiring the property appraiser to notify the  
27          tax collector of changes in ownership or use of  
28          tax-deferred properties; providing requirements  
29          for tax certificates for deferred payment;  
30          providing the rate of interest; providing  
31          circumstances in which tax deferral ceases;

1 requiring the property appraiser to notify the  
2 tax collector of tax deferrals that have  
3 ceased; requiring the tax collector to collect  
4 taxes and interest due; requiring the tax  
5 collector to notify the property owner of due  
6 taxes on tax-deferred property under certain  
7 conditions; requiring the tax collector to sell  
8 a tax certificate under certain circumstances;  
9 specifying persons who may pay deferred taxes  
10 and accrued interest; requiring the tax  
11 collector to maintain a record of payment of  
12 taxes and to distribute payments; providing for  
13 construction of provisions authorizing the tax  
14 deferments; providing penalties; providing an  
15 effective date.

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

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19 Section 1. (1) AD VALOREM TAX DEFERRAL FOR PROPERTIES  
20 PROVIDING AFFORDABLE RENTAL HOUSING.--

21 (a) The board of county commissioners of any county or  
22 the governing authority of any municipality may adopt an  
23 ordinance to allow for ad valorem tax deferrals for affordable  
24 rental housing if the owners are engaging in the operation,  
25 rehabilitation, or renovation of such properties in accordance  
26 with guidelines established in this section.

27 (b) The board of county commissioners or the governing  
28 authority of a municipality may also, by ordinance, authorize  
29 the deferral of non-ad valorem assessments for affordable  
30 rental housing.

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1           (c) The ordinance must designate the percentage or  
2 amount of the deferral and the type and location of affordable  
3 rental housing property for which a deferral may be granted.  
4 Such property may also be required to be located within a  
5 particular geographic area or areas of the county or  
6 municipality.

7           (d) The ordinance must specify that such a deferral  
8 applies only to taxes levied by the unit of government  
9 granting the deferral. A deferral may not be granted, however,  
10 for taxes or non-ad valorem assessments, as defined in s.  
11 197.3632(1)(d), Florida Statutes, levied for the payment of  
12 bonds or for taxes authorized by a vote of the electors  
13 pursuant to s. 9(b) or s. 12, Art. VII of the State  
14 Constitution.

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

21           (f)1. If an application for deferral is granted on  
22 property that is located in a community redevelopment area,  
23 the amount of taxes eligible for deferral shall be reduced, as  
24 provided for in subparagraph 2., if:

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

29           b. Those instruments of indebtedness are associated  
30 with the real property applying for the deferral.  
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1           2. If subparagraph 1. applies, the tax deferral does  
2 not apply to an amount of taxes equal to the amount that must  
3 be deposited into the community redevelopment trust fund by  
4 the entity granting the deferral based upon the taxable value  
5 of the property upon which the deferral is being granted. Once  
6 all instruments of indebtedness that existed at the time the  
7 deferral was originally granted are no longer outstanding or  
8 have otherwise been defeased, this subparagraph no longer  
9 applies.

10           3. If a portion of the taxes on a property were not  
11 eligible for deferral because of subparagraph 2., the  
12 community redevelopment agency shall notify the property owner  
13 and the tax collector 1 year before the debt instruments that  
14 prevented such taxes from being deferred are no longer  
15 outstanding or otherwise defeased.

16           4. 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           5. Issuance of debt obligation after the date a  
21 deferral has been granted does not reduce the amount of taxes  
22 eligible for deferral.

23           (2) ELIGIBILITY.--The tax deferral authorized by this  
24 section is applicable only on a prorata basis to the ad  
25 valorem taxes levied on the following residential units within  
26 a property which meet the conditions in paragraphs (a) and  
27 (b):

28           (a) Units for which the monthly rent along with taxes,  
29 insurance, and utilities do not exceed 30 percent of that  
30 amount representing the percentage of the median adjusted  
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1 gross annual income as defined in s. 420.0004(2), Florida  
2 Statutes, for the households as indicated in paragraph (b).

3 (b) Units that are occupied by extremely-low-income  
4 persons as defined in s. 420.0004(8), Florida Statutes,  
5 very-low-income persons as defined in s. 420.0004(15), Florida  
6 Statutes, low-income persons as defined in s. 420.0004(10),  
7 Florida Statutes, or moderate-income persons as defined in s.  
8 420.0004(11), Florida Statutes.

9 (3) TAX DEFERRAL FOR AFFORDABLE RENTAL HOUSING  
10 PROPERTIES.--

11 (a) Any property owner in a jurisdiction that has  
12 adopted a tax-deferral ordinance pursuant to subsection (1)  
13 which owns a qualified affordable rental housing property as  
14 defined in subsection (2) may elect to defer payment of those  
15 ad valorem taxes and non-ad valorem assessments designated in  
16 the ordinance authorizing the deferral by filing an annual  
17 application for tax deferral with the county tax collector on  
18 or before January 31 following the year in which the taxes and  
19 non-ad valorem assessments are assessed. The applicant has the  
20 burden to affirmatively demonstrate compliance with the  
21 requirements of this section.

22 (b) Approval of an application for tax deferral defers  
23 that portion of the combined total of ad valorem taxes and any  
24 non-ad valorem assessments that are authorized to be deferred  
25 by the ordinance authorizing the deferral.

26 (c) Tax deferral may not be granted if:

27 1. The total amount of deferred taxes, non-ad valorem  
28 assessments, and interest plus the total amount of all other  
29 unsatisfied liens on the property exceeds 85 percent of the  
30 assessed value of the property; or

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1           2. The primary financing on the property is for an  
2 amount that exceeds 70 percent of the assessed value of the  
3 property.

4           (d) The amount of taxes, non-ad valorem assessments,  
5 and interest deferred shall accrue interest at a rate equal to  
6 the annually compounded rate of 3 percent plus the Consumer  
7 Price Index for All Urban Consumers; however, the interest  
8 rate may not exceed 9.5 percent.

9           (e) The taxes, non-ad valorem assessments, and  
10 interest deferred pursuant to this section constitute a prior  
11 lien and shall attach as of the date and in the same manner  
12 and be collected as other liens for taxes, as provided for  
13 under this chapter, but such deferred taxes, non-ad valorem  
14 assessments, and interest are due, payable, and delinquent as  
15 provided in ss. 197.303-197.3047, Florida Statutes.

16           (4) TAX DEFERRAL FOR AFFORDABLE RENTAL HOUSING  
17 PROPERTIES; APPLICATION.--

18           (a) The application for deferral must be made annually  
19 upon a form prescribed by the department and furnished by the  
20 county tax collector. The application form must be signed upon  
21 oath by the applicant before an officer authorized by the  
22 state to administer oaths. The tax collector may require the  
23 applicant to submit any other evidence and documentation as  
24 considered necessary by the tax collector in considering the  
25 application. The application form must provide notice to the  
26 applicant of the manner in which interest is computed. Each  
27 application form must contain an explanation of the conditions  
28 to be met for approval and the conditions under which deferred  
29 taxes and interest become due, payable, and delinquent. Each  
30 application must clearly state that all deferrals pursuant to  
31 this section constitute a lien on the applicant's property.

1           (b)1. The tax collector shall consider and render his  
2 or her findings, determinations, and decision on each annual  
3 application for a tax deferral for affordable rental housing  
4 within 45 days after the date the application is filed. The  
5 tax collector shall exercise reasonable discretion based upon  
6 applicable information available under this section. The  
7 determinations and findings of the tax collector as provided  
8 for in this paragraph are not quasi judicial and are subject  
9 exclusively to review by the value adjustment board as  
10 provided by this section. A tax collector who finds that the  
11 applicant is entitled to the tax deferral shall approve the  
12 application and file the application in the permanent records.  
13 A tax collector who finds that the applicant is not entitled  
14 to the deferral shall send a notice of disapproval within 45  
15 days after the date the application is filed, giving reasons  
16 for the disapproval to the applicant. The notice must be sent  
17 by personal delivery or registered mail to the mailing address  
18 given by the applicant in the manner in which the original  
19 notice was served upon the applicant and must be filed among  
20 the permanent records of the tax collector's office. The  
21 original notice of disapproval sent to the applicant shall  
22 advise the applicant of the right to appeal the decision of  
23 the tax collector to the value adjustment board and inform the  
24 applicant of the procedure for filing such an appeal.

25           2. An appeal of the decision of the tax collector to  
26 the value adjustment board must be in writing on a form  
27 prescribed by the department and furnished by the tax  
28 collector. The appeal must be filed with the value adjustment  
29 board within 20 days after the applicant's receipt of the  
30 notice of disapproval, and the board must approve or  
31 disapprove the appeal within 30 days after receipt. The value

1 adjustment board shall review the application and the evidence  
2 presented to the tax collector upon which the applicant based  
3 his or her claim for tax deferral and, at the election of the  
4 applicant, shall hear the applicant in person, or by agent on  
5 the applicant's behalf, on his or her right to the tax  
6 deferral. The value adjustment board shall reverse the  
7 decision of the tax collector and grant a tax deferral to the  
8 applicant if, in its judgment, the applicant is entitled to  
9 the tax deferral or shall affirm the decision of the tax  
10 collector. Action by the value adjustment board is final  
11 unless the applicant or tax collector or other lienholder,  
12 within 15 days after the date of disapproval of the  
13 application by the board, files in the circuit court of the  
14 county in which the property is located for a de novo  
15 proceeding for a declaratory judgment or other appropriate  
16 proceeding.

17 (c) Each application must contain a list of, and the  
18 current value of, all outstanding liens on the applicant's  
19 property.

20 (d) For approved applications, the date of receipt by  
21 the tax collector of the application for tax deferral shall be  
22 used in calculating taxes due and payable net of discounts for  
23 early payment.

24 (e) If such proof has not been furnished with a prior  
25 application, each applicant shall furnish proof of fire and  
26 extended coverage insurance in an amount that is in excess of  
27 the sum of all outstanding liens and deferred taxes and  
28 interest with a loss payable clause to the county tax  
29 collector.

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1           (f) The tax collector shall notify the property  
2 appraiser in writing of those parcels for which taxes have  
3 been deferred.

4           (g) The property appraiser shall promptly notify the  
5 tax collector of changes in ownership or use of properties  
6 that have been granted a tax deferral.

7           (5) DEFERRED PAYMENT TAX CERTIFICATES.--

8           (a) The tax collector shall notify each local  
9 governing body of the amount of taxes and non-ad valorem  
10 assessments deferred which would otherwise have been collected  
11 for such governing body. The county shall, at the time of the  
12 tax certificate sale held pursuant to s. 197.432, Florida  
13 Statutes, strike each certificate off to the county.  
14 Certificates issued pursuant to this section are exempt from  
15 the public sale of tax certificates held pursuant to s.  
16 197.432, Florida Statutes.

17           (b) The certificates held by the county shall bear  
18 interest at a rate equal to the annually compounded rate of 3  
19 percent plus the Consumer Price Index for All Urban Consumers;  
20 however, the interest rate may not exceed 9.5 percent.

21           (6) CHANGE IN USE OR OWNERSHIP OF PROPERTY.--

22           (a) If there is a change in use or ownership of the  
23 tax-deferred property such that the owner is no longer  
24 entitled to claim the property as an affordable rental housing  
25 property, if there is a change in the legal or beneficial  
26 ownership of the property, or if the owner fails to maintain  
27 the required fire and extended insurance coverage, the total  
28 amount of deferred taxes and interest for all previous years  
29 becomes due and payable November 1 of the year in which the  
30 change in use or ownership occurs or on the date failure to  
31 maintain insurance occurs, and is delinquent on April 1 of the

1 year following the year in which the change in use or  
2 ownership or failure to maintain insurance occurs.

3 (b) Whenever the property appraiser discovers that  
4 there has been a change in the use or ownership of the  
5 property that has been granted a tax deferral, the property  
6 appraiser shall notify the tax collector in writing of the  
7 date such change occurs, and the tax collector shall collect  
8 any taxes and interest due or delinquent.

9 (c) During any year in which the total amount of  
10 deferred taxes, interest, and all other unsatisfied liens on  
11 the property exceeds 85 percent of the assessed value of the  
12 property, the tax collector shall immediately notify the owner  
13 of the property on which taxes and interest have been deferred  
14 that the portion of taxes and interest which exceeds 85  
15 percent of the assessed value of the property is due and  
16 payable within 30 days after receipt of the notice. Failure to  
17 pay the amount due shall cause the total amount of deferred  
18 taxes and interest to become delinquent.

19 (d) If deferred taxes become delinquent under this  
20 section on or before June 1 following the date the taxes  
21 become delinquent, the tax collector shall sell a tax  
22 certificate for the delinquent taxes and interest in the  
23 manner provided by s. 197.432, Florida Statutes.

24 (7) PREPAYMENT OF DEFERRED TAXES.--All or part of the  
25 deferred taxes and accrued interest may at any time be paid to  
26 the tax collector by:

27 (a) The owner of the property; or

28 (b) The next of kin of the owner, heir of the owner,  
29 child of the owner, or any person having or claiming a legal  
30 or equitable interest in the property, if an objection is not  
31 made by the owner within 30 days after the tax collector

1 notifies the owner of the fact that such payment has been  
2 tendered.

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4 Any partial payment made pursuant to this section shall be  
5 applied first to accrued interest.

6 (8) DISTRIBUTION OF PAYMENTS.--When any deferred taxes  
7 or interest is collected, the tax collector shall maintain a  
8 record of the payment, setting forth a description of the  
9 property and the amount of taxes or interest collected for the  
10 property. The tax collector shall distribute payments received  
11 in accordance with the procedures for distributing ad valorem  
12 taxes or redemption moneys as prescribed in chapter 197,  
13 Florida Statutes.

14 (9) CONSTRUCTION.--This section does not prevent the  
15 collection of personal property taxes that become a lien  
16 against tax-deferred property, defer payment of special  
17 assessments to benefited property other than those  
18 specifically allowed to be deferred, or affect any provision  
19 of any mortgage or other instrument relating to property  
20 requiring a person to pay ad valorem taxes or non-ad valorem  
21 assessments.

22 (10) PENALTIES.--

23 (a) The following penalties shall be imposed on any  
24 person who willfully files information required under this  
25 section which is incorrect:

26 1. The person shall pay the total amount of taxes and  
27 interest deferred. This amount shall immediately become due;

28 2. The person shall be disqualified from filing a  
29 tax-deferral application for the next 3 years; and

30 3. The person shall pay a penalty of 25 percent of the  
31 total amount of taxes and interest deferred.

1           (b) Any person against whom the penalties prescribed  
2 in this section have been imposed may appeal the penalties  
3 imposed to the value adjustment board within 30 days after the  
4 penalties are imposed.

5           Section 2. This act shall take effect upon becoming a  
6 law.

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9           SENATE SUMMARY

10          Authorizes county commissions and municipalities to adopt  
11 tax deferral ordinances for affordable rental housing  
12 properties under certain conditions. Provides  
13 specifications for such ordinances. Provides eligibility  
14 requirements. Authorizes property owners to defer payment  
15 of ad valorem taxes and certain assessments. Provides  
16 circumstances in which taxes may not be deferred.  
17 Provides that the taxes, assessments, and interest  
18 deferred constitute a prior lien on the property.  
19 Provides an application process. Provides notice  
20 requirements for applications that are not approved for  
21 deferment. Requires applications for deferral to contain  
22 a list of outstanding liens. Requires applicants to  
23 furnish proof of certain insurance coverage under certain  
24 conditions. Provides notification requirements. Provides  
25 requirements for tax certificates for deferred payment.  
26 Provides circumstances in which tax deferral ceases.  
27 Requires the tax collector to collect taxes and interest  
28 due. Requires the tax collector to sell a tax certificate  
29 under certain circumstances. Specifies persons who may  
30 pay deferred taxes and accrued interest. Requires the tax  
31 collector to maintain a record of payment of taxes and to  
distribute payments. Provides penalties.