

Bill No. SB 1626

Barcode 955450

CHAMBER ACTION

Senate

House

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The Committee on Community Affairs (Hill) recommended the following amendment:

Senate Amendment (with title amendment)

On page 12, between lines 4 and 5,

insert:

Section 1. Sections 197.307, 197.3071, 197.3072, 197.3073, 197.3074, 197.3075, 197.3076, 197.3077, 197.3078, and 197.3079, Florida Statutes, are created to read:

197.307 Deferrals for ad valorem taxes and non-ad valorem assessments on affordable rental housing property.--

(1) A board of county commissioners or the governing authority of a municipality may adopt an ordinance to allow for ad valorem tax deferrals on affordable rental housing if the owners are engaging in the operation, rehabilitation, or renovation of such properties in accordance with the guidelines provided in part VI of chapter 420.

(2) The board of county commissioners or the governing authority of a municipality may also, by ordinance, authorize the deferral of non-ad valorem assessments, as defined in s.

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1 197.3632, on affordable rental housing.

2 (3) The ordinance must designate the percentage or
3 amount of the deferral and the type and location of affordable
4 rental housing property for which a deferral may be granted.

5 The ordinance may also require the property to be located
6 within a particular geographic area or areas of the county or
7 municipality.

8 (4) The ordinance must specify that the deferral
9 applies only to taxes and assessments levied by the unit of
10 government granting the deferral. However, a deferral may not
11 be granted for taxes or non-ad valorem assessments levied for
12 the payment of bonds or for taxes authorized by a vote of the
13 electors pursuant to s. 9(b) or s. 12, Art. VII of the State
14 Constitution.

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

22 (6) If an application for tax deferral is granted on
23 property that is located in a community redevelopment area as
24 defined in s. 163.340:

25 (a) The amount of taxes eligible for deferral must be
26 reduced, as provided for in paragraph (b), if:

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

31 2. The instruments of indebtedness are associated with

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1 the real property applying for the deferral.

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

10 (c) If a portion of the taxes on a property are not
11 eligible for deferral as provided under paragraph (b), 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 (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 agency's community
19 redevelopment area.

20 (e) 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 (7) The tax collector shall notify:

24 (a) The taxpayer of each parcel appearing on the real
25 property assessment roll of the law allowing the deferral of
26 taxes, non-ad valorem assessments, and interest under ss.
27 197.307-197.3079. Such notice shall be printed on the back of
28 envelopes used to mail the notice of taxes as provided under
29 s. 197.322(3). Such notice shall read:

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NOTICE TO TAXPAYERS OWNING

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AFFORDABLE RENTAL HOUSING PROPERTY

If your property meets certain conditions you may qualify for a deferred tax payment plan on your affordable rental housing property. An application to determine your eligibility is available in the county tax collector's office.

(b) On or before November 1 of each year, each taxpayer for whom a tax deferral has been previously granted of the accumulated sum of deferred taxes, non-ad valorem assessments, and interest outstanding.

197.3071 Eligibility for tax deferral.--The tax deferral authorized by this section is applicable only on a prorata basis to the ad valorem taxes levied on residential units within a property which meet the following conditions:

(1) Units for which the monthly rent along with taxes, insurance, and utilities does not exceed 30 percent of the median adjusted gross annual income as defined in s. 420.0004 for the households described in subsection (2).

(2) Units that are occupied by extremely-low-income persons, very-low-income persons, low-income persons, or moderate-income persons as these terms are defined in s. 420.0004.

197.3072 Deferral for affordable rental housing properties.--

(1) Any property owner in a jurisdiction that has adopted an ad valorem tax-deferral ordinance or a deferral of non-ad valorem assessments ordinance pursuant to s. 197.307 and who owns an eligible affordable rental housing property as described in s. 197.3071 may apply for a deferral of payment

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1 by filing an annual application for deferral with the county
 2 tax collector on or before January 31 following the year in
 3 which the taxes and non-ad valorem assessments are assessed.
 4 The property owner has the burden to affirmatively demonstrate
 5 compliance with the requirements of this section.

6 (2) Approval by the tax collector defers that portion
 7 of the combined total of ad valorem taxes and any non-ad
 8 valorem assessments plus interest that are authorized to be
 9 deferred by an ordinance enacted pursuant to 197.307.

10 (3) Deferral may not be granted if:

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

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

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

23 (5) The deferred taxes, non-ad valorem assessments,
 24 and interest constitute a prior lien on the affordable rental
 25 housing property and shall attach as of the date and in the
 26 same manner and be collected as other liens for taxes as
 27 provided for under this chapter, but such deferred taxes,
 28 non-ad valorem assessments, and interest are due, payable, and
 29 delinquent as provided in ss. 197.307-197.3079.

30 197.3073 Deferral application.--

31 (1) The application for a deferral of ad valorem taxes

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1 and non-ad valorem assessments must be made annually upon a
2 form prescribed by the department and furnished by the county
3 tax collector. The application form must be signed under oath
4 by the property owner applying for the deferral before an
5 officer authorized by the state to administer oaths. The
6 application form must provide notice to the property owner of
7 the manner in which interest is computed. The application form
8 must contain an explanation of the conditions to be met for
9 approval of the deferral and the conditions under which
10 deferred taxes, non-ad valorem assessments, and interest
11 become due, payable, and delinquent. Each application must
12 clearly state that all deferrals pursuant to this section
13 constitute a lien on the property for which the deferral is
14 granted. The tax collector may require the property owner to
15 submit any other evidence and documentation considered
16 necessary by the tax collector in reviewing the application.

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

29 (a) A tax collector who finds that a property owner is
30 not entitled to the deferral shall send a notice of
31 disapproval within 45 days after the date the application is

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1 filed, giving reasons for the disapproval. The notice must be
2 sent by personal delivery or registered mail to the mailing
3 address given by the property owner in the manner in which the
4 original notice was served upon the property owner and must be
5 filed among the permanent records of the tax collector's
6 office. The original notice of disapproval sent to the
7 property owner shall advise the property owner of the right to
8 appeal the decision of the tax collector to the value
9 adjustment board and provide the procedures for filing an
10 appeal.

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

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1 judgment or other appropriate proceeding in the circuit court
2 of the county in which the property is located.

3 (3) Each application for deferral must contain a list
4 of, and the current value of, all outstanding liens on the
5 property for which a deferral is requested.

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

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

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

22 (8) The property owner shall promptly notify the tax
23 collector of changes in ownership or use of properties that
24 have been granted tax deferrals.

25 197.3074 Deferred payment tax certificates.--

26 (1) The tax collector shall notify each local
27 governing body of the amount of taxes and non-ad valorem
28 assessments deferred which would otherwise have been collected
29 for the governing body. The tax collector shall, at the time
30 of the tax certificate sale held under s. 197.432 strike each
31 certificate off to the county. Certificates issued under this

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1 section are exempt from the public sale of tax certificates
2 held pursuant to s. 197.432.

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

7 197.3075 Change in use or ownership of property.--

8 (1) If there is a change in use or ownership of the
9 property that has been granted an ad valorem tax or non-ad
10 valorem assessment deferral such that the property owner is no
11 longer entitled to claim the property as an affordable rental
12 housing property, or if there is a change in the legal or
13 beneficial ownership of the property, or if the owner fails to
14 maintain the required fire and extended insurance coverage,
15 the total amount of deferred taxes, non-ad valorem
16 assessments, and interest for all previous years becomes due
17 and payable November 1 of the year in which the change in use
18 or ownership occurs or on the date failure to maintain
19 insurance occurs, and is delinquent on April 1 of the year
20 following the year in which the change in use or ownership or
21 failure to maintain insurance occurs.

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

29 (3) During any year in which the total amount of
30 deferred taxes, non-ad valorem assessments, interest, and all
31 other unsatisfied liens on the property exceeds 85 percent of

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1 the assessed value of the property, the tax collector shall
 2 immediately notify the property owner that the portion of
 3 taxes, non-ad valorem assessments, and interest which exceeds
 4 85 percent of the assessed value of the property is due and
 5 payable within 30 days after receipt of the notice. Failure to
 6 pay the amount due shall cause the total amount of deferred
 7 taxes, non-ad valorem assessments, and interest to become
 8 delinquent.

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

13 197.3076 Prepayment of deferred taxes and non-ad
 14 valorem assessments.--

15 (1) All or part of the deferred taxes, non-ad valorem
 16 assessments, and accrued interest may at any time be paid to
 17 the tax collector by:

18 (a) The property owner; or

19 (b) The property owner's next of kin, heir, child, or
 20 any person having or claiming a legal or equitable interest in
 21 the property, if an objection is not made by the owner within
 22 30 days after the tax collector notifies the property owner of
 23 the fact that such payment has been tendered.

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

26 197.3077 Distribution of payments.--When any deferred
 27 tax, non-ad valorem assessment, or interest is collected, the
 28 tax collector shall maintain a record of the payment, setting
 29 forth a description of the property and the amount of taxes or
 30 interest collected for the property. The tax collector shall
 31 distribute payments received in accordance with the procedures

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1 for distributing ad valorem taxes, non-ad valorem assessments,
2 or redemption moneys as prescribed in this chapter.

3 197.3078 Construction.--This section does not prevent
4 the collection of personal property taxes that become a lien
5 against tax-deferred property, or defer payment of special
6 assessments to benefited property other than those
7 specifically allowed to be deferred, or affect any provision
8 of any mortgage or other instrument relating to property
9 requiring a person to pay ad valorem taxes or non-ad valorem
10 assessments.

11 197.3079 Penalties.--

12 (1) The following penalties shall be imposed on any
13 person who willfully files information required under this
14 section which is incorrect:

15 (a) The person shall pay the total amount of deferred
16 taxes, non-ad valorem assessments, and interest which shall
17 immediately become due;

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

20 (c) The person shall pay a penalty of 25 percent of
21 the total amount of taxes, non-ad valorem assessments, and
22 interest deferred.

23 (2) Any person against whom penalties have been
24 imposed may appeal to the value adjustment board within 30
25 days after the date the penalties were imposed.

26
27 (Redesignate subsequent sections.)

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30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 On page 1, lines 2 and 3, delete those lines

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3 and insert:

4 An act relating to affordable housing; creating
5 ss. 197.307, 197.3071, 197.3072, 197.3073,
6 197.3074, 197.3075, 197.3076, 197.3077,
7 197.3078, and 197.3079, F.S.; authorizing a
8 county commission or municipality to adopt an
9 ordinance providing for the deferral of ad
10 valorem taxes and non-ad valorem assessments
11 for affordable rental housing property under
12 certain conditions; requiring the tax collector
13 to provide certain notices to taxpayers about
14 deferrals; providing specifications for such
15 ordinances; providing eligibility requirements;
16 authorizing a property owner to defer payment
17 of ad valorem taxes and certain assessments;
18 providing circumstances in which taxes and
19 assessments may not be deferred; specifying the
20 rate for deferment; providing that the taxes,
21 assessments, and interest deferred constitute a
22 prior lien on the property; providing an
23 application process; providing notice
24 requirements for applications that are not
25 approved for deferment; providing an appeals
26 process; requiring applications for deferral to
27 contain a list of outstanding liens; providing
28 the date for calculating taxes due and payable;
29 requiring that a property owner furnish proof
30 of certain insurance coverage under certain
31 conditions; requiring the tax collector and the

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1 property owner to notify the property appraiser
2 of parcels for which taxes and assessments have
3 been deferred; requiring the property appraiser
4 to notify the tax collector of changes in
5 ownership or use of tax-deferred properties;
6 providing requirements for tax certificates for
7 deferred payment; providing the rate of
8 interest; providing circumstances in which
9 deferrals cease; requiring the property
10 appraiser to notify the tax collector of
11 deferrals that have ceased; requiring the tax
12 collector to collect taxes, assessments and
13 interest due; requiring the tax collector to
14 notify the property owner of due taxes on
15 tax-deferred property under certain conditions;
16 requiring the tax collector to sell a tax
17 certificate under certain circumstances;
18 specifying persons who may pay deferred taxes,
19 assessments and accrued interest; requiring the
20 tax collector to maintain a record of payment
21 and to distribute payments; providing for
22 construction of provisions authorizing the
23 deferments; providing penalties amending s.
24 420.5087, F.S.;

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