

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 51 Partial Payment of Property Taxes

**SPONSOR(S):** McKeel and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1004

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on State Affairs</u>	<u>10 Y, 0 N</u>	<u>Levin</u>	<u>Williamson</u>
2) <u>Government Efficiency &amp; Accountability Council</u>	<u>        </u>	<u>        </u>	<u>        </u>
3) <u>Policy &amp; 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**

Current law governs the payment of a portion of taxes due to a county tax collector. It permits the payment of a part of a tax notice when the part to be paid can be ascertained by the legal description. In some counties, this requirement has been interpreted to mean that the exact and full amount of taxes on a portion of the tax bill must be remitted in order for the tax collector to accept the payment tendered. This interpretation has resulted in tax collectors refusing to accept payments made by mail in which taxpayers have written their checks for substantially the correct amount; but taxpayers have made minor mistakes in writing the amount of the tax owed on their check, such as the transposition of two numbers for taxes owed.

The bill requires tax collectors to accept any payment that is a portion of the total amount of taxes owed, regardless of whether the portion of the tax notice to be paid can be ascertained by the legal description. Consistent with the new requirement, interest and penalties are applied only to the amount of taxes that remain unpaid. The tax procedures for the sale of tax certificates, cancellations of void tax certificates, and other processes of law are modified to require full payment of the taxes. Taxpayer rights to redress also are clarified to require payment in full before a taxpayer may redeem real property and tax certificates prior to the issuance of a tax deed.

The bill does not appear to have a fiscal impact on state government. It does not appear to have a significant fiscal impact on local revenues; however, tax collectors may experience an increase in workload due to the new requirement that they accept all partial payments of ad valorem taxes.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates new requirements for tax collectors regarding acceptance of payments of portions of amounts billed in tax notices.

Ensure lower taxes – The bill decreases the amount of interest and penalties owed by taxpayers under certain circumstances.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background**

Section 197.373, F.S., governs the payment of a portion of taxes due to a county tax collector. The section currently permits the payment of a part of a tax notice when the part to be paid can be ascertained by the legal description. In some counties, this requirement has been interpreted to mean that the exact and full amount of taxes on a portion of the tax bill must be remitted in order for the tax collector to accept the payment tendered. This interpretation has resulted in tax collectors refusing to accept payments made by mail in which taxpayers have written their checks for substantially the correct amount; but the taxpayers have made minor mistakes in writing the amount of the tax owed on their check, such as the transposition of two numbers in the amount of taxes owed.

##### **Effect of Bill**

The bill amends s. 197.373, F.S., to require tax collectors to accept any payment that is a portion of the total amount of taxes owed, regardless of whether the portion of the tax notice to be paid can be ascertained by the legal description. Consistent with the new requirement, interest and penalties are applied only to the amount of taxes that remain unpaid. The tax procedures for the sale of tax certificates, cancellations of void tax certificates, and other processes of law, pursuant to ss. 197.432, 197.442, and 197.443, F.S., are modified to require full payment of the taxes. Taxpayer rights to redress found in s. 192.0105, F.S., also are clarified to require payment in full before a taxpayer may redeem real property and tax certificates prior to the issuance of a tax deed.

Section 197.432, F.S., relating to the sale of tax certificates for unpaid taxes, is amended to require tax collectors to commence the sale of a tax certificate on any lands on which the taxes have not been paid fully.

Section 197.442, F.S., is amended to clarify that taxes must be paid fully, on land in which tax collectors sell tax certificates, before an aggrieved taxpayer is entitled to:

- Cancellation of an improperly issued tax certificate or deed;
- Legitimate expenses in clearing his or her title, should the tax collector fail to act within a reasonable amount of time;
- The tax collector being responsible to the publisher for the costs of advertising lands on which the taxes have been fully paid; and
- The property appraiser being responsible to the publisher for the costs of advertising lands doubly assessed or assessed in error.

Section 197.443, F.S., is amended to require tax collectors to forward tax certificates that have been rendered void, because taxes on land had been fully paid at the time of sale, to the Department of Revenue for review and then cancellation or correction by the tax collector.

Taxpayer rights to redress contained within s. 192.0105, F.S., also are clarified to require payment in full before a taxpayer may exercise the right to redeem real property and tax certificates prior to the issuance of a tax deed.

The effective date of the bill is July 1, 2008.

C. SECTION DIRECTORY:

Section 1 amends s. 192.0105, F.S., to make conforming changes.

Section 2 amends s. 197.373, F.S., to require tax collectors to accept payments of portions of amounts billed in tax notices.

Section 3 amends s. 197.432, F.S., to make conforming changes.

Section 4 amends s. 197.442, F.S., to make conforming changes.

Section 5 amends s. 197.443, F.S., to make conforming changes.

Section 6 provides an effective date of July 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.<sup>1</sup>

2. Expenditures:

None.<sup>2</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local government revenues may experience a minimal negative fiscal impact due to a decline in penalties and interest when taxpayers make substantially correct payments of ad valorem taxes.

2. Expenditures:

Tax collectors may experience an increase in workload due to the requirement that they accept all partial payments of ad valorem taxes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers making a partial payment of ad valorem taxes, including those who make minor mistakes in the checks they write, will pay a smaller amount in interest and penalties.

D. FISCAL COMMENTS:

None.

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<sup>1</sup> Department of Revenue 2008 Bill Analysis, HB 51, September 24, 2007, at 3.

<sup>2</sup> *Id.*

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Article VII, s. 18(b) and (c), Florida Constitution, are not applicable because the bill does not reduce the percentage of a state tax shared with counties or municipalities, nor does the bill reduce the authority that counties and municipalities have to raise revenue in the aggregate. The mandates provision of Article VII, s. 18(a), Florida Constitution, may be applicable if the bill requires the expenditure of funds greater than \$1.9 million.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not address situations in which taxes are overpaid. It is unknown whether the sponsor intended to address this issue in the bill.

#### D. STATEMENT OF THE SPONSOR

No statement submitted.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.