

By Senator Storms

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1                   A bill to be entitled  
2           An act relating to ad valorem tax refunds; amending s.  
3           197.182, F.S.; requiring a tax collector to  
4           automatically make a refund of an overpayment of taxes  
5           due to taxpayer error regardless of when the  
6           overpayment occurred; deleting a requirement that a  
7           claim for a refund for an overpayment of ad valorem  
8           taxes by a taxpayer be made within a certain time;  
9           limiting the period during which a taxpayer may file  
10          an action to contest the denial of a refund of ad  
11          valorem taxes; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. Subsection (1) of section 197.182, Florida  
16 Statutes, is amended to read:

17           197.182 Department of Revenue to pass upon and order  
18 refunds.—

19           (1) (a) Except as provided in paragraph (b), the department  
20 shall pass upon and order refunds when payment of taxes assessed  
21 on the county tax rolls has been made voluntarily or  
22 involuntarily under any of the following circumstances:

23           1. When an overpayment has been made.

24           2. When a payment has been made when no tax was due.

25           3. When a bona fide controversy exists between the tax  
26 collector and the taxpayer as to the liability of the taxpayer  
27 for the payment of the tax claimed to be due, the taxpayer pays  
28 the amount claimed by the tax collector to be due, and it is  
29 finally adjudged by a court of competent jurisdiction that the

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30 taxpayer was not liable for the payment of the tax or any part  
31 thereof.

32 4. When a payment has been made in error by a taxpayer to  
33 the tax collector, if, within 24 months of the date of the  
34 erroneous payment and prior to any transfer of the assessed  
35 property to a third party for consideration, the party seeking a  
36 refund makes demand for reimbursement of the erroneous payment  
37 upon the owner of the property on which the taxes were  
38 erroneously paid and reimbursement of the erroneous payment is  
39 not received within 45 days after such demand. The demand for  
40 reimbursement shall be sent by certified mail, return receipt  
41 requested, and a copy thereof shall be sent to the tax  
42 collector. If the payment was made in error by the taxpayer  
43 because of an error in the tax notice sent to the taxpayer,  
44 refund must be made as provided in subparagraph (b)2.

45 5. When any payment has been made for tax certificates that  
46 are subsequently corrected or are subsequently determined to be  
47 void under s. 197.443.

48 (b)1. Those refunds that have been ordered by a court and  
49 those refunds that do not result from changes made in the  
50 assessed value on a tax roll certified to the tax collector  
51 shall be made directly by the tax collector without order from  
52 the department and shall be made from undistributed funds  
53 without approval of the various taxing authorities. Overpayments  
54 in the amount of \$5 or less may be retained by the tax collector  
55 unless a written claim for a refund is received from the  
56 taxpayer. Overpayments greater than ~~over~~ \$5 which are paid as  
57 the result of ~~resulting from~~ taxpayer error must, ~~if determined~~  
58 ~~within the 4-year period of limitation,~~ are to be automatically

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59 refunded to the taxpayer. Such refunds do not require approval  
60 from the department.

61 2. When a payment has been made in error by a taxpayer to  
62 the tax collector because of an error in the tax notice sent to  
63 the taxpayer, refund must be made directly by the tax collector  
64 and does not require approval from the department. At the  
65 request of the taxpayer, the amount paid in error may be applied  
66 by the tax collector to the taxes for which the taxpayer is  
67 actually liable.

68 (c) Claims for refunds must ~~shall~~ be made in accordance  
69 with the rules of the department. ~~No refund shall be granted~~  
70 ~~unless claim is made therefor within 4 years of January 1 of the~~  
71 ~~tax year for which the taxes were paid.~~

72 (d) Upon receipt of the department's written denial of the  
73 refund, the tax collector shall issue the denial in writing to  
74 the taxpayer.

75 (e) If funds are available from current receipts and,  
76 subject to subsection (3), if a refund is approved, the taxpayer  
77 is entitled to receive a refund within 100 days after a claim  
78 for refund is made, unless the tax collector, property  
79 appraiser, or department states good cause for remitting the  
80 refund after that date. The times stated in this paragraph and  
81 paragraphs (f) through (j) are directory and may be extended by  
82 a maximum of an additional 60 days if good cause is stated.

83 (f) If the taxpayer contacts the property appraiser first,  
84 the property appraiser shall refer the taxpayer to the tax  
85 collector.

86 (g) If a correction to the roll by the property appraiser  
87 is required as a condition for the refund, the tax collector

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88 shall, within 30 days, advise the property appraiser of the  
89 taxpayer's application for a refund and forward the application  
90 to the property appraiser.

91 (h) The property appraiser has 30 days after receipt of the  
92 form from the tax collector to correct the roll if a correction  
93 is permissible by law. After the 30 days, the property appraiser  
94 shall immediately advise the tax collector in writing whether or  
95 not the roll has been corrected, stating the reasons why the  
96 roll was corrected or not corrected.

97 (i) If the refund is not one that can be directly acted  
98 upon by the tax collector, for which an order from the  
99 department is required, the tax collector shall forward the  
100 claim for refund to the department upon receipt of the  
101 correction from the property appraiser or 30 days after the  
102 claim for refund, whichever occurs first. This provision does  
103 not apply to corrections resulting in refunds of less than \$400,  
104 which the tax collector shall make directly, without order from  
105 the department, and from undistributed funds, and may make  
106 without approval of the various taxing authorities.

107 (j) The department shall approve or deny all refunds within  
108 30 days after receiving from the tax collector the claim for  
109 refund, unless good cause is stated for delaying the approval or  
110 denial beyond that date.

111 (k) Subject to and after meeting the requirements of s.  
112 194.171 and this section, an action to contest a denial of  
113 refund may not be brought later than 60 days after the date the  
114 tax collector issues the denial to the taxpayer. The notice of  
115 denial, which notice must be sent to the taxpayer by certified  
116 mail, or 4 years after January 1 of the year for which the taxes

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117 ~~were paid, whichever is later.~~

118 (1) In computing any time period under this section, when  
119 the last day of the period is a Saturday, Sunday, or legal  
120 holiday, the period is to be extended to the next working day.

121 Section 2. This act shall take effect July 1, 2011.