

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 355 Property Taxation
SPONSOR(S): Finance & Tax, O'Toole and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 478

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	24 Y, 0 N, As CS	Aldridge	Langston
2) Community & Military Affairs Subcommittee	11 Y, 0 N	Nelson	Hoagland
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The CS for HB 355 revises various Florida laws regarding property taxation including a statute of limitations; general provisions; administrative and judicial review of property taxes; property tax exemptions; and tax collections, sales and liens. The bill removes archaic language, deletes references to outdated laws, combines sections for consistency, and clarifies definitions. Specific changes made by the bill include the following:

- authorizes the tax collector to remove uncollectible tangible personal property tax accounts from the tax roll;
- increases from \$5 to \$10 the amount of tax overpayments which may be retained by the tax collector;
- authorizes the tax collector to send certain tax notices electronically, if expressly consented to by the taxpayer;
- consolidates tax deferral provisions for homesteads, working waterfronts, and affordable housing;
- changes the timeframe within which an appeal of a denied tax deferral must be filed with the value adjustment board from 20 days after the applicant's receipt of the denial to 30 days after the mailing of the denial;
- reduces the maximum interest rate required to be paid by a taxpayer on deferred payment tax certificates from 9.5 to seven percent;
- requires that partial payment of deferred taxes must be in an amount of at least one year of deferred taxes, assessments and accrued interest;
- authorizes the tax collector to establish branch offices to conduct state business;
- increases the deadline from at least 15 to 45 days prior to a tax certificate sale for a request to pay a portion of a tax notice;
- expands the availability of an implemented installment payment program to all delinquent personal property taxpayers;
- increases from \$100 to \$250 the amount of delinquent taxes on homestead property for which a tax certificate cannot be sold at public auction and must be struck to the county;
- shifts the disposition of unclaimed redemption moneys from the counties to the state; and
- adds to the opening bid amount on tax deed property sales all tax certificates sold subsequent to the filing of the tax deed application plus any omitted taxes.

The bill provides legislative intent that property tax collection should be free from the influence or the appearance of influence of the local governments that levy property taxes and receive property tax revenues.

The Revenue Estimating Conference has determined that the bill will have a positive, indeterminate impact on state government revenues, and an indeterminate impact of unknown direction on local government revenues.

The bill is effective July 1, 2011.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0355c.CMAS

DATE: 4/1/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The CS for HB 355 revises various Florida laws regarding property taxation including a statute of limitations; general provisions; administrative and judicial review of property taxes; property tax exemptions; and tax collections, sales and liens. The bill removes archaic language, deletes references to outdated laws, combines sections for consistency, and clarifies definitions. Specific changes made by the bill are detailed below.

Uncollectible Personal Property Taxes

Present Situation

Current law does not specify procedures when delinquent tangible personal property tax accounts are determined to be uncollectible. This can result in instances where personal property tax accounts are carried on the tax roll, when there is no reasonable expectation that the property will ever be found to seize and sell for the payment of delinquent taxes.

Proposed Changes

The bill authorizes a tax collector who determines that a tangible personal property account is uncollectible to issue a certificate of correction for the current tax roll and any prior tax rolls. The bill also requires the tax collector to notify the property appraiser that an account is invalid when the account is determined to be uncollectible, and the assessment may not be certified for a future tax roll. An uncollectible account includes, but is not limited to: an account on property that was originally assessed but cannot be found to seize and sell for the payment of taxes, and includes other personal property of the owner for which a tax warrant may be issued.

Refunds

Present Situation

When payments have been made in error,¹ before the taxpayer may apply for a refund from the tax collector, the taxpayer must make demand for reimbursement of the erroneous payment from the owner of the property on which the erroneous taxes were paid, within 24 months of the date of payment.²

Overpayments of \$5 or less may be retained by the tax collector, unless the taxpayer files a written claim for refund. Overpayments of more than \$5 resulting from taxpayer error are automatically refunded by the tax collector if determined within four years of the overpayment.³

Certain refunds of \$400 or more require approval of the Department of Revenue (DOR) before they can be made.⁴

Proposed Changes

When payments have been made in error, the bill reduces the timeframe within which the taxpayer must make demand for reimbursement of the erroneous payment from the owner of the property on

¹ The term "payment in error" includes payment by one taxpayer for a parcel which is erroneously applied to another taxpayer or parcel. See, Rule 12D-13.009(2)(c), F.A.C.

² Section 197.182(1)(a)4., F.S.

³ Section 197.182(1)(c), F.S.

⁴ Section 197.182(1)(i), F.S.

which the taxes were paid from 24 months to 12 months for delinquent taxes paid and from 24 months to 18 months for non-delinquent taxes paid.

The bill raises the amount of overpayments that may be retained by the tax collector from \$5 or less to \$10 or less.

The bill also increases the amount of certain refunds that require DOR approval from \$400 to \$2,500.

Notice Sent to Taxpayers

Present Situation

The tax collector is required to send various notices to taxpayers by mail. These include:

- notices of refund denial;⁵
- tax notices sent to taxpayers stating the amount of current taxes due;⁶
- additional tax notices sent by April 30 to taxpayers whose payment has not been received;⁷ and
- tax notices authorized to be mailed to certain third parties, including mortgagees that are the trustee of a taxpayers escrow account for ad valorem taxes.⁸

Proposed Changes

The bill authorizes the tax collector to send these notices electronically, with the express consent of the property owner, or by mail. However, if a notice sent electronically is returned as undeliverable, a second notice must be sent, but the original electronic notice is the official mailing. The bill also deletes requirements that certain information be provided or stored in the form prescribed by the Department of Revenue.

Property Tax Deferrals

Present Situation

Chapter 197, F.S., provides certain instances in which a taxpayer can delay paying a portion of his or her combined taxes to a future date. Sections 197.252-197.3079, F.S., allow individual tax deferrals for taxpayers who are entitled to exemptions for homestead, recreational and commercial working waterfront, and affordable rental housing property. To qualify for a tax deferral, these property owners are required to file an annual tax deferral application with the county tax collector on or before January 31, following the year the property was assessed. Property tax deferrals for homestead,⁹ recreational and commercial working waterfront¹⁰ and affordable rental housing¹¹ properties are contained within separate sections of ch. 197, F.S.

Proposed Changes

Section 197.2421, F.S., is created and combines the tax deferral provisions for homestead, recreational and commercial working waterfront and affordable rental housing properties. Section 197.2423, F.S., is also created to prescribe the process for determining the approval or denial of a property tax deferral by the tax collector.

⁵ Section 197.182(1)(k), F.S.

⁶ Section 197.322(3), F.S.

⁷ Section 197.343(1), F.S.

⁸ Section 197.344(1), F.S.

⁹ Section 197.252, F.S.

¹⁰ Section 197.304, F.S.

¹¹ Section 197.307, F.S.

Appeal of Denied Tax Deferral

Present Situation

Section 197.253, F.S., prescribes the procedure for applying for a homestead tax deferral. The application must be on a form prescribed by DOR. The tax collector must consider the application for homestead tax deferral within 30 days of the application. A denial of the tax deferral can be appealed to the value adjustment board. The decision of the value adjustment board may be appealed to the circuit court by a petition for a declaratory judgment or other appropriate proceeding.

Proposed Changes

The bill moves the application for a homestead tax deferral procedure to s. 197.2423, F.S., and provides new time requirements for the process. If the tax collector disapproves a tax deferral, he or she must send notice of the disapproval within 45 days after the application is filed. Section 197.253, F.S., is renumbered to s. 197.2425, F.S., and prescribes the appeal process. The time for appeal changes from 20 days after receipt of the notice to 30 days after mailing of the notice. An appeal of the value adjustment board decision is by a de novo proceeding¹² for a declaratory judgment or other appropriate proceeding in circuit court.

Deferred Payment Tax Certificates

Present Situation

Section 197.262, F.S., requires tax collectors to notify each local governing body of the amount of taxes and non ad-valorem assessments deferred which would otherwise have been collected by the governing body. When taxes are deferred, a tax certificate for the deferred taxes is struck to the county. Such certificates are exempt from the normal tax certificate public sale process. Taxpayers with deferrals are required to pay interest on the amounts deferred. The interest rate on tax certificates held by counties may not exceed 9.5 percent.

Proposed Changes

The bill removes the requirement for collectors to notify each local governing body of the amount of taxes and non ad-valorem assessments deferred which would otherwise have been collected by the governing body. The bill also reduces the maximum interest rate, required to be paid by the property owner, on deferred payment tax certificates to seven percent.

Prepayment of Deferred Taxes

Present Situation

Section 197.272, F.S., allows a property owner to pay all or part of deferred taxes and interest at any time. Partial payments are applied first to accrued interest.

Proposed Changes

Partial payments of deferred taxes must, at a minimum, be in the amount of one full year of deferred taxes, assessments and accrued interest.

Branch Offices

Present Situation

¹² A de novo proceeding is one where the matter is considered anew, as if the matter had not been heard before and as if no decision had been previously rendered.

Section 1(k), Art. VIII of the State Constitution, requires a resolution of the governing body of the county to establish a branch office for the conduct of county business outside of the county seat.

Proposed Changes

The bill authorizes a tax collector to establish branch offices to conduct state business or, if authorized to do so by resolution of the county governing body pursuant to s. 1(k), Art. VIII of the State Constitution, conduct county business.

The bill also authorizes a tax collector to perform collection duties through the use of contracted services or products or by electronic means and to collect the costs of contracted services.

Payment of a Portion of Taxes

Present Situation

Section 197.373, F.S. provides that a tax collector is authorized to allow the payment of a part of a tax notice when the part can be ascertained by legal description, such part is under a contract for sale or has been transferred to a new owner, and the request is made by the person purchasing the property or the new owner or someone acting on behalf of the purchaser or owner. The request must be made at least 15 days prior to the tax certificate sale.

Proposed Changes

The bill changes the deadline for a request to pay a portion of a tax notice to 45 days before the tax certificate sale.

Electronic Sale of Tax Certificates

Present Situation

Tax collectors are authorized to conduct electronic tax certificate sales under s. 197.432(16), F.S., which provides:

The county tax collector may conduct the sale of tax certificates for unpaid taxes pursuant to this section by electronic means. Such electronic sales shall comply with the procedures provided in this chapter. The tax collector shall provide access to such electronic sale by computer terminals open to the public at a designated location. A tax collector who chooses to conduct such electronic sales may receive electronic deposits and payments related to the tax certificate sale.

Proposed Changes

Several changes are made to ch. 197, F.S., to update statutory guidance to tax collectors wishing to conduct electronic sales of tax certificates. These include:

- Providing definitions for the terms “awarded,” “proxy bidding” and “random number generator.”
- Amending s. 197.432, F.S., updating the authority tax collectors have to conduct electronic tax sales certificates.
- Allowing for proxy bidding.
- Authorizing electronic deposits and payments related to the tax certificate sale.

- Allowing the use of a random-number generator to determine the winning bidder when multiple bidders offer the same lowest rate of interest.

Installment Payment Program

Present Situation

The tax collector may implement an installment payment program for the payment of delinquent tangible personal property taxes. If implemented, the program must be available to each delinquent tangible personal property taxpayer whose delinquent personal property taxes exceed \$1,000.

Proposed Changes

The bill deletes the mandatory availability of an implemented installment payment program to taxpayers whose delinquent tangible personal property taxes exceed \$1,000 and makes the program available to all delinquent tangible personal property taxpayers.

Tax Certificates on Homestead Property

Present Situation

A tax certificate of less than \$100 in delinquent taxes on homestead property cannot be sold at public auction, but must be issued to the county and bear a maximum interest of 18 percent.¹³

Proposed Changes

The bill increases from \$100 to \$250 the amount of delinquent taxes on homestead property for which a tax certificate cannot be sold at public auction and must be struck to the county. The bill also reduces the maximum interest rate to the maximum rate allowed under s. 197.252(4), F.S., which is currently seven percent. The bill authorizes the use of proxy bidding for tax certificate sales and the use of a random number generator to determine a winner, where multiple bidders offer the same lowest rate of interest.

Disposition of Unclaimed Redemption Moneys

Present Situation

Certain moneys paid to the tax collector for the redemption of tax certificates that are payable to the holder of a redeemed tax certificate but for which no claim has been made are remitted to the board of county commissioners. Two years after the date the unclaimed redemption moneys were remitted to the board of county commissioners, all claims to such moneys are forever barred, and such moneys become the property of the county.¹⁴

Proposed Changes

The bill adds moneys paid to the tax collector for a tax deed application that are payable to the holder of a redeemed tax certificate to the “disposition of unclaimed redemption moneys” statute. The bill provides that such moneys are considered unclaimed under the general disposition of unclaimed property law contained in ch. 717, F.S., and must be remitted to the state.

Sale of Tax Deeds at Public Auction

Present Situation

¹³ Sections 197.172 and 197.432(4), F.S.

¹⁴ Section 197.473, F.S.

- Once a certificateholder has filed an application for a tax deed, the real property against which the tax certificate was issued is advertised for sale to the highest bidder, specifying the time, date and location of the sale.¹⁵
- For non-homestead property, the opening bid is the amount of delinquent taxes, accrued interest, plus costs and fees involved in the tax deed application.¹⁶ For homestead property, the opening bid is increased to include all amounts required for non-homestead property, plus an amount equal to one-half of the assessed value of the homestead property.¹⁷ The property is struck off and sold to the highest bidder, who must make full payment of the final bid, plus any documentary stamp tax and recording fees due.
- The highest bidder must post with the clerk a nonrefundable cash deposit of \$200 at the time of the sale, to be applied to the sale price at the time of full payment. If there are no higher bids than the opening bid, the land is struck off and sold to the certificateholder, who must pay to the clerk the documentary stamp tax and recording fees due.
- Upon receipt of full payment, a tax deed is issued and recorded by the clerk of the circuit court. If full payment of the final bid and of documentary stamp tax and recording fees dues is not made within 24 hours, or if the sale is canceled for any reason, the clerk must readvertise the sale to be held within 30 days.

Proposed Changes

- The bill deletes outdated language regarding “sale to the highest bidder for cash at public outcry.”
- The bill requires all delinquent tax amounts accrued or tax certificates sold after the filing of an application for tax deed to be included in the opening bid at the tax deed property sale.
- The bill changes the highest bidder deposit amount from \$200 to the greater of \$200 or five percent of the bid amount.
- The bill clarifies that the sale process must be repeated until the property is sold and the clerk receives full payment or the clerk does not receive any bids other than that of the certificateholder.

Legislative Intent

Present Situation

Chapter 197, F.S., currently does not contain a statement of legislative intent.

Proposed Changes

The bill provides legislative intent that property tax collection should be free from the influence or the appearance of influence of the local governments who levy property taxes and receive property tax revenues.

General Provisions of HB 355

Section 1 creates paragraph (h) in s. 95.051(1), F.S., to toll the statute of limitations for proceedings related to tax lien certificates and any proceeding or process under ch. 197, F.S., by the period of an intervening bankruptcy.

¹⁵ Section 197.542(1), F.S.

¹⁶ Id.

¹⁷ Id.

Section 2 amends s. 197.102(1) F.S., to provide the following definitions:

- “awarded” means the time when the tax collector or a designee determines and announces verbally or through the closing of the bid process in an electronic auction that a buyer has placed the winning bid at a tax certificate sale.
- “proxy bidding” means a method of bidding by which a bidder authorizes an agent, whether an individual or an electronic agent, to place bids on his or her behalf.
- “random number generator” means a computational device that generates a sequence of numbers that lack any pattern and is used to resolve a tie when multiple bidders have bid the same lowest amount. The generator assigns a number to each of the tied bidders and randomly determines which one is the winning bid.

The bill revises the definitions of “tax certificate” and “tax notice” to include an electronic tax certificate and an electronic tax bill.

The bill also clarifies that the definitions listed in s.197.102(2), F.S., shall apply when a local government uses the methods listed in s. 197.3632, F.S., to levy, collect, or enforce a non-ad valorem assessment.

Section 3 amends s. 197.122, F.S., to clarify that an act of omission or commission on the part of the property appraiser, tax collector, board of county commissioners, clerk of circuit court, county comptroller; or their deputies or assistants; or by a newspaper that may publish the advertisement of a tax sale, does not defeat the payment of taxes.

The bill clarifies that tax payments also include the payment of interest, fees and any costs due. It clarifies that the sale or conveyance of real property that is being sold for nonpayment of taxes is not valid if the property is redeemed before the clerk of court receives full payment for a tax deed, including all recording fees and documentary stamps. This section also makes additional technical revisions.

Section 4 amends s. 197.123, F.S., to clarify that the tax collector must notify the property appraiser if a taxpayer has filed an erroneous or incomplete personal property statement or has failed to disclose all of the property subject to taxation.

Section 5 creates s. 197.146, F.S., to provide that a tax collector may issue a certificate of correction for the current tax roll or any prior tax rolls if the tax collector determines that a tangible personal property account is uncollectable. The tax collector must notify the property appraiser that the account is invalid, and the assessment may not be certified for a future tax roll.

This section states that an uncollectable account includes, but is not limited to, an account originally assessed but that cannot be found to seize and sell for the payment of taxes, and other personal property of the owner for which a tax warrant may be levied.

Section 6 amends s. 197.162, F.S., to make technical corrections. It changes the title of the section to “Tax discount payment periods” and provides that discounts will apply only to payments made before delinquency, and specifically includes the zero percent discount in the periods covered.

Section 7 amends s. 197.172, F.S., to delete outdated language and to clarify that interest on tax certificates is calculated from the first day of the month, including interest on deferred payment tax certificates, which is currently calculated as provided in s. 197.262, F.S.

Section 8 amends s. 197.182, F.S., making numbering and grammatical changes and shortening the time a demand for reimbursement can be made from 24 to 12 months because of a payment made in error for delinquent taxes. It creates a new subsection (5) to state that a request for reimbursement on erroneous payments for taxes that have *not* become delinquent must be made within 18 months. It raises the minimum amount of an automatic refund for overpayment from \$5 to \$10 (a refund for less than \$10 may be requested by the taxpayer). The amount of a refund that does not have to be forwarded to the department is increased from \$400 to \$2,500.

It states that a tax collector may send notice of denial of a refund electronically or by postal mail, and clarifies that electronic transmission may only be used with the express consent of the property owner and if such electronic notice is returned as undeliverable, a second notice must be sent. However, for purposes of this section, the original electronic transmission constitutes the official mailing. The procedure for apportioning payment among taxing authorities is reworded.

Section 9 amends s. 197.222, F.S., to make grammatical changes and remove the requirement that the application be made on forms supplied by the department. A section is added that requires the tax collector to send a quarterly statement with the discount rates to those participating in the prepayment installment plan schedule as provided by the department.

Section 10 amends s. 197.2301, F.S., which provides a procedure for voluntary payment of taxes when the tax roll cannot be certified for collection of taxes before January 1 of the current tax year. When a tax roll cannot be certified in time to allow payment of taxes before January 1, current law requires notice to be published in both a county newspaper of general circulation and published at the courthouse door. The bill removes the requirement of publishing the notice at the courthouse. The bill also makes grammatical changes and provides that if there is an underpayment or overpayment of tax of less than \$10, the tax collector is not required to send an additional bill or automatically make a refund. The current law provision is that an underpayment or overpayment of less than \$5 does not require an additional billing or automatic payment of refund.

Section 11 creates s. 197.2421, F.S., to combine all property tax deferral provisions into one subsection. The authorized property tax deferral programs are: homestead tax deferral, recreational and commercial working waterfront deferral, and affordable rental housing deferral.

Section 12 creates s. 197.2423, F.S., providing a consolidated application procedure for applying for tax deferral, as well as procedures for tax collectors to approve or deny property tax deferral applications. The bill establishes March 31 as the filing date for all applications for deferral. Current law provides that tax collectors will consider applications within 30 days. The bill extends the time period to 45 days. The bill also deletes the requirement that deferral applications be signed under oath. Lastly, current law provides situations in which a taxpayer can defer paying taxes. Currently, if the total amount of deferred taxes exceeds 85 percent of the property value or if the primary mortgage exceeds 70 percent of the property value, deferral is not permitted. This bill changes the property value used to determine eligibility from the "assessed" value to the "just" value of the property involved.

Section 13 renumbers s. 197.253, F.S., as s. 197.2425, F.S., and amends procedures to appeal the denial of an application for a tax deferral. The filing date is changed from 20 days after receiving the deferral disapproval notice from the tax collector to 30 days after the tax collector mails the deferral disapproval notice.

Section 14 amends s. 197.243, F.S., by removing "Act" from the title.

Section 15 amends s. 197.252(1), F.S., to remove language stating that the amount of tax and non-ad valorem assessments that may be deferred is limited to the amount that could be covered if a tax certificate was sold. The bill deletes the January 31 application deadline for homestead tax deferral, conforming this section to the March 31 application date established for all deferral applications in new s. 197.2423, F.S., created by Section 12 of the bill. This section clarifies that interest on any tax certificates may also be deferred. It also deletes language in subsections (3) and (5) which is inserted in new ss. 197.2421 and 197.2423, F.S., which are created by Sections 11 and 12 of the bill.

It amends subsection (2) to clearly state the eligibility requirements for the approval of a homestead tax deferral application.

It amends subsection (3) to require that a property appraiser notify the tax collector of a change in ownership or that the homestead exemption has been denied on property that has been granted a tax deferral.

It removes subsection (4) which provides that the interest accruing on deferred tax is one-half of one percent plus the average yield to maturity of the long term fixed income portion of the Florida Retirement System and may not exceed seven percent.

Section 16 renumbers s. 197.303, F.S., as s. 197.2524, F.S., and includes procedures for the tax deferral of affordable rental housing property.

Section 17 renumbers s. 197.3071, F.S., as s. 197.2526, F.S., to provide specifically for tax deferral eligibility of affordable rental housing property.

Section 18 amends s. 197.254, F.S. Currently, after a tax collector receives a certified tax roll, the tax collector is required to mail a tax notice to taxpayers stating how much tax is due. Under current law, s. 197.254, F.S., requires that the tax collector print information on the back of the envelope, notifying the taxpayer of the right to deferral. The bill removes the language requiring the notice of the right to deferral to be printed on the back of the notice envelope specified in s. 197.322(3), F.S., and removes the specification of the form of the notice, but keeps the requirement that taxpayers be notified.

Section 19 amends s. 197.262, F.S., removing the requirement for the tax collector to notify the local governing body of taxes that are deferred, and changes the limit on the amount of interest on tax certificates from 9.5 percent to seven percent.

Section 20 amends s. 197.263, F.S., moving language from subsection (2) and placing it in subsection (1). The language provides that if there is a change in ownership to a surviving spouse and the spouse is eligible to maintain the tax deferral, the spouse may continue the deferral. Although current law allows surviving spouses to continue claiming tax deferral, the current provision only applies to homestead deferral. However, under the new language of the bill, the surviving spouse deferral would extend to homestead, working waterfront, and affordable housing deferrals.

Language in subsection (2) which requires all deferred taxes to be due and payable when there is a change in ownership is removed and subsequent subsections are renumbered.

Subsection (3) requires the tax collector to notify the owner when the total amount of the deferral exceeds 85 percent of the just value, rather than the assessed value, to state that such portion of the taxes become due and payable within 30 days after the notice is sent.

Section 21 amends s. 197.272, F.S., and requires that any payment less than the total amount due must be made in full-year increments.

Section 22 amends s. 197.282, F.S., concerning the distribution of payments on deferred taxes. Current law requires that when a tax collector receives payments for deferred taxes or interest, the tax collector is required to distribute the payment in accordance with normal procedures for distributions, but the statute only specifies payments for taxes or interest. The bill amends the statute to add payments for assessments. This section also removes some specificity in the recordkeeping requirement that the tax collector provide a description of the property and the amount of taxes or interest collected for such property. However, the statute will still require that the tax collector maintain a record of the payment.

Section 23 amends s. 197.292, F.S., with minor wording and numbering changes.

Section 24 amends s. 197.301, F.S., by including "non-ad valorem assessments" in the total amount due and penalty amount calculated pursuant to the uniform method of collection prescribed in s. 197.3632, F.S.

Section 25 amends s. 197.312, F.S., by making minor wording and numbering changes.

Section 26 amends s. 197.322, F.S., by making minor wording and numbering changes, allowing the tax collector to send tax notices electronically, with the express consent of the property owner, and specifying procedures for electronic delivery.

Section 27 amends s. 197.332(1), F.S., allowing tax collectors to perform their duties through electronic means and to contract with third parties for services to carry out their duties, but specifies that the use of third party contracted services does not diminish the ultimate responsibility of the tax collectors to perform their duties pursuant to law. The bill specifies that when the tax collector enters into contracts with these vendors, the tax collector is exercising his or her power to contract. The bill allows the tax collector to include the costs of contracted serves in proceedings to recover taxes, interests, and costs.

The bill creates s. 197.332(2), F.S., which will allow the tax collector to establish one or more branch offices by acquiring title to real property, or by lease agreement; to hire staff and equip the branch offices to conduct state business, or county business if authorized by resolution of the county governing body pursuant to s. 1(k), Art. VIII of the State Constitution.

The bill requires the department to rely on the tax collector's determination that the branch office is necessary and shall base its approval of the tax collector's budget in accordance with the procedures of s. 195.087(2), F.S.

Section 28 amends s. 197.343, F.S., providing that tax collectors may send additional tax notices electronically with express consent of the property owner, and stating specific procedures for electronic transmission. The requirement that the tax collector send a duplicate tax notice to a condominium or mobile-home owner's homeowner association, when required, is removed.

Section 29 amends s. 197.344, F.S., making minor wording changes and removing all references to the mailing of notices and replaces the word "mail" with the word "send." The bill provides that notices may be sent electronically or by postal mail, specifying procedures for electronic delivery.

Section 30 amends s. 197.3635, F.S., removing subsection (2) that requires the form to have a clear partition between ad valorem taxes and non-ad valorem assessments. It removes the size requirements of the partition and makes minor wording and numbering changes.

Section 31 amends s. 197.373, F.S., to make minor wording changes and change the 15 day notice requirement to 45 days for partial payment of taxes.

Section 32 amends s. 197.402, F.S. Current law requires that on or before the later of June 1 or 60 days after the date of delinquency, the tax collector shall advertise tax certificate sales in a newspaper. In addition to making minor wording changes, the bill adds language that provides that if the deadline falls on a Saturday, Sunday, or legal holiday, it is extended to the next working day.

The bill also specifies that for certificate sales that commence on or before June 1, all certificates shall be effective as of the first day of the sale and interest shall be paid on the certificate to include the month of June.

Section 33 amends s. 197.403, F.S. After a newspaper publishes advertisements concerning tax certificate sales, current law requires the publisher to sign an affidavit to the tax collector on a form prescribed by the department. The bill makes minor wording changes and removes the requirement for the affidavit to be in the form prescribed by the department.

Section 34 amends s. 197.413, F.S. Current law requires that when a petition for sale of tangible personal property for payment of taxes is made, the clerk of court is required to provide notice to the delinquent taxpayer. The bill makes minor wording changes, and permits the tax collector and clerk of court to agree that the tax collector can provide required notices to delinquent taxpayers.

Current law permits tax collectors to collect a \$2 fee from each delinquent taxpayer when the taxpayer pays the taxes. Additionally, the tax collector may collect \$8 for each tax warrant issued. The bill changes the fee from \$2 to \$10. It also deletes the \$8 fee that the tax collector is entitled to for each warrant issued.

Section 35 amends s. 197.414, F.S. Current law requires that the tax collector keep a record of all warrants and levies made under ch.197, F.S., on a form prescribed by the department. The bill removes the requirement that the record be kept in a form prescribed by the department, and permits the warrant register to be kept in paper or electronic form.

Section 36 amends s. 197.4155, F.S. Current law permits tax collectors to implement programs to allow delinquent personal property taxes to be paid in installments. If a tax collector implements a program, current law requires that the program be made available to each taxpayer that owes over \$1,000 of delinquent personal property taxes. The bill makes minor wording changes and removes the limitation that the installment program be available to delinquent taxpayers whose delinquent personal property taxes exceed \$1,000.

Section 37 amends s. 197.416, F.S., making minor wording changes with regard to the continuing duty of the tax collector to collect delinquent tax warrants, and removing redundant language forbidding an action in any court after the seven-year limitation period.

Section 38 amends s. 197.417, F.S., revising the minimum time period that the tax collector is required to advertise the time and place for the sale of personal property after seizure from 15 to seven days. It reduces the number of notices to be posted from three to two and removes the courthouse location as one of the required public places to post notice. It authorizes one notice to be posted on the Internet, and requires a description and photograph of the property be available for a sale conducted electronically. It removes the immediate payment requirement.

Section 39 amends s. 197.432, F.S., which provides the requirements for tax collectors who sell tax certificates for unpaid taxes. The bill makes minor wording changes and reorganizes the substantive provisions of the statute. Substantively, the section:

- Provides that bidders can use “proxy bidding.” Proxy bidding is a newly-defined term added in Section 2 of the bill (amending s. 197.102, F.S.).
- States that the tax collector may not issue a tax certificate if the real property taxes are paid before a certificate is awarded, and provides that after a certificate is awarded, the delinquent taxes, interest, costs and charges are paid by redeeming the tax certificate.
- Increases the amount below which a tax certificate is automatically struck to the county, rather than sold at public auction, from \$100 to \$250
- Provides that any tax certificate that has not been sold on property for which a tax deed application is pending shall be struck to the county.
- Permits the use of a random number generator to determine the winning bidder amongst multiple tax certificate bidders that bid the same winning amount. “Random Number Generator” is newly-defined by Section 2 of the bill (amending s. 197.102, F.S.).
- Authorizes tax collectors discretion as to whether they should require a deposit before allowing persons to bid on tax certificates (currently, the statute mandates deposits);
- Authorizes electronic notice of when certificates are ready;
- Provides that any refund for a payment requested by the tax collector in error must be refunded 15 business days after the payment;

- Requires that upon cancellation of a bid, the tax collector must reoffer the certificate for sale if the tax certificate sale is not adjourned; if the sale has been adjourned, the tax collector must offer the certificate at a subsequent sale;
- Permits the official record of awarded tax certificates to be maintained electronically.

Current subsections (12), (13) and (16) are deleted and replaced in other sections of the bill.

Subsection (12) provided that all tax certificates issued to the county for lands located in the county shall be held by the county tax collector. Subsection (13) provided that all delinquent real property taxes may be paid after the delinquency date but prior to the certificate sale by paying all costs, charges and interest. Subsection (16) provided for the conduct of tax certificate sales by electronic means.

Subsection (12) of the bill provides that the tax collector is entitled to a five percent commission included in the face value of the certificate for certificates that are not struck to the county, and that the tax collector cannot receive any commission for certificates struck to the county until the certificate is redeemed or purchased by an individual. If a tax deed is issued to the county, the tax collector cannot receive any commission until the property is sold and conveyed by the county.

Section 40 amends s. 197.4325, F.S., making minor wording changes and changing references to “check” to “payment.” Subsection (1)(b), requiring the tax collector to retain a copy of the cancelled tax receipt and dishonored check, is deleted. The bill substantially shortens the tax collector’s requirements upon receiving a dishonored payment in subsection (2) and grants the tax collectors discretion to make a reasonable effort at collecting unpaid amounts for a tax certificate.

Section 41 amends s. 197.442, F.S., making minor wording changes throughout subsection (2).

Section 42 amends s. 197.443, F.S., making minor wording changes. It provides that tax certificate corrections or cancellations that have been ordered by a court or that do not result from changes made in the assessed value on a tax roll certified to the tax collector are required to be made by the tax collector without order from the department. It allows the certificate to be amended as a result of payments received due to an intervening bankruptcy or receivership.

Section 43 amends s. 197.462, F.S., making minor wording changes. It removes the requirement that the tax collector endorse a tax certificate in subsection (2).

Section 44 amends s. 197.472, F.S., making minor word changes and clarifying that in order to redeem a certificate that is in the tax deed application status, the redeeming party must pay the face amount plus all interest, costs and charges. The bill also deletes current subsection (5) and clarifies the procedural requirements for a tax collector to issue a redemption receipt and certificate. The bill specifies that provisions of subsection (4) do not apply to collections relating to fee timeshare real property.

Section 45 creates s. 197.4725, F.S., providing a separate section for the purchase of county-held tax certificates at any time after a certificate is issued and before a tax deed application is made. The redemption procedures in this section essentially mirror those provided in s. 197.472, F.S. It provides that the interest earned is calculated at 1.5 percent per month, or a fraction thereof.

Section 46 amends s. 197.473, F.S., providing that unclaimed redemption moneys are considered unclaimed as defined in s. 717.113, F.S., and must be remitted to the state instead of the board of county commissioners. It removes the provision that all claims for the unclaimed redemption moneys are barred after two years.

Section 47 amends s. 197.482, F.S., making minor wording changes. It removes obsolete references in the Act to the 1973 Legislature and provisions pertaining to the Murphy Act.

Section 48 amends s. 197.492, F.S., which requires the tax collector to provide a report to the board of county commissioners separately showing the discounts, errors, double assessments and insolvencies for which a credit is to be given. The bill makes minor wording changes throughout, and clarifies that the credit is given for discounts, errors, double assessments and insolvencies relating to tax collections. It allows the report to be submitted in electronic format, and removes the provision requiring the board to review and investigate the tax collector's report. It deletes language that the board shall charge the tax collector, if he or she has taken credit as an insolvent item, any personal property tax due by a solvent taxpayer.

Section 49 amends s. 197.502, F.S., providing clarifying changes. The bill deletes language in this section stating that the application may be made on the entire parcel of property or any part thereof capable of being readily separated. The bill further deletes the requirement that a statement declaring that all outstanding certificates have been paid be affixed with the tax collector's seal.

Section 50 amends s. 197.542, F.S., making minor wording changes. It removes archaic language regarding the sale at public outcry, and requires all delinquent tax amounts accrued after filing an application to be included in the minimum bid for a sale at public auction. It changes the highest bidder deposit from \$200 dollars to the greater of five percent of bid or \$200. It requires that the sale process be repeated until the property is sold and the clerk receives full payment, or until the clerk does not receive any bids other than that of the certificate holder.

Section 51 amends s. 197.582, F.S., making minor wording changes and providing that the clerk should include payment of tax certificates not incorporated in the tax deed application and any omitted taxes, in the distribution of the excess proceeds.

Section 52 amends s. 197.602, F.S., to specify the expenses that are required to be reimbursed when a party successfully challenges a tax deed and directs the court to determine the amount of reimbursement.

Section 53 amends s. 192.0105, F.S., making minor wording and numbering changes and removing the requirement to send notice by first class mail. The bill adds language to provide that property owners are held to know that property taxes are due and payable annually and that they have a duty to ascertain the amount of current and delinquent taxes that are due from the applicable officials.

It also states that taxpayers do not have a right to discounts for early partial payments as defined in s. 197.374, F.S., and clarifies that the taxpayer has the right to redeem the tax certificates any time before full payment for a tax deed is made to the clerk and that a certificate holder is not permitted to contact the taxpayer for two years after April 1 of the year the certificate is issued.

Sections 54 - 55 replace cross references to s. 197.253, F.S., with s. 197.2425, F.S., to incorporate the amendments in Section 13 of the bill.

Section 56 changes the cross reference to s. 197.432(10), F.S., to s. 197.432(11), F.S., to incorporate the amendments in Section 39 of the bill.

Section 57 creates s.197.603, F.S., which declares a legislative findings and intent that the Legislature has a strong interest in ensuring due process and public confidence in the collection of property taxes. The tax collectors shall be supervised by the Department of Revenue pursuant to s. 195.002(1), F.S. The new section also states that the Legislature intends that property tax collection be free from influence or appearance of influence of the local governments who levy property taxes and receive property tax payments.

Section 58 repeals various sections of the Florida Statutes.

- Section 197.202, F.S., dealing with destruction of 20-year-old tax receipts is repealed as obsolete.

- Section 197.242, F.S., providing short title “Homestead Property Tax Deferral Act” is repealed.
- Section 197.3042, F.S., dealing with notices to local governments regarding tax deferrals for recreational and commercial working waterfronts and s. 197.3074, F.S., dealing with notices to local governments regarding tax deferral for affordable rental housing properties are repealed.
- Section 197.307, F.S., dealing with procedures for adopting ordinance for tax deferrals for affordable rental housing is moved to s. 197.2524, F.S.
- Sections 197.304 and 197.3041, F.S. dealing with applying for tax deferral for recreational and commercial working waterfronts; and ss. 197.3072 and 197.3073, F.S., applying for tax deferral for affordable rental housing property are now contained within s. 197.2423, F.S.
- Sections 197.3043 and 197.3075, F.S., governing change in use or ownership of property is now covered by 197.263, F.S.
- Sections 197.3044 and 197.3076, F.S., governing prepayment of deferred taxes and non-ad valorem assessments is now governed by 197.272, F.S.
- Sections 197.3045 and 197.3077, F.S., governing distribution of payments is now governed by 197.282, F.S.
- Sections 197.3046 and 197.3078, F.S., providing for construction of the section dealing with the collection of personal property taxes is provided for in 197.292, F.S.
- Sections 197.3047 and 197.3079, F.S., providing for penalties is provided for in s. 197.301, F.S.

Section 59 provides an effective date of July 1, 2011.

B. SECTION DIRECTORY:

Section 1: Creates paragraph (h) in s. 95.051(1), F.S., relating to tolling of statutes of limitations.

Section 2: Amends s. 197.102, F.S., relating to definitions.

Section 3: Amends s. 197.122, F.S., regarding liens.

Section 4: Amends s. 197.123, F.S., relating to erroneous returns.

Section 5: Creates s. 197.146, F.S., relating to uncollectable personal property taxes.

Section 6: Amends s. 197.162, F.S., relating to tax discount payment periods.

Section 7: Amends s. 197.172, F.S., relating to interest rates on tax certificates.

Section 8: Amends s. 197.182, F.S., relating to refunds.

Section 9: Amends s. 197.222, F.S., relating to prepayment of estimated taxes by installment.

Section 10: Amends s. 197.2301, F.S., relating to the payment of taxes prior to the certified roll procedure.

Section 11: Creates s. 197.2421, F.S., relating to property tax deferral.

Section 12: Creates s. 197.2423, F.S., relating to application for property tax deferral.

Section 13: Renumbers s. 197.253, F.S., as s. 197.2425, F.S., relating to appeal of denied tax deferral.

- Section 14: Amends s. 197.243, F.S., relating to definitions relating to homestead property tax deferral.
- Section 15: Amends s. 197.252, relating to homestead tax deferral.
- Section 16: Renumbers s. 197.303 as s. 197.2524, F.S., relating to tax deferrals for recreational and commercial working waterfront properties and affordable rental housing property.
- Section 17: Renumbers s. 197.3071, F.S. as s. 197.2526, F.S., relating to tax deferral eligibility of affordable rental housing property.
- Section 18: Amends s. 197.254, F.S., relating to annual notification of taxpayer.
- Section 19: Amends s. 197.262, F.S., relating to deferred payment tax certificates.
- Section 20: Amends s. 197.263, F.S., relating to change in ownership or use of property.
- Section 21: Amends s. 197.272, F.S., relating to prepayment of deferred taxes.
- Section 22: Amends s. 197.282, F.S., relating to distribution of payments.
- Section 23: Amends s. 197.292, F.S., relating to construction of ch. 197, F.S.
- Section 24: Amends s. 197.301, F.S., relating to penalties.
- Section 25: Amends s. 197.312, F.S., relating to payment by mortgagee.
- Section 26: Amends s. 197.322, F.S., relating to delivery of tax assessment rolls.
- Section 27: Amends s. 197.332, F.S., relating to duties of tax collectors.
- Section 28: Amends s. 197.343, F.S., relating to tax notices.
- Section 29: Amends s. 197.344, F.S., relating to lienholders.
- Section 30: Amends s. 197.3635, F.S., relating to combined notice of ad valorem taxes and non-ad valorem assessments.
- Section 31: Amends s. 197.373, F.S., relating to payment of portion of taxes.
- Section 32: Amends s. 197.402, F.S., relating to advertisement of property with delinquent taxes.
- Section 33: Amends s. 197.403, F.S., relating to proof of publication.
- Section 34: Amends s. 197.413, F.S., relating to delinquent personal property taxes.
- Section 35: Amends s. 197.414, F.S., relating to record of warrants and levies on tangible personal property.
- Section 36: Amends s. 197.4155, F.S., relating to delinquent personal property taxes.
- Section 37: Amends s. 197.416, F.S., relating to the continuing duty of the tax collector to collect delinquent tax warrants.
- Section 38: Amends s. 197.417, F.S., relating to the sale of personal property after seizure.
- Section 39: Amends s. 197.432, F.S., relating to the sale of tax certificates for unpaid taxes.

- Section 40: Amends s. 197.4325, F.S., relating to the procedure when payment of taxes or tax certificates is dishonored.
- Section 41: Amends s. 197.442, F.S., relating to a tax collector not selling certificates when taxes have been paid.
- Section 42: Amends s. 197.443, F.S., relating to cancellation of tax certificates.
- Section 43: Amends s. 197.462, F.S., relating to transfer of tax certificates held by individuals.
- Section 44: Amends s. 197.472, F.S., relating to redemption of tax certificates.
- Section 45: Creates s. 197.4725, F.S., relating to purchase of county-held tax certificates.
- Section 46: Amends s. 197.473, F.S., relating to disposition of unclaimed redemption moneys.
- Section 47: Amends s. 197.482, F.S., relating to expiration of tax certificates.
- Section 48: Amends s. 197.492, F.S., relating to the errors and insolvencies report.
- Section 49: Amends s. 197.502, F.S., relating to applications for obtaining tax deed by holder of tax sale certificate.
- Section 50: Amends s. 197.542, F.S., relating to sale at public auction.
- Section 51: Amends s. 197.582, F.S., relating to disbursement of proceeds of sale.
- Section 52: Amends s. 197.602, F.S., relating to reimbursement required in challenges to the validity of a tax deed.
- Section 53: Amends s. 192.0105, F.S., relating to the Taxpayer's Bill of Rights.
- Section 54: Amends s. 194.011, F.S., relating to assessment notice and objections to assessments.
- Section 55: Amends s. 194.013, F.S., relating to filing fees for petitions.
- Section 56: Amends s. 196.011, F.S., relating to the annual application required for exemption.
- Section 57: Amends s. 197.374, F.S., relating to partial payment of current year taxes.
- Section 58: Creates s. 197.603, F.S., providing legislative intent.
- Section 59: Repeals various sections of ch. 197, F.S.
- Section 60: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) estimates that this bill will have a positive indeterminate revenue impact on state government, because the distribution of certain unclaimed property will be shifted from county government to the state.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC estimates that this bill will have an indeterminate revenue impact on local governments. However, because various provisions of the bill would increase or decrease revenues, the REC was unable to determine whether the net effect of the bill would be positive or negative on local government revenues.

2. Expenditures:

None.

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. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the 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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 17, 2011, the Finance & Tax Committee adopted a strike-all amendment. The amendment contains several technical/clarifying changes and three substantive changes. The substantive changes are as follows:

- Removes a provision in the bill that would have allowed a reimbursement for any fee charged to the tax collector by a vendor for providing an electronic tax deed application program or service.
- Returns the time period for which an overpayment resulting from taxpayer error must automatically be refunded by the tax collector from 12 months in the bill as filed back to the four-year period in current law.

- Changes the timeframe within which an appeal of a denied tax deferral must be filed with the value adjustment board from 20 days after the applicant's receipt of the denial to 30 days after the mailing of the denial.

This analysis has been updated to reflect the Committee Substitute.