

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 478

INTRODUCER: Senator Thrasher

SUBJECT: Property Taxation

DATE: February 11, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill revises, updates and consolidates provisions of chapter 197 of the Florida Statutes relating to tax collections, sales and liens. The bill tolls the statute of limitations relating to proceedings involving tax lien certificates or tax deeds to the period of intervening bankruptcy. The bill amends requirements for tax deed applications and the purchase of tax certificates to provide definitions and include interest, fees, and costs in the face value of the certificate. The bill provides for electronic notice, programs, sales, and fees. The bill also authorizes tax collectors to issue certificates of correction to the tax rolls for uncollectable personal property accounts. The bill consolidates provisions relating to the payment of deferred taxes.

This bill substantially amends chapter 197 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 95.051(1)(h), 197.146, 197.2421, 197.2423, 197.332(2), 197.4725, and 197.603.

This bill repeals the following sections of the Florida Statutes: 197.202, 197.242, 197.304, 197.3041, 197.3042, 197.3043, 197.3044, 197.3045, 197.3046, 197.3047, 197.307, 197.3072, 197.3073, 197.3074, 197.3075, 197.3076, 197.3077, 197.3078, and 197.3079.

II. Present Situation:

Property Tax Assessments

Chapters 193-195, Florida Statutes, address property assessment procedures. Local property appraisers assess all real and tangible personal property located within the county. The

assessment process begins by determining the property's just value; property appraisers are required to utilize the factors outlined in s. 193.011, F.S., to determine the property's just valuation as of January 1 of each year.

Article VII, s. 4, of the State Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹ The State Constitution provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.²

Article VII, of the State Constitution, also limits the amount by which assessed value may increase in a given year for certain classes of property, and permits a number of tax exemptions. These include exemptions for homesteads and charitable, religious, or literary properties, as well as tax limitations under the Save Our Homes provisions. After calculating the assessed value of the property, the appraiser subtracts the value of any applicable exemptions to determine the taxable value.

The property appraiser's assessment roll must be completed and submitted to the executive director of the Department of Revenue for approval by July 1 of each year, unless good cause is shown for extension.³ As provided by ch. 195, F.S., the Department of Revenue has general supervision of the assessment and valuation of the property. Taxpayers receive a Notice of Proposed Property Taxes (TRIM notice) in August of each year. This notice provides the taxable value of the property and the millage rate⁴ necessary to fund each taxing authority's proposed budget, based on the certified tax rolls submitted by the property appraiser.

Chapter 194, F.S., provides that taxpayers have the right to appeal the property appraiser's assessment at an informal conference with the property appraiser by filing a petition to the Value Adjustment Board⁵ (VAB) within 25 days after the TRIM notice is mailed, or to contest the assessment in circuit court. Following decisions by the VAB, the appraiser submits a revised certified tax roll to each taxing authority.

Locally-elected governing boards prepare a tentative budget for operating expenses following certification of the tax rolls by the tax collector. The millage rate is then set based on the amount

¹ See *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

² Section 196.185, F.S.

³ Section 193.1142, F.S.

⁴ The millage rate is the rate at which the property is taxed and is set by county commissioners based on how much revenue is needed for operating expenses. See s. 200.069, F.S. See also Florida Department of Revenue website, *Local Government Property Tax Process*, available at <http://dor.myflorida.com/dor/property/taxpayers/pdf/ptoinfographic.pdf> (last visited on Nov. 3, 2010).

⁵ The Value Adjustment Board for each county consists of two elected governing members of the county, one of whom shall be elected chairperson and the other a member of the school board, as well as two citizen members: one, appointed by the governing body, who must own a homestead within the county and one, appointed by the school board, who must own a business that occupies commercial space located within the school district. See s. 194.015, F.S.

of revenue which needs to be raised in order to cover those expenses. The millage rate proposed by each taxing authority must be based on not less than 95 percent of the taxable value according to the certified tax rolls. The Department of Revenue is responsible for ensuring that millage rates are in compliance with the maximum millage rate requirements set forth by law as well as the constitutional millage caps. A public hearing on the proposed millage rate and tentative budget must be held within 65 to 80 days of the certification of the rolls, and a final budget and millage rate must be announced prior to end of said hearing.⁶ The millage rate may be changed administratively without a public hearing if the aggregate change in value from the original certification of value is more than 1% for municipalities, counties, school boards, and water management districts, or more than 3% for other taxing authorities.

Economic Development Ad Valorem Tax Exemption

Section 196.1995, F.S., authorizes the board of county commissioners of any county or the governing authority of any municipality to call a referendum to determine whether its respective jurisdiction may grant an economic development tax exemption under s. 3, Art. VII of the State Constitution. It prescribes the procedure for the referendum, and, upon a majority favorable vote, authorizes the governing body of the county or municipality to exempt up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and all tangible personal property of such new business, or up to 100 percent of the added improvements to real property and net increases in tangible personal property of an expanding business. Property acquired to replace existing property is not considered a business expansion, and the exemption applies only to the taxes levied by the unit of government granting the exemption, and does not apply to taxes levied for the payment of bonds. The exemption remains in effect for up to 10 years for any particular facility, regardless of any change in the authority of the county or municipality to grant the exemption.

The authority to grant an exemption expires 10 years after the date it was approved in an election, but such authority may be renewed for another 10-year period by a referendum.

Tax Collections, Sales and Liens

Chapter 197, Florida Statutes, governs tax collections, sales and liens. Pursuant to s.197.322, F.S., the tax collector will mail a tax notice to each taxpayer within 20 days of receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls, stating the amount due and advising the taxpayer of discounts provided for early payment.⁷ This normally occurs around November 1. Taxes that are not paid by April 1 following the year in which they were assessed are considered delinquent.⁸ On April 30, the tax collector sends an additional tax notice to each taxpayer whose payment has not been received notifying that taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.⁹

⁶ Section 200.065, F.S.

⁷ Section 197.322 (1), F.S. *See also* s. 187.222, F.S. Taxpayers who elect to prepay their taxes by installment “based upon the estimated tax equal to the actual taxes levied upon the subject property in the prior year”.

⁸ Section 197.333, F.S.

⁹ Section 197.343, F.S.

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes which “shall be struck off to the person who will pay the taxes, interest, cost and charges and will demand the lowest rate of interest under the maximum rate of interest”.¹⁰ Tax certificates that are not sold are issued to the county at the maximum interest rate (18%). The sale of the tax certificate acts as first lien on the property that is superior to all other liens; but it does not convey any property rights to the investor.¹¹

A property owner can redeem a tax certificate anytime before a tax deed is issued or the property is placed on the list of lands available for sale. The person redeeming or purchasing the tax certificate is required to pay the investor or county “all taxes, interest, costs, charges, and [any] omitted taxes” and a \$6.25 fee to the tax collector.¹²

The tax certificate holder is entitled to apply for a tax deed on the property on or after April 1 of the second year following the sale of the certificate and before the expiration of seven years from issuance, by filing the certificate with the county tax collector and paying all other tax certificates held on the same property, any current taxes that are due, and certain additional fees and costs. The tax collector is authorized to collect a tax application fee of \$75 at the time of application for the tax deed.¹³

If the property is not sold at the public tax deed auction held by the clerk of the circuit court, then it will be placed on the List of Lands available for sale.¹⁴ Property that is placed on the list of lands available for sale, and is not sold three years after the public auction escheats to county in which the property is located, free and clear of all liens.¹⁵ A tax certificate that is not redeemed or for which a tax deed has not been applied for after a period of seven years is considered to be null and void.

Tax Deferrals

Chapter 197, F.S., also 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 classified 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.

¹⁰ Section 197.432(5), F.S.

¹¹ Section 197.122, F.S., *see also* s. 197.432, F.S.

¹² Section 197.472, F.S.

¹³ Section 197.502, F.S.

¹⁴ Section 197.542, F.S., “If the certificate holder is not the successful bidder, he/she is reimbursed all monies paid, plus interest earned from the monies received from the successful bidder.” *Tax Deed & Foreclosure Sales: Tax Deed Sales*, Walton, Florida Clerk of Courts website, available at http://www.clerkofcourts.co.walton.fl.us/public_records/tax_deed_and_foreclosure_sale_information_area.html (last visited on Feb. 11, 2010).

¹⁵ Section 197.502(8), F.S.

III. Effect of Proposed Changes:

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 or tax deeds under chapter 197, F.S., by the period of an intervening bankruptcy.

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 clarifies that the definitions listed in subsection (2) in 197.102, 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 adds the specification 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 shall be 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) and changes the time period for a tax collector to automatically refund a payment made in error from 4 years to 12 months. 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. The bill makes grammatical changes and provides that if there is an underpayment or overpayment of tax of less than \$10, the taxpayer 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 the procedures for tax collectors to approve or deny property tax deferral applications.

Section 13 renumbers section 197.253, F.S., as section 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 to 30 days after receiving the disapproval notice.

Section 14 amends s. 197.243, F.S., removing “Act” from the title.

Section 15 amends s. 197.252(1), F.S., to remove language stating that the amount of the tax deferral is for the amounts that would have been covered had the tax certificate been sold. It deletes language in subsections (3) and (5) which is inserted in 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 the property appraiser to 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 1 percent plus the average yield to maturity of the long term fixed income portion of the Florida Retirement System and may not exceed 7 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., to remove 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 remove 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 limits the amount of interest on tax certificates to 7 percent.

Section 20 amends s. 197.263, F.S., moving language from subsection (2) and placing it in subsection (1). It 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.

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., adding “non-ad valorem assessments” to the distribution by the tax collector. This section also removes the requirement that the tax collector provide a description of the property and the amount of taxes or interest collected for such property.

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

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

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

Section 26 amends s. 197.322, F.S., making minor wording and numbering changes and allowing notices to be sent electronically, specifying procedures for electronic delivery.

Section 27 amends s. 197.332(1), F.S., by adding language allowing tax collectors to use electronic means and to contract for services to carry out their duties, but specifies that the liability of tax collectors is not diminished when using contracted services or products. It allows the tax collector to include the costs of contracted serves in proceedings to recover taxes, interests, and costs.

It creates subsection (2) to 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 section 1(k), Art. VIII, State Constitution.

It 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 the additional tax notice can be sent electronically with express consent of the property owner, stating specific procedures for electronic transmission. The requirement for a duplicate tax notice to be mailed to a condominium or mobile-home owner’s homeowner association 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”. 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., making minor wording changes to subsection (1) and adding language to subsection (2) to provide that if the deadline falls on a Saturday, Sunday, or legal holiday, it is extended to the next working day.

It 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., making minor wording changes and removing the requirement for the affidavit to be in the form prescribed by the department.

Section 34 amends s. 197.413, F.S., making minor wording changes to subsections (5) and (10). It provides for the tax collector to give notices to delinquent taxpayers and 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., removing the requirement that the record be kept in a form prescribed by the department, clarifying that the warrant register may be kept in paper or electronic form.

Section 36 amends s. 197.4155, F.S., making minor wording changes to subsections (1) and (2). It 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 and removing redundant language forbidding an action in any court after the 7-year limitation period.

Section 38 amends s. 197.417, F.S., amending 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 7 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., making minor wording changes and adds a statement to subsection (1) that electronic means, including proxy bidding, can be used in the certificate sale.

Subsection (3) is worded to state that the tax collector may not issue a tax certificate if the real property taxes are paid before awarding a certificate. After a certificate is awarded, the delinquent taxes, interest, costs, and charges are paid by the redemption of the tax certificate.

Subsection (4) increases the amount in which a tax certificate is automatically struck to the county, rather than sold at public auction, from \$100 to \$250, and makes clarifying amendments.

Subsection (5) is created to provide 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.

Subsection (6) provides for the use of random number generators, stating that the tax collector can determine the winning bidder amongst multiple bidders by random number generators or by selecting the first bidder.

Subsection (7) provides for electronic notice of when certificates are ready and provides that any refund for a payment requested by the tax collector in error must be refunded 15 business days after the payment.

Subsection (8) provides requirements for reoffering certificates for sale before and after adjournment of the sale.

Subsection (9) permits the official record of awarded tax certificates to be maintained electronically.

The bill makes technical amendments in current subsections (10) and (11).

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).

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 with no 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 shall be 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 references to the Act of 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 and authorizing the reimbursement of any fee for an electronic tax deed application service and removes the requirement for affixation of the tax collector's seal. 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. It changes the highest bidder deposit from \$200 dollars to the greater of 5 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 certificate holder is not permitted to contact the taxpayer for 2 years after April 1 of the year the certificate is issued.

Sections 54- 55 replaces 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 section 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 sections 197.202, 197.242, 197.304, 197.3041, 197.3042, 197.3043, 197.3044, 197.3045, 197.3046, 197.3047, 197.307, 197.3072, 197.3073, 197.3074, 197.3075, 197.3076, 197.3077, 197.3078, 197.3079, of the Florida Statutes.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

This bill increases the overpayment amount that may be retained by a tax collector absent a request from the taxpayer, from \$5 to \$10, and changes the highest bidder deposit for tax deed sales from \$200 to the greater of 5% of the bid or \$200.

B. Private Sector Impact:

Indeterminate at this time.

C. Government Sector Impact:

This bill is expected to reduce the tax collectors' mailing costs, and could provide other efficiencies by allowing greater flexibility and use of technology.

This bill provides implications for rulemaking by the Department of Revenue.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue made the following comments:

- The provision for the 30 day time frame from receipt of notice relating to the appeal of a denied tax deferral in section 13 of the bill, conflicts with s. 194.011(3)(d), F.S., (this section is not amended in the bill), which provides for 30 days from *mailing* of the notice. Section 194.011(3)(d), F.S., discusses the denial of a property tax exemption.
- The language providing that tax collectors shall be supervised by the department in the legislative intent section of the bill (section 57) is unclear, since the bill does not provide additional detail in the form of amendments to other sections of law.
- The department also recommended the following technical amendments:
 - Strike comma and insert “and” on page 39, line 1111 of the bill.
 - Insert “of” between “Art. VIII” and “the” on page 41, line 1189 of the bill.¹⁷

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹⁶ Department of Revenue, *SB 478 Agency Analysis*, at 23-24 (Feb. 3, 2011) (on file with the Senate Committee on Community Affairs).

¹⁷ *Id.* at 23-25.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
