

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 Committee on Community Affairs

BILL: SB 1062

INTRODUCER: Senator Latvala

SUBJECT: Delinquent Real Property Taxes

DATE: March 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.			AFT	
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 1062 reduces the interest rate on delinquent real property taxes and tax certificates from 18 percent to 12 percent.

This bill substantially amends section 197.172 of the Florida Statutes.

II. Present Situation:

Tax Collections, Interest Rates, Sales and Liens

Chapter 197, Florida Statutes, governs tax collections, sales and liens. Pursuant to s. 197.322, F.S., the tax collector mails 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. The notice states the amount due and advises the taxpayer of discounts provided for early payment.¹ 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 and begin accruing interest at the rate of 18 percent per year.²

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.³

¹ Section 197.322 (1), F.S. *See also* s. 197.222, 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.”

² *See* ss. 197.333, and 197.172, F.S. There is a minimum charge of 3 percent for delinquent taxes paid prior to the sale of a tax certificate.

³ 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.”⁴ Tax certificates that are not sold are issued to the county at the maximum interest rate of 18 percent.⁵ 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.⁶

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.⁷

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.⁸

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.⁹ 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.¹⁰ 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.

⁴ Section 197.432(5), F.S.

⁵ Section 197.172(2), F.S.

⁶ Section 197.122, F.S., *see also* s. 197.432, F.S.

⁷ Section 197.472, F.S.

⁸ Section 197.502, F.S.

⁹ *Id.*

¹⁰ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 197.172, F.S., to reduce the interest rate on delinquent real property taxes and tax certificates from 18 percent to 12 percent.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d) provides an applicable exemption for laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 or \$1.9 million for FY 2012-13.¹¹ The Revenue Estimating Conference estimates a \$1.6 million fiscal impact for the bill so it appears that this mandate exemption applies.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Property owners would pay 6 percent less interest when redeeming a tax certificate issued as a result of delinquent real property taxes.

C. Government Sector Impact:

The Revenue Estimating Conference (REC) adopted a \$1.6 million negative recurring impact for local governments as a result of the bill’s effect on the value of tax certificates and lands available for taxes.¹²

¹¹ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at:

<http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf>.

¹² Office of Economic and Demographic Research, The Florida Legislature, *Analysis of HB 421: Interest Rate on Delinquent Taxes* (Feb. 22, 2013) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page96-99.pdf> (last visited Mar 11, 2013).

As part of its estimating process, the REC expressed uncertainty with regard to revenue collection from lands available from taxes as a result of the bill. How the reduced interest rate might affect the market for tax certificate sales, and the revenue these sales generate, would likely vary from county to county.

VI. Technical Deficiencies:

None.

VII. Related Issues:

With a July 1, 2013, effective date, the interest rate change would not apply to 2013 tax certificate sales which commence by June 1, 2013, per s. 197.402(3), F.S., and will be concluded by July 1, 2013.¹³ The change would apply to supplemental 2013 sales and to 2014 tax certificate sales for the first time. As a result, the 12 percent interest rate will not take effect until then.

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

¹³ Florida Department of Revenue, *Agency Analysis of SB 1062: Delinquent Real Property Taxes/Interest Rate Change* (Mar. 12, 2013) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=1273> (last visited Mar. 12, 2013). The DOR analysis also cited ss. 197.4725, 197.542, and 197.582, F.S., as possibly affected by the bill.