

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1350

INTRODUCER: Senator Young

SUBJECT: Homestead Exemption Fraud

DATE: March 31, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	<b>Pre-meeting</b>
2.			AFT	
3.			AP	

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**I. Summary:**

SB 1350 authorizes property appraisers to contract for services to examine or audit homestead tax exemptions claimed on assessment rolls. The agreement to contract for services must specify that the contractor may only receive a portion of the back taxes, penalties, and interest imposed which are collected on an assessment made as a result of the contractor's examination or audit.

The contractor may only contact property owners in a manner prescribed by the property appraiser. At a minimum, the contractor must inform the person claiming a homestead exemption that:

- The contractor is a third party who has been contracted by the property appraiser to examine or audit homestead tax exemptions; and
- The person should contact the property appraiser if he or she has any questions. The contractor must provide the person with the property appraiser's contact information.

The contractor may not:

- Simulate a governmental official in any manner;
- Communicate with the person between 9 p.m. and 8 a.m. in the person's time zone without the person's prior consent;
- Suggest, communicate, or threaten the person that any money is owed; or
- Publish or post, threaten to publish or post, or cause to be published or posted to the general public individual names or any list of names of people who have claimed a homestead exemption.

The bill also requires a property appraiser, upon determining a property owner was granted a homestead exemption to which the owner was not entitled, to certify to the county tax collector the additional assessment due for each year and to provide notice to the property owner by mail.

The bill provides that if a homestead exemption was improperly granted as the result of a clerical mistake or omission by the property appraiser, the property owner shall not be assessed penalties, interest, and fees. The bill requires taxes, penalties, fees, and interest assessed due an improperly granted homestead exemption (except where granted due to a clerical mistake) to be included in the next tax notice and collected in the same manner as current ad valorem taxes.

## II. Present Situation:

### Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and provides for specified assessment limitations, property classifications and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

Article VII, Section 6 of the Florida Constitution provides that every person who owns real estate with legal or equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.<sup>6</sup> According to Florida Statutes, each property appraiser has the duty to examine each claim for homestead exemption in the county and grant the exemption if found to be in accordance with the law.<sup>7</sup>

### Delinquent Property Taxes

Each year, county property appraisers will certify the tax roll to the corresponding tax collector, and the tax collector will then send tax bills to all properties owing tax within the county.<sup>8</sup> Property taxes are due once a year, and can be paid beginning November 1 of the assessment year.<sup>9</sup> Generally, taxes become delinquent if not paid in full as of April 1 of the year after

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<sup>1</sup> Article VII, s. 1(a), Fla. Const.

<sup>2</sup> Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Article VII, s. 4, Fla. Const.

<sup>4</sup> Article VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> Section 196.031, F.S.

<sup>6</sup> An additional homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

<sup>7</sup> Section 196.141, F.S.

<sup>8</sup> Section 197.322(2), (3), F.S.

<sup>9</sup> Section 197.333, F.S.

assessment.<sup>10</sup> Delinquent taxes will accrue interest until paid,<sup>11</sup> and may accrue penalties in certain circumstances.<sup>12</sup>

If delinquent ad valorem taxes are not paid by June 1 of the year after assessment, the county holds a tax certificate sale for real property located in the county in which the taxes became delinquent in that year.<sup>13</sup> A tax lien certificate is an interest bearing first lien representing unpaid delinquent real estate property taxes; however, it does not convey any property rights or ownership to the certificate holder.

The property owner has a period of 2 years from the date the taxes became delinquent to redeem the tax certificate by paying to the county the total due, including accrued interest.<sup>14</sup> After the 2-year period, if the taxes remain unpaid, the lien holder may make an application for tax deed auction with the county.<sup>15</sup> If tax deed auction proceedings begin, the property owner must pay all taxes for all years that are due and delinquent, plus fees and interest to stop the sale of the property at public auction.<sup>16</sup> If the tax certificate is not redeemed or sold at auction after 7 years, the tax certificate is cancelled and considered null and void.<sup>17</sup>

Under current law, when any deferred taxes, assessments, or interest are collected, the tax collector maintains a record of the payment and distributes payments received to each taxing authority in the proportionate share of the collected taxes as reflected in the tax bill.<sup>18</sup> The tax collector will make this distribution at least four times during the first 2 months after the tax roll comes into the tax collector's possession for collection and at least one time in all other months.<sup>19</sup>

### **Fraudulent Homestead Exemption Claims**

Current law provides that if a property owner was granted a homestead exemption to which the property owner was not entitled, the property appraiser will send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.<sup>20</sup> The property owner has 30 days to pay the taxes owed, plus penalties and interest.<sup>21</sup> If not paid within 30 days of notice, the property appraiser may file a tax lien.<sup>22</sup> Even if a tax lien is filed, current administration of the law does not follow the tax certificate process described above. Instead, the tax lien remains on the property until it is paid or expires after 20 years.<sup>23</sup>

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<sup>10</sup> Section 197.333, F.S.

<sup>11</sup> Section 197.152, F.S.

<sup>12</sup> See section 196.161, F.S.

<sup>13</sup> Section 197.432, F.S.

<sup>14</sup> Section 197.502, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 197.472, F.S.

<sup>17</sup> Section 197.482, F.S.

<sup>18</sup> Section 197.383, F.S.

<sup>19</sup> Section 197.383, F.S.

<sup>20</sup> Section 196.161, F.S.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Section 95.091(1)(b), F.S.

### III. Effect of Proposed Changes:

**Section 1** amends s. 196.141, F.S., to authorize property appraisers to contract for services to examine or audit homestead tax exemptions claimed on assessment rolls. The agreement to contract for services must specify that the contractor may only receive a portion of the back taxes, penalties, and interest imposed which are collected on an assessment made as a result of the contractor's examination or audit.

If a contractor finds that a property owner was not entitled to a homestead exemption, the property appraiser must remove the homestead exemption from previous tax rolls.

After paying the contractor for the contracted services and distributing the fees as set forth in s. 196.161(1)(b), F.S., to the property appraiser and tax collector, the tax collector shall distribute the remainder of the interest and any back taxes collected as set forth in ch. 197, F.S.

The contractor may only contact persons claiming a homestead exemption in a manner prescribed by the property appraiser. At a minimum, the contractor must inform the person claiming a homestead exemption that:

- The contractor is a third party who has been contracted by the property appraiser to examine or audit homestead tax exemptions; and
- The person should contact the property appraiser if he or she has any questions. The contractor must provide the person with the property appraiser's contact information.

The contractor may not:

- Simulate a governmental official in any manner;
- Communicate with the person between 9 p.m. and 8 a.m. in the person's time zone without the person's prior consent;
- Suggest, communicate, or threaten the person that any money is owed; or
- Publish or post, threaten to publish or post, or cause to be published or posted to the general public individual names or any list of names of people who have claimed a homestead exemption.

**Section 2** amends s. 196.161, F.S., to require that after a property appraiser determines that a person was granted, but not entitled to, a homestead exemption for any of the previous 10 years, the property appraiser shall immediately certify to the county tax collector an additional assessment for each year that the owner was not entitled to the exemption. The property appraiser shall provide the property owner with such information. Additionally, the tax collector may provide the notice to the property owner by United States Postal Service to the address of record.

If a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption may not be assessed a penalty, interest, or fees.

The bill also provides that taxes, penalties, fees, and interest assessed pursuant to this section which are not paid in full must be included in the next tax notice and must be collected in the same manner as, and in addition to, the current ad valorem taxes under ch. 197, including the

annual tax certificate sale when appropriate. However, this does not apply when the property appraiser improperly grants a homestead exemption due to a clerical error or omission.

**Section 3** amends s. 213.30, F.S., to conform to the changes made by the bill to allow contractors to collect money related to the failure to comply with Florida's tax laws.<sup>24</sup>

**Section 4** states that the Legislature finds that this act fulfills an important state interest.

**Section 5** provides that the bill takes effect July 1, 2017.

#### **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:

None.

B. Private Sector Impact:

The bill may result in additional business for firms that investigate homestead exemption fraud.

C. Government Sector Impact:

The ability of a property appraiser to contract for services to examine or audit homestead tax exemptions may result in fewer fraudulent homestead claims, resulting in the relinquishment of those homeowner's improper benefits and a higher ad valorem tax base for the local government. However, local government may expend additional funds to contract for services.

#### **VI. Technical Deficiencies:**

None.

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<sup>24</sup> Under current law, s. 213.30, F.S., is the sole means by which a person who provide information to the Department of Revenue leading to certain violations of tax laws may be compensated by the department.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 196.141, 196.161, and 213.30.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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