

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 49 Ad Valorem Taxation

**SPONSOR(S):** Ways & Means Committee, Local, Federal & Veterans Affairs Subcommittee; Eagle

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 272

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N	Darden	Miller
2) Ways & Means Committee	18 Y, 0 N	Dobson	Langston
3) Government Accountability Committee			

### SUMMARY ANALYSIS

The Florida Constitution authorizes local governments to levy ad valorem taxes and prohibits the state from levying ad valorem taxes on real and tangible personal property. All ad valorem taxation must be assessed based on the just value (i.e., market value) of the property. The taxable value on which actual tax levies are made reflects reductions to just value by applying any applicable assessment limitations, use classification modifications, and exemptions.

The bill provides a disaster relief tax credit to owners of residential properties rendered uninhabitable by natural disaster that occurred in 2016. The amount of the credit reflects the reduction in a property's just value as a result of natural disaster for the portion of the 2016 calendar year that the property is uninhabitable. The amount of the credit is determined by applying this reduction to the taxes initially levied on a property in 2016.

The bill defines "natural disaster" as an event for which the Governor declares a state of emergency or a sinkhole. In order to apply for the exemption, an owner of damaged property must submit an application to the property appraiser identifying the property damaged, the natural disaster that caused the damage, and the period of the time the property was uninhabitable. The property appraiser then verifies the information contained in the application, determines the value reduction attributable to the natural disaster, and submits the information to the tax collector. The tax collector uses the information submitted to calculate the value of the tax credit, and applies the credit to taxes initially levied in 2018. The bill allows any unused credits to be applied in subsequent tax years. The bill applies retroactively to January 1, 2016.

The bill does not appear to have a fiscal impact on state government. Based on Revenue Estimating Conference estimates of PCS for HB 49, staff estimates that the bill will impact local government property taxes by -\$0.8 million in FY 2018-19.

The bill would take effect upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current 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>

##### Ad Valorem Process

Each property appraiser must complete an assessment of the value of all property<sup>6</sup> within the appraiser's jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue (DOR).<sup>7</sup> The taxable value of a residential parcel includes both the value of structures and other improvements on the parcel and the value of the land on which those structures and improvement sit.<sup>8</sup> The property appraiser also ensures that all real property is listed on the real property assessment roll.<sup>9</sup>

Appraisers must submit their assessment rolls to DOR by July 1 of the assessment year to determine if the rolls meet all the appropriate requirements of law relating to form and just value.<sup>10</sup> Assessment rolls include, in addition to taxable value, other information on the property located within the property appraiser's jurisdiction, such as just value, assessed value, and the amount of each exemption or discount.<sup>11</sup>

Each taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate (i.e., tax rate) that is levied on each property's taxable value.<sup>12</sup> Within 35 days of certification of the taxable value by the property appraiser (typically by August 4 of the assessment

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<sup>1</sup> Art. 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> Art. VII, s. 4, Fla. Const.

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

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

<sup>6</sup> For purposes of clarity and administration of the tax credit, the bill distinguishes between a "residential parcel" and "residential improvement," avoiding the broad term "property." For appraisal purposes, a "residential parcel" includes the land and improvements. For readability, this analysis will use the broader term "property" unless the context requires otherwise.

<sup>7</sup> Section 193.023(1), F.S.

<sup>8</sup> See *The Appraisal Process and Your Taxes*, Hillsborough County Property Appraiser, available at <http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes> (last accessed Feb. 15, 2017) (process for calculating property tax values).

<sup>9</sup> Section 193.085(1), F.S.

<sup>10</sup> Section 193.1142(1)(a), F.S.

<sup>11</sup> Section 193.114, F.S.

<sup>12</sup> Section 200.065(2)(a)1., F.S.

year), the taxing authority must advise the property appraiser of its proposed millage rates.<sup>13</sup> The property appraiser uses the proposed millage rates provided by the taxing authorities to prepare the notice of proposed property taxes, commonly referred to as the Truth in Millage (TRIM) notice.<sup>14</sup>

Any property owner who disagrees with the assessment in the TRIM notice or who was denied an exemption or property classification may request an informal meeting with the property appraiser,<sup>15</sup> appeal to the county value adjustment board (VAB),<sup>16</sup> or challenge the assessment in circuit court.<sup>17</sup>

After challenges to assessed value of the property have been concluded, the VAB submits the VAB-adjusted assessment roll to the property appraiser<sup>18</sup> and to the DOR.<sup>19</sup> After making any adjustments to the assessment rolls caused by the VAB hearings, the property appraiser will certify the tax roll to the tax collector (typically before November 1 of the assessment year or as soon thereafter as the certified tax roll is received by the tax collector).<sup>20</sup>

The tax collector will then send tax bills within twenty working days to the owners of all properties owing tax within his or her jurisdiction.<sup>21</sup> Property taxes are due once a year, and can be paid beginning November 1st of the assessment year.<sup>22</sup> Generally, taxes become delinquent if not paid in full as of April 1st of the year after assessment.<sup>23</sup> Delinquent taxes will accrue interest until paid,<sup>24</sup> and may accrue penalties in certain circumstances.<sup>25</sup>

The following chart summarizes key dates in this process:<sup>26</sup>

Date	Entity	Action
January 1	Property Appraiser	Property value is determined as of this date (“assessment date”)
July 1	Property Appraiser	Submit assessment roll to DOR
July 1	Property Appraiser	Certify taxable value to tax collector
August 24	Property Appraiser	Mail TRIM notice to property owners
October 10	Local Governments	Finalize millage rate
October 10	Property Appraiser	Certifies assessment roll to tax collector
November 1	Tax Collector	Sends notice of taxes
March 31 of following year	Property Owner	Pay tax bill

### Tax Relief for Natural Disasters

The Legislature has provided tax relief for the victims of natural disasters on at least four occasions.<sup>27</sup>

For example, chapter 88-101, Laws of Fla., created s. 196.295(3), F.S., providing an abatement of taxes for properties damaged by windstorms or tornadoes.<sup>28</sup> To receive the abatement, the property

<sup>13</sup> Section 200.065(2)(b), F.S.

<sup>14</sup> Section 200.069, F.S.

<sup>15</sup> Section 194.011(2), F.S.

<sup>16</sup> Section 194.011(3), F.S.

<sup>17</sup> Section 194.171, F.S.<sup>18</sup> Section 193.122(2), F.S.

<sup>18</sup> Section 193.122(2), F.S.

<sup>19</sup> Section 193.122(1), F.S.

<sup>20</sup> Section 193.122(2), F.S.

<sup>21</sup> Section 197.322(2), (3), F.S.

<sup>22</sup> Section 197.333, F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 197.152, F.S.

<sup>25</sup> See s. 196.161, F.S. (penalties for properties granted homestead exemption when homeowner was no a permanent resident).

<sup>26</sup> *Florida Property Tax Calendar*, Florida Department of Revenue, available at <http://floridarevenue.com/dor/property/cofficials/pdf/taxcalendar.pdf> (last assessed Feb. 6, 2017).

<sup>27</sup> Chapters 88-101, 98-185, 2004-474, and 2007-106 Laws of Fla.

owner was required to file an application with the property appraiser by March 1 of the year following the year in which the windstorm or tornado occurred.<sup>29</sup> After making a determination on the validity of the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of the months the property was uninhabitable due to the damage or destruction, the value of the property prior to the damage or destruction, the total taxes due on the property as reduced by the number of months the property was uninhabitable, and the amount of the reduction in taxes.<sup>30</sup> Upon receipt of the official statement, the tax collector reduced the amount of taxes due on the property on the tax collection roll and informed the board of county commissioners and DOR of the total reduction in taxes for all property in the county receiving the abatement.<sup>31</sup> The law was applied retroactively to January 1, 1988 and included a repeal effective of July 1, 1989.<sup>32</sup> The language was removed from statute in 1992.<sup>33</sup>

### “Natural Disaster” Provisions

Current law provides that the Governor shall issue an executive order declaring a state of emergency if he finds an emergency has occurred or a threat is imminent.<sup>34</sup> Depending on the severity of the emergency, the declaration may result in a military mobilization or allow out-of-state healthcare professionals to provide services in the disaster area.<sup>35</sup> The term “sinkhole” is defined in current law as “a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater.”<sup>36</sup>

### Effect of Proposed Changes

The bill creates s. 196.2003, providing a disaster relief tax credit for residential parcels on which the defined residential improvements were damaged or destroyed by a natural disaster that occurred in 2016.<sup>37</sup> “The bill defines “natural disaster” as an event which results in the governor declaring a state of emergency or a sinkhole, as that term is defined in current law. If a residential improvement is rendered uninhabitable by a natural disaster, the property owner must submit an application to the property appraiser by March 1, 2018 in order to qualify for the disaster relief credit. Failing to file the application by March 1, 2018 constitutes a waiver of the credit.

The application must identify the residential parcel on which the residential improvement was damaged or destroyed by the natural disaster, the natural disaster that caused the damage, the date of the natural disaster, and the number of months the residential improvement was rendered uninhabitable during 2016. The application must be verified under oath and is subject to the penalty of perjury.

Upon receipt of the application, the property appraiser investigates the statements contained therein and determines if the property owner qualifies for the disaster relief credit. If the property owner qualifies, the property appraiser shall issue an official written statement to the tax collector by April 1, 2018 containing:

- The number of months during 2016 that the residential improvement was uninhabitable.<sup>38</sup>
- The just value of the residential parcel on January 1, 2016.

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<sup>28</sup> Section 196.295(3), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

<sup>29</sup> Section 196.295(3)(a), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

<sup>30</sup> Section 196.295(3)(d), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

<sup>31</sup> Section 196.295(3)(e)-(f), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

<sup>32</sup> Section 196.295(3)(h), F.S., *repealed by* ch. 92-173, s. 8, Laws of Fla.

<sup>33</sup> Chapter 92-173, s. 8, Laws of Fla.

<sup>34</sup> Section 252.36, F.S.

<sup>35</sup> *Id* at (3)(c)1., 2.

<sup>36</sup> Section 627.706(1)(h), F.S.

<sup>37</sup> The bill defines a “natural disaster” as an event for which the Governor has declared a state of emergency under s. 252.36, F.S. or a sinkhole as defined in s. 627.706(2)(h), F.S..

<sup>38</sup> Under the bill, periods of at least 16 days are considered a full month for the purpose of calculating the credit.

- The post-disaster just value of the residential parcel, reflecting the damage caused by a natural disaster.<sup>39</sup>
- The percentage difference between the residential parcel's just value as of January 1, 2016 and the post-disaster just value of the parcel.

The tax collector uses the property appraiser's written statement to calculate the value of the disaster relief credit. For purposes of this calculation, uninhabitable residential improvements are assessed at no value. The amount of the disaster relief credit is determined in a couple of steps. First, a "damage differential" is calculated as the percentage reduction in a property's just value due to the natural disaster, multiplied by the proportion of calendar year 2016 (measured in months) that the property was uninhabitable. Second, the "disaster relief credit" is calculated by multiplying damage differential by the amount of timely paid taxes that were initially levied in 2016.

Once the tax collector determines the value of the credit, he or she will apply it to the taxes initially levied on the property in 2018. If the value of the disaster relief tax credit exceeds the amount of property taxes due, the difference can be carried over and used to reduce property tax liability in subsequent tax years.

By May 1, 2018, the tax collector must notify DOR and the governing board of each affected local government of the total reduction in taxes for all property receiving a credit pursuant to this section.

The bill applies retroactivity to natural disasters that occurred in 2016 and expires on January 1, 2020.

#### B. SECTION DIRECTORY:

Section 1: Creates s. 196.2003, F.S., providing a property tax credit for residential property rendered uninhabitable in 2016 by a natural disaster.

Section 2: Provides that the bill shall take effect upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

2. The bill does not appear to have a fiscal impact on state government. Based on Revenue Estimating Conference estimates of PCS for HB 49, staff estimates that the bill will impact local government property taxes by -\$0.8 million in FY 2018-19.

##### 3. Expenditures:

The bill may impact local government expenditures to the extent the property appraiser will need to devote resources to calculating post-disaster just value.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

<sup>39</sup> For the purposes of calculating the post-disaster just value of the property, uninhabitable improvements are treated as have no value.  
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None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill reduces local government's ability to collect ad valorem taxes; however, an exemption may apply if the bill has an insignificant fiscal impact on counties and municipalities. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2017, the Ways and Means Committee adopted a strike-all amendment to HB 49 and reported the bill favorably as a committee substitute. The strike-all amendment limits the bill's applicability to damage sustained in 2016 and initially applies disaster relief credits to taxes levied in 2018. This analysis is drafted to the committee substitute.