

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 1610

INTRODUCER: Senator Rodriguez

SUBJECT: Ad Valorem Tax Abatement

DATE: January 24, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Hackett | Ryon | CA | Favorable |
| 2. | _____ | _____ | FT | _____ |
| 3. | _____ | _____ | AP | _____ |

I. Summary:

SB 1610 provides for the abatement of taxes for property owners affected by the 2021 collapse of Champlain Towers South. The bill provides that taxes levied in 2021 on persons who held property in Champlain Towers South on the date of its destruction must be abated, and prescribes the process by which the state and local government will administer the abatement of taxes.

The abatement provision applies retroactively to January 1, 2021. The bill provides definitions and a cross reference.

The bill takes effect upon becoming a law.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the assessed or “just value”² of property within the taxing authority and then applies relevant exclusions, assessment

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. 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).

limitations, and exemptions to determine the property's "taxable value."³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Tax Abatement for Natural Disasters

The Legislature has provided tax relief for the victims of natural disasters on at least five occasions.¹¹ Chapter 88-101, L.O.F., created s. 196.295(3), F.S., which provided an abatement of taxes for properties damaged by windstorms or tornadoes.¹² To receive the abatement, the property 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.¹³ 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.¹⁴

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.¹⁵ The law was

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Chapters. 88-101, 98-185, 2004-474, 2007-106, and 2018-118 Laws of Fla.

¹² Section 196.295(3), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

¹³ Section 196.295(3)(a), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

¹⁴ Section 196.295(3)(d), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

¹⁵ Section 196.295(3)(e)-(f), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

applied retroactively to January 1, 1988 and included a repeal effective of July 1, 1989.¹⁶ The language was removed from statute in 1992.¹⁷

Most recently ch. 2018-118, L.O.F., applied a similar process to abate taxes for homestead parcels on which improvements were damaged or destroyed by a hurricane that occurred in 2016 or 2017, namely hurricanes Hermine, Matthew, and Irma. If the residential improvement was rendered uninhabitable for at least 30 days due to such a hurricane, taxes initially levied in 2019 could be abated. The Legislature was required to appropriate funds to offset the reduction in ad valorem tax revenue in taxing jurisdictions in fiscally constrained counties as a result of the abatement.¹⁸

The Value Adjustment Board Process

Each county has a Value Adjustment Board (VAB), comprised of two members of the governing body of the county, one member of the school board, and two citizen members appointed by the governing body of the county.¹⁹ The county clerk acts as the clerk of the VAB.²⁰ A property owner may initiate an assessment valuation challenge by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.²¹

The clerk of the VAB will schedule the petition for a hearing, during which a special magistrate will hear testimony and make a recommendation to the VAB on how the petition should be resolved.²² The VAB renders a written decision within 20 calendar days after the last day the VAB is in session.²³ The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.²⁴ The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB.²⁵

Champlain Towers South

On the morning of June 24, 2021, a 12-story condominium in Surfside, Florida called Champlain Towers South unexpectedly experienced structural failure and partially collapsed, resulting in the death of ninety-eight people. The standing portion of the building, rendered uninhabitable, was demolished 10 days later.

After an extensive emergency management effort, Executive Order 21-160 was implemented in order to suspend deadlines related to taxes and tax administration for taxpayers whose property

¹⁶ Section 196.295(3)(h), F.S., repealed by ch. 92-173, s. 8, Laws of Fla.

¹⁷ Chapter 92-173, s. 8, Laws of Fla.

¹⁸ Section 218.135, F.S. (2018) (Repealed 2019).

¹⁹ Section 194.015, F.S.

²⁰ *Id.*

²¹ Section 194.011(3)(d), F.S. With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser.

²² Section 194.035, F.S.

²³ Section 194.034(2), F.S.

²⁴ *Id.*

²⁵ *Id.*

was destroyed or rendered uninhabitable during the collapse.²⁶ These suspensions included deadlines regarding the collection of ad valorem taxes. The executive order also requested “the Florida Legislature to explore additional legislative acts as may be necessary to alleviate the Taxpayers’ property tax obligations.”²⁷

III. Effect of Proposed Changes:

The bill creates s. 197.319, F.S., to provide for the abatement of taxes for residential improvements following the Champlain Towers South collapse. The bill provides that taxes levied in 2021 on persons who held legal title to property in Champlain Towers South on the date of its destruction must be abated as follows.

The property owner must file an application with the property appraiser, verified under oath, identifying the destroyed residential parcel owned. Upon receipt of the application, the property appraiser must investigate the statements contained in the application to determine if the applicant is entitled to an abatement of taxes.

If the property appraiser determines that the applicant is not entitled to an abatement, the applicant may file a petition with the VAB requesting such abatement. If the property appraiser determines that the applicant is entitled to an abatement, he or she must issue an official written statement to the tax collector by June 1, 2022, providing the property’s just value as of January 1, 2021, the just value following the destruction of the parcel, with no value given to the uninhabitable building, and the percent change in value between the two.

Upon receipt of this statement, the tax collector must calculate the disaster relief credit by multiplying the percent change in value times the amount of timely paid taxes levied in 2021. By July 1, 2022, the tax collector must notify the Department of Revenue of the total reduction in taxes for all qualifying properties and remaining amount of taxes levied for each parcel. This notification must include the name and address of each applicant. The tax collector must also notify the governing board of each affected local government of the reduction in such government’s taxes caused by this bill.

Upon such notification from the tax collector, the Department of Revenue must process a payment from its Administrative Trust Fund to each property owner for the amount of taxes levied and not reduced by the tax collector, and forward all undeliverable reimbursements to the notifying tax collector for subsequent delivery attempts.

The bill provides various definitions in order to specify certain parties, properties, and calculations incorporated above.

This section applies retroactively to January 1, 2021.

The bill also amends s. 194.032, F.S., to provide a cross reference allowing the value adjustment board to meet to hear appeals related to the tax abatement provided by the bill.

²⁶ Executive Order 21-160 issued Jul. 9, 2021, available at: <https://www.flgov.com/wp-content/uploads/2021/07/EO-21-160.pdf> (last visited January 20, 2022).

²⁷ *Id.*, s.2.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

A general law operates universally throughout the state, uniformly on specific subjects throughout the state, or uniformly within a permissible classification, or relates to a state function or entity.²⁸ Uniform operation of a general law does not require application throughout the state; instead there must be a reasonable possibility that others in the future may meet the criteria of the classification.²⁹ A general law of local application is a form of general law that operates within only a portion of the state due to a valid classification based on proper distinctions and differences.³⁰ Article III, Section 10 of the Florida Constitution does not place any burdens or requirements on the Legislature's ability to pass a general law of local application.

A special law is a law that operates on a specific category of people or subjects, and the classification is impermissible or illegal.³¹ A special law requires prior publication of a notice of intent to seek passage, or it may become effective after approval by the affected voters in a referendum.³² A local law is a form of special law that operates only in a specific geographic area or in a classified territory when classification is impermissible or illegal.³³

²⁸ State Affairs Committee and Local Administration and Veterans Affairs Subcommittee, *Local Bills Policies and Procedures Manual 2020-2022*, 1, available at:

<https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Bill+Policy+and+Procedures+Manual.pdf>.

²⁹ *Id.* at 1-2.

³⁰ *Id.* at 2.

³¹ *Id.* at 2-3.

³² *Id.* at 3.

³³ *Id.*

The bill applies narrowly to abate the 2021 taxes of those property owners who held legal title to a parcel within a multistory residential building of at least 50 dwellings which was demolished by a sudden and unforeseen collapse as recognized by an executive order issued by the Governor during the 2021 calendar year, which appears to be a closed classification.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet reviewed this bill.

B. Private Sector Impact:

Property owners affected by the Champlain Towers South collapse will see a positive impact should they apply for and receive the tax abatement authorized by the bill.

C. Government Sector Impact:

Local governments will face indeterminate negative fiscal impact related to administration of the bill and payments related to the abatement of property taxes. The Department of Revenue will bear the negative economic impact of returning certain taxes paid by property owners who apply for abatement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 194.032 of the Florida Statutes.
This bill creates section 197.319 of the Florida Statutes.

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.

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