



Agriculture & Property Rights Subcommittee

**Tuesday, March 21, 2017
9:00 am
12 HOB**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Property Rights Subcommittee

Start Date and Time: Tuesday, March 21, 2017 09:00 am
End Date and Time: Tuesday, March 21, 2017 11:00 am
Location: 12 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 289 Property Taxes by Donalds, Avila
HB 1083 Small Food Retailers by Lee
HB 1217 Industrial Hemp Programs by Massullo

Pursuant to rule 7.1, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, March 20, 2017

By request of Chair Goodson, all Agriculture & Property Rights Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 20, 2017.

NOTICE FINALIZED on 03/17/2017 4:15PM by Kaiser.Debbi



The Florida House of Representatives

Commerce Committee

Agriculture & Property Rights Subcommittee

Richard Corcoran
Speaker

Tom Goodson
Chair

AGENDA

March 21, 2017

12 House Office Building

9:00 AM – 11:00 AM

I. Call to Order & Roll Call

II. Consideration of the following bill(s):

- A. HB 289 Property Taxes by Donalds and Avila
- B. HB 1083 Small Food Retailers by Lee
- C. HB 1217 Industrial Hemp Programs by Massullo

III. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 289 Property Taxes
SPONSOR(S): Donalds and others
TIED BILLS: IDEN./SIM. BILLS: SB 226

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee		Thompson	<i>JAT</i> Smith <i>MS</i>
2) Ways & Means Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

The bill makes changes to various provisions addressing the procedures of the value adjustment board (VAB), homestead tax exemptions, tax lien certificates, the Truth in Millage (TRIM) notification, and claims of adverse possession. Specifically, the bill:

- Requires, as a condition of establishing title by adverse possession, the payment of all “delinquent” taxes instead of all “outstanding” taxes on a parcel of real property;
- Matches the VAB appeals timeframe for property appraisers with the 60 day VAB appeals timeframe for taxpayers, and grants each side 30 days from the date of the original complaint to file a counterclaim;
- Requires members of condominium associations, cooperative associations and homeowners’ associations who wish to appeal their assessments to opt-in to appeals before VABs instead of including them in appeals automatically unless they opt-out. Sets a 30 day deadline for late filed petitions to be filed with the VAB;
- Revises the definition of “good cause” as it applies to rescheduling a VAB hearing to prohibit rescheduling when a party has hearings scheduled simultaneously in multiple jurisdictions;
- Amends the statutory provisions that address conflict of interest for special magistrates;
- Prohibits a tax assessment limitation from being based on a VAB final written decision that is under appeal;
- Grants property appraisers additional authority to waive penalties and interest on tax liens for those who receive, but are not entitled to, homestead exemptions, homestead assessment limitations, homestead exemptions for persons age 65 or older, and homestead assessment reductions for parents and grandparents;
- Increases the tax exemption for widows, widowers, blind persons, and disabled persons from \$500 to \$5,000;
- Removes the time limitation for business owners to receive the \$25,000 exemption on tangible personal property, allowing these businesses to receive the exemption beginning in the first year;
- Reduces the information that the notice by mail of non-ad valorem assessment hearings is required to include and allows local governments to provide the notice information via a website, instead of in a newspaper;
- Restricts the content that is required to be included in the yearly TRIM notice; and
- Allows local governments to provide notice of non-ad valorem assessment hearings on a website instead of paying to have the notice published in the newspaper.

The Revenue Estimating Conference has not yet determined the impact of the bill.

The bill has an effective date of July 1, 2017.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III. A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Adverse Possession

Present Situation

Adverse possession is the process by which someone occupies another's property without their consent for a period of time, and eventually acquires title to the property. In Florida, this can happen in two ways, with color of title and without. The requirements for adverse possession without color of title in Florida are set out plainly in s. 95.18, F.S. To claim adverse possession without color of title the claimant must have:

- Been in actual continued possession of the property for 7 years;¹
- Paid all outstanding taxes and matured installments of special improvement liens against the property within 1 year of taking possession;²
- Made a return of the property to the assessor within 30 days of paying those taxes and liens;³
- Paid all taxes and matured installments of special improvement liens against the property for all remaining years necessary to establish a claim of adverse possession;⁴ and
- Protected the property by substantial enclosure (typically a fence) or cultivated, maintained or improved in a usual manner.⁵

According to Florida law, all outstanding taxes are due and payable on November 1 of each year, and become delinquent on April 1 following the year in which they are assessed, or after 60 days have expired from the mailing of the original tax notice, whichever is later.⁶

Proposed Changes

The bill requires, as a condition of establishing title by adverse possession, the payment of all "delinquent" taxes instead of all "outstanding" taxes on a parcel of real property. Specifically, the bill amends s. 95.18, F.S., allowing a property to be held adversely only after the taxes and matured installments of special improvement liens against the property within 1 year of taking possession have become delinquent, instead of outstanding.

Value Adjustment Board (VAB)

Present Situation

Part 1 of Chapter 194, F.S., provides for the administrative review of ad valorem tax assessments through local VABs. The VAB hearings are a venue in which taxpayers can present their case to a neutral party without the need to hire an attorney or go through the formal process of a circuit court case.

Current law authorizes a property owner to initiate a review by filing a petition with the clerk of the VAB within 25 days of the mailing of the Truth in Millage (TRIM) notice.⁷ Pursuant to its rulemaking authority, the Florida Department of Revenue (DOR) prohibits the VAB from setting and publishing a deadline for

¹ s. 95.18(1), F.S.

² s. 95.18(1)(a), F.S.

³ s. 95.18(1)(b), F.S.

⁴ s. 95.18(1)(c), F.S.

⁵ s. 95.18(1)(2), F.S.

⁶ s. 197.333, F.S.

⁷ s. 194.011(3), F.S.

late filed petitions.⁸ In addition, DOR provides that failure to meet the statutory filing deadline for a petition does not prevent consideration of the petition if the VAB or its designee determines that the petitioner has demonstrated good cause and the delay will not be detrimental to the board's function within the tax process.⁹

A taxpayer receives notice of their hearing at least 25 days before the scheduled hearing.¹⁰ A condominium association, cooperative association, or any homeowners' association is authorized to file with the VAB a single joint petition on behalf of any association members who own parcels of property which the property appraiser determines to be substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition.¹¹ However, contrary to other property owners, an association must provide its unit owners at least 20 days to opt out (elect, in writing, that his or her unit not be included) of the petition.¹²

In most counties, the VAB hearing takes place in front of a special magistrate instead of the VAB.¹³ Special magistrates are experienced appraisers and attorneys who are hired to serve as impartial hearing officers.¹⁴ After the hearing the special magistrate produces a recommended decision which is given to the VAB which produces the final decision. This step does not occur if the VAB hears the petition directly. The petitioner and the property appraiser may each reschedule the hearing once and must show good cause.¹⁵

Once the final written decision is issued by the VAB, if the petitioner disagrees with the decision, he or she then has 60 days to file an action in circuit court contesting that decision.¹⁶ However, an appeal of a VAB decision by the property appraiser must be filed, if the tax roll has been extended during a VAB hearing, within 30 days of the certification.¹⁷ In addition, it does not appear that either party is afforded the authority to file a counterclaim to an appeal.

Proposed Changes

VAB Decision Appeals

The bill matches the VAB appeals timeframe for property appraisers with the 60 day VAB appeals timeframe for taxpayers and grants each side 30 days from the date of the original complaint to file a counterclaim. Specifically, the bill:

- Amends s. 193.122(4), F.S., replacing the 30 day VAB appeals timeframe for property appraisers with the 60 day appeals timeframe that is afforded taxpayers in s. 194.171(2), F.S. This provision prohibits bringing an action to contest a tax assessment after 60 days from the date the assessment being contested is certified for collection under s. 193.122(2), F.S., or after 60 days from the date a decision is rendered concerning such assessment by the value adjustment board if a petition contesting the assessment had not received final action by the value adjustment board prior to extension of the roll under s. 197.323, F.S.; and

⁸ Rule 12D-9.015, F.A.C., Petition; Form and Filing Fee.

⁹ Id.

¹⁰ s. 194.032(2)(a), F.S.

¹¹ s. 194.011(3)(e), F.S.

¹² Id.

¹³ Section 194.035(1), F.S., requires the use of special magistrates in counties with a population over 75,000. Smaller counties may opt to use special magistrates.

¹⁴ s. 194.035(1), F.S.

¹⁵ s. 194.032(2)(a), F.S., defines the term "good cause" as circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent the party from having adequate representation at the hearing.

¹⁶ s. 194.171(2), F.S.

¹⁷ s. 193.122(4), F.S.

- Amends s. 194.171(2), F.S., providing property appraisers and taxpayers the authority to seek redress through a counterclaim. Specifically, the bill provides that if an appeal is filed under this section, each party has 30 days from the date of the original complaint to file a counterclaim.

VAB Petitions

The bill revises the VAB appeal process for condominium associations, cooperative associations and homeowners' associations by requiring association members to opt-in to petitioning the VAB for a tax assessment appeal, instead of including them automatically unless they opt-out. This will effectively give owners 20 days to decide whether to participate in an appeal. Specifically, the bill amends s. 194.011(3)(e), F.S., providing that a condominium association, cooperative association, or homeowners' association as defined in s. 723.075, F.S., must provide at least 20 days for a unit owner to elect, in writing, that his or her unit be included in the petition.

Late Filed VAB Petitions

The bill sets a 30 day deadline for late filed petitions to be filed with the VAB. Specifically, the bill amends s. 194.011(3), F.S., authorizing a person to file a petition late if the county has voted favorably to extend the roll under s. 197.323(1), F.S., and the petitioner has shown good cause. "Good cause" means circumstances beyond the control of the person seeking to file the petition late. Late filed petitions must be filed within 30 days after the 25th day following the mailing of the notice by the property appraiser.

VAB Hearing Rescheduling

The bill revises the definition of "good cause", as it applies to valid reasons a petitioner and property appraiser may reschedule a hearing, to prohibit the rescheduling of a hearing when a party has hearings scheduled simultaneously in multiple jurisdictions. Specifically, the bill amends s. 194.032(2)(a), F.S., to provide that good cause does not include being scheduled in different jurisdictions at the same time or date.

Special Magistrates Conflict of Interest

As current law requires VAB special magistrates to be qualified individuals, many are familiar with, and employed in, the appraisal business. The bill strengthens the statutory provisions that address conflict of interest for special magistrates. Specifically, the bill amends s. 194.035(1), F.S., providing that an appraisal performed by a special magistrate may not be submitted as evidence to the value adjustment board in any tax year during which he or she has served on that board as a special magistrate.

Assessment Limitations

The bill requires a tax assessment limitation to be based on a property appraiser's valuation instead of a VAB valuation when the VAB's final written decision is under appeal. Once the appeal settles, the assessment limitation must be based on the valuation specified in the court order. Specifically, the bill amends s. 194.036, F.S., providing that if a property appraiser appeals a decision of the board, the assessment limitation in the following year may not be based on the decision by the value adjustment board but shall be the initial assessment. Once the court issues its order, the assessment limitation must be recalculated and corrected as set forth in the court order for all subsequent years.

Homestead Exemption Liens

Present Situation

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹⁸

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by school districts. An additional homestead exemption from all taxes other than district school taxes is available for assessed value above \$50,000 and up to \$75,000.

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.¹⁹ A tax lien certificate is an interest bearing lien of first priority 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.²⁰ After the 2 year period, if the taxes remain unpaid, the lien holder may make an application for tax deed auction with the county.²¹ If tax deed auction proceedings begin, the property owner must pay all due and delinquent years, plus fees and interest to stop the sale of their property at public auction.²² If the tax certificate is not redeemed or sold at auction after 7 years, the tax certificate is cancelled and considered null and void.²³

Current law provides that if a property appraiser determines that, within the prior 10 years, a property owner was granted a homestead exemption but was not entitled to it, the property appraiser must send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.²⁴ After receiving notice, the property owner has 30 days to pay the taxes owed, plus penalties and interest before the property appraiser may file the lien.²⁵ Once a tax lien is filed, the tax lien remains on the property until it is paid or expires after 20 years.²⁶ This provision includes property owners who are granted an exemption and not required to file an annual application or statement.²⁷

Proposed Changes

The bill allows property appraisers to waive penalties and interest on homestead exemption liens when good cause is shown that there was no intentional action taken by the property owner to benefit from the unpaid taxes. Specifically, the bill amends ss. 196.011(9)(a), and 196.161(1)(b), F.S., allowing a property appraiser to waive the unpaid penalties and interest on homestead exemption liens upon good cause shown and after determining that: 1) there was no intent to illegally avoid the payment of lawful taxes; 2) there was no benefit to the property owner.

¹⁸*Sebring Airport Auth. v. McIntyre*, 783 So.2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So.2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So.2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So.2d 431, 432 (Fla. 1952).

¹⁹ s. 197.432(1), F.S.

²⁰ s. 197.502(1) and (2), F.S.

²¹ s. 197.502, F.S.

²² s. 197.472, F.S.

²³ s. 197.482, F.S.

²⁴ s. 196.161(1)(b), F.S.

²⁵ *Id.*

²⁶ s. 95.091(1)(b), F.S.

²⁷ s. 196.011(9)(a), F.S.

This applies to property owners who are granted an exemption and who are not required to file an annual application or statement.

Homestead Assessment Limitation Liens

Present Situation

Ad valorem tax valuation is based on the taxable value of property as of January 1 of each year.²⁸ The property appraiser annually determines the “just value”²⁹ of property within the taxing authority and then applies applicable exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³⁰ Article VII, section 4 of the Florida Constitution limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.³¹ This limitation is implemented statutorily. The law provides that, beginning in 1995 or the year after the property receives homestead exemption, an annual increase in homestead assessment is prohibited from exceeding the lower of the following:

- Three percent of the assessed value of the property for the prior year; or
- The percentage change in the Consumer Price Index (CPI) for all Urban Consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the U.S. Department of Labor, Bureau of Labor Statistics.³²

Current law provides that if a property appraiser determines that, within the prior 10 years a person receives the homestead property assessment limitation and was not entitled to it, 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.³³ After receiving notice, the property owner has 30 days to pay the taxes owed plus penalties and interest before the property appraiser may file the lien.³⁴ Once a tax lien is filed, the tax lien remains on the property until it is paid or expires after 20 years.³⁵

Proposed Changes

The bill allows property appraisers to waive penalties and interest on homestead property assessment limitation liens when good cause has shown that there was no intentional action taken by the property owner to benefit from the unpaid taxes. Specifically, the bill amends s. 193.155(10), F.S., allowing a property appraiser to waive the unpaid penalties and interest on homestead property assessment limitation liens, upon good cause shown and after determining that: 1) there was no intent to illegally avoid the payment of lawful taxes; 2) there was no benefit to the property owner.

Homestead Exemption Liens for Seniors

Article VII, section 6(d) of the Florida Constitution authorizes the legislature to allow, by general law, counties and municipalities to grant either or both of the following additional homestead exemptions for purposes of their own property tax levies:

²⁸ Both real and tangible personal property are subject to the 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.

²⁹ Property must be valued at “just value” for purposes of property taxation, unless the State 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).

³⁰ *See* s. 192.001(2) and (16), F.S.

³¹ *See* FLA. CONST. art. VII, s. 4.

³² s. 193.155(1), F.S.

³³ s. 193.155(10), F.S.

³⁴ *Id.*

³⁵ s. 95.091(1)(b), F.S.

- An exemption not exceeding \$50,000 to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, and who has attained age 65, and whose household income, as defined by general law, does not exceed \$20,000;³⁶ or
- An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than \$250,000 based on the value during the year in which the exemption is originally applied for, and who has maintained thereon the permanent residence of the owner for not less than 25 years, and who has attained age 65, and whose household income does not exceed \$20,000.³⁷

This exemption is implemented in s.196.075, F.S. The law allows counties and municipalities the discretion to grant the exemptions. Counties and municipalities may grant either or both of these exemptions through the adoption of an ordinance.³⁸ The law also provides that if a property appraiser determines that, within the prior 10 years, a person received the homestead property assessment limitation and was not entitled to it, 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.³⁹ After receiving notice, the property owner has 30 days to pay the taxes owed, plus penalties and interest, before the property appraiser may file the lien.⁴⁰ Once a tax lien is filed, the tax lien remains on the property until it is paid or expires after 20 years.⁴¹

Proposed Changes

The bill allows property appraisers to waive penalties and interest on homestead exemption liens for senior citizen property owners when good cause has shown that there was no intentional action taken by the property owner to benefit from the unpaid taxes. Specifically, the bill amends s.196.075(9), F.S., allowing a property appraiser to waive the unpaid penalties and interest, on homestead exemption liens for property owners age 65 or older, upon good cause shown and after determining that: 1) there was no intent to illegally avoid the payment of lawful taxes; 2) there was no benefit to the property owner.

Homestead Assessment Reduction Liens for Parents and Grandparents

Present Situation

Article VII, section 4(f) of the State Constitution authorizes counties to provide a reduction in assessed value of homestead property resulting from construction or reconstruction on the homestead property for the purpose of providing living quarters for parents or grandparents (granny flats). This reduction is implemented in s. 193.703, F.S. The law applies to natural or adoptive parents or grandparents of the owner of the property or of the owner's spouse, if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age.⁴²

The law provides that if a property appraiser determines that within the prior 10 years a person receives the reduction in assessed value and was not entitled to it, the property appraiser must serve the owner with a notice of intent to file a tax lien on any property owned by the owner in that county.⁴³ After receiving notice, the property owner has 30 days to pay the taxes owed, plus penalties and interest

³⁶ Art. VII, s. 6(d)(1), Fla. Const.

³⁷ Art. VII, s. 6(d)(2), Fla. Const.

³⁸ s. 196.075(4), F.S.

³⁹ s. 196.075(9), F.S.

⁴⁰ Id.

⁴¹ s. 95.091(1)(b), F.S.

⁴² s. 193.703(1), F.S.

⁴³ s. 193.703(7), F.S.

before the property appraiser may file the lien.⁴⁴ Even if a tax lien is filed, the tax lien remains on the property until it is paid or expires after 20 years.⁴⁵

Proposed Changes

The bill allows property appraisers to waive penalties and interest on granny flat liens when good cause has shown that there was no intentional action taken by the property owner to benefit from the unpaid taxes. Specifically, the bill amends s.193.703(7), F.S., allowing a property appraiser to waive the unpaid penalties and interest on granny flat liens upon good cause shown and after determining that: 1) there was no intent to illegally avoid the payment of lawful taxes; 2) there was no benefit to the property owner.

Tax Exemption for Widows, Widowers, Blind Persons, and Persons Totally and Permanently Disabled

Present Situation

Article VII, section 3(b) of the Florida Constitution provides a specific exemption to “every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.” This exemption is implemented in s. 196.202, F.S. The law applies to every person who is a bona fide resident of this state.⁴⁶ An applicant for the exemption may apply for the exemption before receiving the necessary documentation from the United States Department of Veterans Affairs, or its predecessor, or the Social Security Administration.⁴⁷ Upon receipt of the documentation, the exemption is granted as of the date of the original application and any excess taxes paid are refunded.⁴⁸

Proposed Changes

The bill increases the amount of the exemption from \$500 to \$5,000. Specifically, the bill amends s. 196.202(1), F.S., exempting from taxation property to the value of \$5,000 of every widow, widower, blind person, or totally and permanently disabled person who is a bona fide resident of this state.

Tangible Personal Property

Present Situation

Article VII, section 3(e), of the Florida Constitution provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation. This exemption is implemented in s. 196.183, F.S., and applies at each site in the county where the owner of tangible personal property transacts business. The owners of property previously assessed by the property appraiser without a return being filed may, at the option of the property appraiser, qualify for the exemption under this section without filing an initial return. This allows these businesses to receive the exemption in the second year of operation.

Proposed Changes

The bill removes the time limitation for business owners to receive the \$25,000 exemption from the assessed value of tangible personal property. This allows these business entities to receive the exemption beginning in its first year. Specifically, the bill amends s. 196.183(4), F.S., providing that

⁴⁴ *Id.*

⁴⁵ s. 95.091(1)(b), F.S.

⁴⁶ s. 196.202, F.S.

⁴⁷ s. 196.202(2), F.S.

⁴⁸ *Id.*

owners of property that has been assessed by the property appraiser without a return being filed may, at the option of the property appraiser, qualify for the exemption under this section without filing an initial return.

Non-Ad Valorem Assessment Rolls

Present Situation

Current law provides a uniform method for the levy, collection, and enforcement of non-ad valorem assessments.⁴⁹ A local government must adopt a non-ad valorem assessment roll at a public hearing held between January 1 and September 15 if:

- The non-ad valorem assessment is levied for the first time;
- The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;
- The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or
- There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.⁵⁰

The law requires the local government to provide public notice of the hearing. At least 20 days prior to the public hearing, the local government is required to notice the hearing by first-class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government.⁵¹

The notice by mail must be sent to each person owning property subject to the assessment and include the following information:

- The purpose of the assessment;
- The total amount to be levied against each parcel;
- The unit of measurement to be applied against each parcel to determine the assessment;
- The number of such units contained within each parcel;
- The total revenue the local government will collect by the assessment;
- A statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title;
- A statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and
- The date, time, and place of the hearing.⁵²

However, the notice by mail is not required if a notice by mail is otherwise required by general or special law governing a taxing authority, and is served at least 30 days prior to the authority's public hearing on adoption of a new or amended non-ad valorem assessment roll.⁵³

The published notice must contain at least the following information:

- The name of the local governing board;
- A geographic depiction of the property subject to the assessment;
- The proposed schedule of the assessment;
- The fact that the assessment will be collected by the tax collector; and
- The statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.⁵⁴

⁴⁹ s. 197.3632, F.S.

⁵⁰ s. 197.3632(4)(a), F.S.

⁵¹ s. 197.3632(4)(b), F.S.

⁵² Id.

⁵³ Id.

⁵⁴ Id.

Proposed Changes

The bill reduces the information that the notice by mail of a non-ad valorem assessment hearing is required to include, and allows local governments to provide the notice information on a website instead of in a newspaper. Specifically, the bill amends s. 197.3632(4)(b), F.S., providing that in lieu of publishing a notice in a newspaper, the local government may include in the notice by mail, the name of the local government board, the date and location of the public hearing, and an easily accessible website address that contains the additional information otherwise required to be given in the notice by mail.

The Truth in Millage (TRIM) notice

Present Situation

Each August, a Truth in Millage notice is sent out by the property appraiser to all taxpayers providing specific information about their parcel.⁵⁵

The TRIM notice lists each taxing authority that levies taxes on the property, how much they collected from that parcel in the previous year, how much they propose to collect this year, and how much would be levied on the property if the taxing authority made no budget changes.⁵⁶ It also lists the day and time that the taxing authority will be holding its preliminary budget hearing, so that the taxpayer can participate in the process and provide input to the taxing authority if they disagree with the proposed taxes.⁵⁷ After this meeting, where a tentative millage (tax) rate and budget are adopted, the taxing authority must then publish the proposed millage rate⁵⁸ and the proposed budget⁵⁹ in a newspaper of general circulation before holding a meeting for the final adoption of the millage rate and budget.⁶⁰ This gives citizens two opportunities to have input into the process of setting the millage rate and budget.

The TRIM notice also provides key information about the valuation of the property. It lists the value the property appraiser has placed on the property, shows any reductions which have been made to that value due to a classification or assessment limitation, and shows what exemptions have been granted on that property and the value of those exemptions.⁶¹ This gives taxpayers notice of the assessment of their property, lets them review any assessment limitations or classifications applied, allows them to check to make sure they are getting all of the exemptions they are entitled to receive, and allows them to dispute any of these matters before the tax bills are sent out.

Proposed Changes

The bill prohibits the annual TRIM notice from containing statements not relating to the items that are in the notice. Specifically, the bill amends s. 200.069, F.S., requiring the property appraiser to only include in the mailing of the notice of ad valorem taxes and non-ad valorem assessments additional statements explaining any item on the notice.

B. SECTION DIRECTORY:

Section 1 amends s. 95.18, F.S., relating to real property actions; adverse possession without color of title.

⁵⁵ s. 200.069, F.S.

⁵⁶ Id.

⁵⁷ s. 200.069(4)(g), F.S.

⁵⁸ s. 200.065(3), F.S.

⁵⁹ s. 200.065(3)(1), F.S.

⁶⁰ s. 200.065 (2)(d), F.S.

⁶¹ s. 200.069(6), F.S.

- Section 2** amends s. 193.122, F.S., relating to certificates of the VAB and property appraiser; extensions on the assessment rolls.
- Section 3** amends s. 193.155, F.S., relating to homestead assessments.
- Section 4** amends s. 193.703, F.S., relating to reduction in assessment for living quarters of parents or grandparents.
- Section 5** amends s. 194.011, F.S., relating to assessment notice; objections to assessments.
- Section 6** amends s. 194.032, F.S., relating to hearing purposes; timetable.
- Section 7** amends s. 194.035, F.S., relating to special magistrates; property evaluators.
- Section 8** amends s. 194.036, F.S., relating to appeals of the decisions of the VAB.
- Section 9** amends s. 194.171, F.S. relating to the circuit court having original jurisdiction in tax cases.
- Section 10** amending s. 196.011, F.S., relating to annual application required for exemption.
- Section 11** amending s. 196.075, F.S., relating to additional homestead exemption for persons 65 and older.
- Section 12** amending s. 196.161, F.S., relating to homestead exemptions; lien imposed on property of person claiming exemption although not a permanent resident.
- Section 13** amending s. 196.183, F.S., relating to exemption for tangible personal property.
- Section 14** amending s. 196.202, F.S., relating to property of widows, widowers, blind persons, and persons totally and permanently disabled.
- Section 15** amending s. 197.3632, F.S., relating to the uniform method for the levy, collection, and enforcement of non-ad valorem assessments.
- Section 16** amending s. 200.069, F.S., relating to the notice of proposed property taxes and non-ad valorem assessments (TRIM notice).

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:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill in its entirety.

The Revenue Estimating Conference on February 10, 2017, conducted an analysis of the impacts of the increase in widows, blind and disabled exemption from \$500 to \$5,000 found in section 14 of the bill. Section 14 of the bill is expected to have a negative revenue impact to local governments of approximately \$38.3 million beginning in the 2018-2019 fiscal year.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Florida residents who are widows, widowers, blind, or totally and permanently disabled will pay less property tax.

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, of the Florida Constitution may apply because this bill increases the tax exemption for widows, widowers, blind persons, and disabled persons; reducing local government's ability to raise ad valorem revenues. 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In various places in the bill, a property appraiser may waive unpaid penalties and interest for a person who should not have received a property tax exemption. A waiver is based on good cause and a showing that the taxpayer did not intend to avoid paying lawful taxes or benefits from not paying enough. What is meant by 'good cause', 'intent,' and 'benefit' is unclear, especially as a taxpayer would have received the benefit of an exemption that he or she was not entitled to. An amendment is recommended to define or further explain these concepts.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to property taxes; amending s. 95.18,
 3 F.S.; providing that a possessor of real property for
 4 7 years must pay all delinquent taxes prior to
 5 claiming adverse possession; amending s. 193.122,
 6 F.S.; revising the time period that certain appeals of
 7 property assessments may be made; amending ss.
 8 193.155, 193.703, 196.011, 196.075, 196.161, F.S.;
 9 providing criteria under which a property appraiser
 10 may waive unpaid penalties and interest for improper
 11 nonpayment or reduction payment of ad valorem taxes by
 12 certain property owners claiming a homestead
 13 exemption; amending s. 194.011, F.S.; requiring unit
 14 owners of a condominium, cooperative, or homeowners'
 15 association to elect to join a joint petition to the
 16 value adjustment board; providing circumstances and
 17 time frames under which a person may file a petition
 18 late to a value adjustment board; amending s. 194.032,
 19 F.S.; specifying situations under which the term "good
 20 cause" does not apply in rescheduling a hearing before
 21 value adjustment board; amending s. 194.035, F.S.;
 22 specifying the circumstances under which a special
 23 magistrate's appraisal may not be submitted as
 24 evidence to a value adjustment board; amending s.
 25 194.036, F.S.; specifying how an assessment limitation

26 must be corrected in situations where a property
 27 appraiser appeals the decision of the value adjustment
 28 board; amending s. 194.171, F.S.; specifying the time
 29 frame under which counterclaims of certain appeals of
 30 tax assessments may be made; amending s. 196.183,
 31 F.S.; revising a provision authorizing a property
 32 appraiser to exempt certain tangible personal property
 33 from ad valorem taxation without filing an initial
 34 return; amending s. 196.202, F.S.; revising the value
 35 of property owned by certain persons that is exempt
 36 from taxation; amending s. 197.3632, F.S.; providing a
 37 mechanism for local governments to post notice of
 38 certain public hearings in lieu of publishing the
 39 notice in a newspaper; amending s. 200.069, F.S.;
 40 authorizing property appraisers to include certain
 41 information in the notice of ad valorem taxes and non-
 42 ad valorem assessments; providing an effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Subsection (1) of section 95.18, Florida
 47 Statutes, is amended to read:

48 95.18 Real property actions; adverse possession without
 49 color of title.-

50 (1) When a ~~the~~ possessor has been in actual continued

51 possession of real property for 7 years under a claim of title
 52 exclusive of any other right, but not founded on a written
 53 instrument, judgment, or decree, or when those under whom the
 54 possessor claims meet these criteria, the property actually
 55 possessed is held adversely if the person claiming adverse
 56 possession:

57 (a) Paid, subject to s. 197.3335, all delinquent
 58 ~~outstanding~~ taxes and matured installments of special
 59 improvement liens levied against the property by the state,
 60 county, and municipality within 1 year after entering into
 61 possession;

62 (b) Made a return, as required under subsection (3), of
 63 the property by proper legal description to the property
 64 appraiser of the county where it is located within 30 days after
 65 complying with paragraph (a); and

66 (c) Has subsequently paid, subject to s. 197.3335, all
 67 taxes and matured installments of special improvement liens
 68 levied against the property by the state, county, and
 69 municipality for all remaining years necessary to establish a
 70 claim of adverse possession.

71 Section 2. Subsection (4) of section 193.122, Florida
 72 Statutes, is amended to read:

73 193.122 Certificates of value adjustment board and
 74 property appraiser; extensions on the assessment rolls.—

75 (4) An appeal of a value adjustment board decision

76 | pursuant to s. 194.036(1)(a) or (b) by the property appraiser
 77 | shall be filed prior to extension of the tax roll under
 78 | subsection (2) or, if the roll was extended pursuant to s.
 79 | 197.323, within the time period provided in s. 194.171(2) ~~30~~
 80 | ~~days of recertification under subsection (3)~~. The roll may be
 81 | certified by the property appraiser prior to an appeal being
 82 | filed pursuant to s. 194.036(1)(c), but such appeal shall be
 83 | filed within 20 days after receipt of the decision of the
 84 | department relative to further judicial proceedings.

85 | Section 3. Subsection (10) of section 193.155, Florida
 86 | Statutes, is amended to read:

87 | 193.155 Homestead assessments.—Homestead property shall be
 88 | assessed at just value as of January 1, 1994. Property receiving
 89 | the homestead exemption after January 1, 1994, shall be assessed
 90 | at just value as of January 1 of the year in which the property
 91 | receives the exemption unless the provisions of subsection (8)
 92 | apply.

93 | (10) (a) If the property appraiser determines that for any
 94 | year or years within the prior 10 years a person who was not
 95 | entitled to the homestead property assessment limitation granted
 96 | under this section was granted the homestead property assessment
 97 | limitation, the property appraiser making such determination
 98 | shall serve upon the owner a notice of intent to record in the
 99 | public records of the county a notice of tax lien against any
 100 | property owned by that person in the county, and such property

101 must be identified in the notice of tax lien. Such property that
 102 is situated in this state is subject to the unpaid taxes, plus a
 103 penalty of 50 percent of the unpaid taxes for each year and 15
 104 percent interest per annum. However, when a person entitled to
 105 exemption pursuant to s. 196.031 inadvertently receives the
 106 limitation pursuant to this section following a change of
 107 ownership, the assessment of such property must be corrected as
 108 provided in paragraph (9)(a), and the person need not pay the
 109 unpaid taxes, penalties, or interest. The property appraiser may
 110 waive the unpaid penalties and interest upon good cause shown
 111 and after determining that:

112 1. There was no intent to illegally avoid the payment of
 113 lawful taxes.

114 2. There was no benefit to the property owner.

115 (b) If the property appraiser improperly grants the
 116 property assessment limitation as a result of a clerical mistake
 117 or an omission, the person or entity improperly receiving the
 118 property assessment limitation may not be assessed a penalty or
 119 interest.

120 (c) Before a lien may be filed, the person or entity so
 121 notified must be given 30 days to pay the taxes and any
 122 applicable penalties and interest. ~~If the property appraiser~~
 123 ~~improperly grants the property assessment limitation as a result~~
 124 ~~of a clerical mistake or an omission, the person or entity~~
 125 ~~improperly receiving the property assessment limitation may not~~

126 ~~be assessed a penalty or interest.~~

127 Section 4. Subsection (7) of section 193.703, Florida
 128 Statutes, is amended to read:

129 193.703 Reduction in assessment for living quarters of
 130 parents or grandparents.—

131 (7) (a) If the property appraiser determines that for any
 132 year within the previous 10 years a property owner who was not
 133 entitled to a reduction in assessed value under this section was
 134 granted such reduction, the property appraiser shall serve on
 135 the owner a notice of intent to record in the public records of
 136 the county a notice of tax lien against any property owned by
 137 that person in the county, and that property must be identified
 138 in the notice of tax lien. Any property that is owned by that
 139 person and is situated in this state is subject to the taxes
 140 exempted by the improper reduction, plus a penalty of 50 percent
 141 of the unpaid taxes for each year and interest at a rate of 15
 142 percent per annum. The property appraiser may waive the unpaid
 143 penalties and interest upon good cause shown and after
 144 determining that:

145 1. There was no intent to illegally avoid the payment of
 146 lawful taxes.

147 2. There was no benefit to the property owner.

148 (b) However, if a reduction is improperly granted due to a
 149 clerical mistake or an omission by the property appraiser, the
 150 person who improperly received the reduction may not be assessed

151 a penalty or interest.

152 (c) Before such lien may be filed, the owner must be given
 153 30 days within which to pay the taxes, penalties, and interest.
 154 Such lien is subject to s. 196.161(3).

155 Section 5. Paragraph (e) of subsection (3) of section
 156 194.011, Florida Statutes, is amended and paragraph (h) is
 157 redesignated as paragraph (i), and a new paragraph (h) is added
 158 to that subsection to read:

159 194.011 Assessment notice; objections to assessments.—

160 (3) A petition to the value adjustment board must be in
 161 substantially the form prescribed by the department.
 162 Notwithstanding s. 195.022, a county officer may not refuse to
 163 accept a form provided by the department for this purpose if the
 164 taxpayer chooses to use it. A petition to the value adjustment
 165 board must be signed by the taxpayer or be accompanied at the
 166 time of filing by the taxpayer's written authorization or power
 167 of attorney, unless the person filing the petition is listed in
 168 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
 169 petition with a value adjustment board without the taxpayer's
 170 signature or written authorization by certifying under penalty
 171 of perjury that he or she has authorization to file the petition
 172 on behalf of the taxpayer. If a taxpayer notifies the value
 173 adjustment board that a petition has been filed for the
 174 taxpayer's property without his or her consent, the value
 175 adjustment board may require the person filing the petition to

176 provide written authorization from the taxpayer authorizing the
 177 person to proceed with the appeal before a hearing is held. If
 178 the value adjustment board finds that a person listed in s.
 179 194.034(1)(a) willfully and knowingly filed a petition that was
 180 not authorized by the taxpayer, the value adjustment board shall
 181 require such person to provide the taxpayer's written
 182 authorization for representation to the value adjustment board
 183 clerk before any petition filed by that person is heard, for 1
 184 year after imposition of such requirement by the value
 185 adjustment board. A power of attorney or written authorization
 186 is valid for 1 assessment year, and a new power of attorney or
 187 written authorization by the taxpayer is required for each
 188 subsequent assessment year. A petition shall also describe the
 189 property by parcel number and shall be filed as follows:

190 (e) A condominium association, cooperative association, or
 191 any homeowners' association as defined in s. 723.075, with
 192 approval of its board of administration or directors, may file
 193 with the value adjustment board a single joint petition on
 194 behalf of any association members who own parcels of property
 195 which the property appraiser determines are substantially
 196 similar with respect to location, proximity to amenities, number
 197 of rooms, living area, and condition. The condominium
 198 association, cooperative association, or homeowners' association
 199 as defined in s. 723.075 shall provide the unit owners with
 200 notice of its intent to petition the value adjustment board and

201 shall provide at least 20 days for a unit owner to elect, in
 202 writing, that his or her unit ~~not~~ be included in the petition.

203 (h) For good cause shown, a person may file a petition
 204 late if the county has voted favorably to extend the roll under
 205 s. 197.323(1). As used in this paragraph, "good cause" means
 206 circumstances beyond the control of the person seeking to file
 207 the petition late. Late filed petitions must be filed within 30
 208 days after the 25th day following the mailing of the notice by
 209 the property appraiser.

210 Section 6. Paragraph (a) of subsection (2) of section
 211 194.032, Florida Statutes, is amended to read:

212 194.032 Hearing purposes; timetable.—

213 (2)(a) The clerk of the governing body of the county shall
 214 prepare a schedule of appearances before the board based on
 215 petitions timely filed with him or her. The clerk shall notify
 216 each petitioner of the scheduled time of his or her appearance
 217 at least 25 calendar days before the day of the scheduled
 218 appearance. The notice must indicate whether the petition has
 219 been scheduled to be heard at a particular time or during a
 220 block of time. If the petition has been scheduled to be heard
 221 within a block of time, the beginning and ending of that block
 222 of time must be indicated on the notice; however, as provided in
 223 paragraph (b), a petitioner may not be required to wait for more
 224 than a reasonable time, not to exceed 2 hours, after the
 225 beginning of the block of time. The property appraiser must

226 provide a copy of the property record card containing
 227 information relevant to the computation of the current
 228 assessment, with confidential information redacted, to the
 229 petitioner upon receipt of the petition from the clerk
 230 regardless of whether the petitioner initiates evidence
 231 exchange, unless the property record card is available online
 232 from the property appraiser, in which case the property
 233 appraiser must notify the petitioner that the property record
 234 card is available online. The petitioner and the property
 235 appraiser may each reschedule the hearing a single time for good
 236 cause. As used in this paragraph, the term "good cause" means
 237 circumstances beyond the control of the person seeking to
 238 reschedule the hearing which reasonably prevent the party from
 239 having adequate representation at the hearing. Good cause does
 240 not include being scheduled in different jurisdictions at the
 241 same time or date. If the hearing is rescheduled by the
 242 petitioner or the property appraiser, the clerk shall notify the
 243 petitioner of the rescheduled time of his or her appearance at
 244 least 15 calendar days before the day of the rescheduled
 245 appearance, unless this notice is waived by both parties.

246 Section 7. Subsection (1) of section 194.035, Florida
 247 Statutes, is amended to read:

248 194.035 Special magistrates; property evaluators.—

249 (1) In counties having a population of more than 75,000,
 250 the board shall appoint special magistrates for the purpose of

251 taking testimony and making recommendations to the board, which
 252 recommendations the board may act upon without further hearing.
 253 These special magistrates may not be elected or appointed
 254 officials or employees of the county but shall be selected from
 255 a list of those qualified individuals who are willing to serve
 256 as special magistrates. Employees and elected or appointed
 257 officials of a taxing jurisdiction or of the state may not serve
 258 as special magistrates. The clerk of the board shall annually
 259 notify such individuals or their professional associations to
 260 make known to them that opportunities to serve as special
 261 magistrates exist. The Department of Revenue shall provide a
 262 list of qualified special magistrates to any county with a
 263 population of 75,000 or less. Subject to appropriation, the
 264 department shall reimburse counties with a population of 75,000
 265 or less for payments made to special magistrates appointed for
 266 the purpose of taking testimony and making recommendations to
 267 the value adjustment board pursuant to this section. The
 268 department shall establish a reasonable range for payments per
 269 case to special magistrates based on such payments in other
 270 counties. Requests for reimbursement of payments outside this
 271 range shall be justified by the county. If the total of all
 272 requests for reimbursement in any year exceeds the amount
 273 available pursuant to this section, payments to all counties
 274 shall be prorated accordingly. If a county having a population
 275 less than 75,000 does not appoint a special magistrate to hear

276 each petition, the person or persons designated to hear
 277 petitions before the value adjustment board or the attorney
 278 appointed to advise the value adjustment board shall attend the
 279 training provided pursuant to subsection (3), regardless of
 280 whether the person would otherwise be required to attend, but
 281 shall not be required to pay the tuition fee specified in
 282 subsection (3). A special magistrate appointed to hear issues of
 283 exemptions, classifications, and determinations that a change of
 284 ownership, a change of ownership or control, or a qualifying
 285 improvement has occurred shall be a member of The Florida Bar
 286 with no less than 5 years' experience in the area of ad valorem
 287 taxation. A special magistrate appointed to hear issues
 288 regarding the valuation of real estate shall be a state
 289 certified real estate appraiser with not less than 5 years'
 290 experience in real property valuation. A special magistrate
 291 appointed to hear issues regarding the valuation of tangible
 292 personal property shall be a designated member of a nationally
 293 recognized appraiser's organization with not less than 5 years'
 294 experience in tangible personal property valuation. A special
 295 magistrate need not be a resident of the county in which he or
 296 she serves. A special magistrate may not represent a person
 297 before the board in any tax year during which he or she has
 298 served that board as a special magistrate. An appraisal
 299 performed by a special magistrate may not be submitted as
 300 evidence to the value adjustment board in any tax year during

301 which he or she has served that board as a special magistrate.
 302 Before appointing a special magistrate, a value adjustment board
 303 shall verify the special magistrate's qualifications. The value
 304 adjustment board shall ensure that the selection of special
 305 magistrates is based solely upon the experience and
 306 qualifications of the special magistrate and is not influenced
 307 by the property appraiser. The special magistrate shall
 308 accurately and completely preserve all testimony and, in making
 309 recommendations to the value adjustment board, shall include
 310 proposed findings of fact, conclusions of law, and reasons for
 311 upholding or overturning the determination of the property
 312 appraiser. The expense of hearings before magistrates and any
 313 compensation of special magistrates shall be borne three-fifths
 314 by the board of county commissioners and two-fifths by the
 315 school board. When appointing special magistrates or when
 316 scheduling special magistrates for specific hearings, the board,
 317 the board attorney, and the board clerk may not consider the
 318 dollar amount or percentage of any assessment reductions
 319 recommended by any special magistrate in the current year or in
 320 any previous year.

321 Section 8. Subsections (2) and (3) of section 194.036,
 322 Florida Statutes, are renumbered as subsections (3) and (4),
 323 respectively, and a new subsection (2) is added to that section,
 324 to read:

325 194.036 Appeals.—Appeals of the decisions of the board

326 shall be as follows:

327 (2) If the property appraiser appeals the decision of the
 328 board as set forth in subsection (1), the assessment limitation
 329 in the following year may not be based on the decision by the
 330 value adjustment board but shall be the initial assessment. Once
 331 the court issues its order, the assessment limitation must be
 332 recalculated and corrected as set forth in the court order for
 333 all subsequent years.

334 Section 9. Subsection (2) of section 194.171, Florida
 335 Statutes, is amended to read:

336 194.171 Circuit court to have original jurisdiction in tax
 337 cases.-

338 (2) No action shall be brought to contest a tax assessment
 339 after 60 days from the date the assessment being contested is
 340 certified for collection under s. 193.122(2), or after 60 days
 341 from the date a decision is rendered concerning such assessment
 342 by the value adjustment board if a petition contesting the
 343 assessment had not received final action by the value adjustment
 344 board prior to extension of the roll under s. 197.323. If an
 345 appeal is filed under this section, each party has 30 days from
 346 the date of the original complaint to file a counterclaim.

347 Section 10. Paragraph (a) of subsection (9) of section
 348 196.011, Florida Statutes, is amended to read:

349 196.011 Annual application required for exemption.-

350 (9)(a) A county may, at the request of the property

351 appraiser and by a majority vote of its governing body, waive
 352 the requirement that an annual application or statement be made
 353 for exemption of property within the county after an initial
 354 application is made and the exemption granted. The waiver under
 355 this subsection of the annual application or statement
 356 requirement applies to all exemptions under this chapter except
 357 the exemption under s. 196.1995. Notwithstanding such waiver,
 358 refiling of an application or statement shall be required when
 359 any property granted an exemption is sold or otherwise disposed
 360 of, when the ownership changes in any manner, when the applicant
 361 for homestead exemption ceases to use the property as his or her
 362 homestead, or when the status of the owner changes so as to
 363 change the exempt status of the property. In its deliberations
 364 on whether to waive the annual application or statement
 365 requirement, the governing body shall consider the possibility
 366 of fraudulent exemption claims which may occur due to the waiver
 367 of the annual application requirement. The owner of any property
 368 granted an exemption who is not required to file an annual
 369 application or statement shall notify the property appraiser
 370 promptly whenever the use of the property or the status or
 371 condition of the owner changes so as to change the exempt status
 372 of the property. If any property owner fails to so notify the
 373 property appraiser and the property appraiser determines that
 374 for any year within the prior 10 years the owner was not
 375 entitled to receive such exemption, the owner of the property is

376 subject to the taxes exempted as a result of such failure plus
 377 15 percent interest per annum and a penalty of 50 percent of the
 378 taxes exempted. Except for homestead exemptions controlled by s.
 379 196.161, the property appraiser making such determination shall
 380 record in the public records of the county a notice of tax lien
 381 against any property owned by that person or entity in the
 382 county, and such property must be identified in the notice of
 383 tax lien. Such property is subject to the payment of all taxes
 384 and penalties. Such lien when filed shall attach to any
 385 property, identified in the notice of tax lien, owned by the
 386 person who illegally or improperly received the exemption. If
 387 such person no longer owns property in that county but owns
 388 property in some other county or counties in the state, the
 389 property appraiser shall record a notice of tax lien in such
 390 other county or counties, identifying the property owned by such
 391 person or entity in such county or counties, and it shall become
 392 a lien against such property in such county or counties. The
 393 property appraiser may waive the unpaid penalties and interest
 394 upon good cause shown and after determining that:

- 395 1. There was no intent to illegally avoid the payment of
- 396 lawful taxes.
- 397 2. There was no benefit to the property owner.

398 Section 11. Subsection (9) of section 196.075, Florida
 399 Statutes, is amended to read:

400 196.075 Additional homestead exemption for persons 65 and

401 older.—

402 (9) (a) If the property appraiser determines that for any
 403 year within the immediately previous 10 years a person who was
 404 not entitled to the additional homestead exemption under this
 405 section was granted such an exemption, the property appraiser
 406 shall serve upon the owner a notice of intent to record in the
 407 public records of the county a notice of tax lien against any
 408 property owned by that person in the county, and that property
 409 must be identified in the notice of tax lien. Any property that
 410 is owned by the taxpayer and is situated in this state is
 411 subject to the taxes exempted by the improper homestead
 412 exemption, plus a penalty of 50 percent of the unpaid taxes for
 413 each year and interest at a rate of 15 percent per annum. The
 414 property appraiser may waive the unpaid penalties and interest
 415 upon good cause shown and after determining that:

416 1. There was no intent to illegally avoid the payment of
 417 lawful taxes.

418 2. There was no benefit to the property owner.

419 (b) However, if such an exemption is improperly granted as
 420 a result of a clerical mistake or an omission by the property
 421 appraiser, the person who improperly received the exemption may
 422 not be assessed a penalty and interest.

423 (c) Before any such lien may be filed, the owner must be
 424 given 30 days within which to pay the taxes, penalties, and
 425 interest. Such a lien is subject to the procedures and

426 provisions set forth in s. 196.161(3).

427 Section 12. Subsection (1) of section 196.161, Florida
 428 Statutes, is amended to read:

429 196.161 Homestead exemptions; lien imposed on property of
 430 person claiming exemption although not a permanent resident.—

431 (1)(a) When the estate of any person is being probated or
 432 administered in another state under an allegation that such
 433 person was a resident of that state and the estate of such
 434 person contains real property situate in this state upon which
 435 homestead exemption has been allowed pursuant to s. 196.031 for
 436 any year or years within 10 years immediately prior to the death
 437 of the deceased, then within 3 years after the death of such
 438 person the property appraiser of the county where the real
 439 property is located shall, upon knowledge of such fact, record a
 440 notice of tax lien against the property among the public records
 441 of that county, and the property shall be subject to the payment
 442 of all taxes exempt thereunder, a penalty of 50 percent of the
 443 unpaid taxes for each year, plus 15 percent interest per year,
 444 unless the circuit court having jurisdiction over the ancillary
 445 administration in this state determines that the decedent was a
 446 permanent resident of this state during the year or years an
 447 exemption was allowed, whereupon the lien shall not be filed or,
 448 if filed, shall be canceled of record by the property appraiser
 449 of the county where the real estate is located.

450 (b) In addition, upon determination by the property

451 appraiser that for any year or years within the prior 10 years a
 452 person who was not entitled to a homestead exemption was granted
 453 a homestead exemption from ad valorem taxes, it shall be the
 454 duty of the property appraiser making such determination to
 455 serve upon the owner a notice of intent to record in the public
 456 records of the county a notice of tax lien against any property
 457 owned by that person in the county, and such property shall be
 458 identified in the notice of tax lien. Such property which is
 459 situated in this state shall be subject to the taxes exempted
 460 thereby, plus a penalty of 50 percent of the unpaid taxes for
 461 each year and 15 percent interest per annum. The property
 462 appraiser may waive the unpaid penalties and interest upon good
 463 cause shown and after determining that:

464 1. There was no intent by the property owner to illegally
 465 avoid the payment of lawful taxes.

466 2. There was no benefit to the property owner.

467 (c) However, if a homestead exemption is improperly
 468 granted as a result of a clerical mistake or an omission by the
 469 property appraiser, the person improperly receiving the
 470 exemption may ~~shall~~ not be assessed penalty and interest.

471 (d) Before any such lien may be filed, the owner so
 472 notified must be given 30 days to pay the taxes, penalties, and
 473 interest.

474 Section 13. Subsection (4) of section 196.183, Florida
 475 Statutes, is amended to read:

476 196.183 Exemption for tangible personal property.-

477 (4) Owners of property ~~previously~~ assessed by the property
 478 appraiser without a return being filed may, at the option of the
 479 property appraiser, qualify for the exemption under this section
 480 without filing an initial return.

481 Section 14. Subsection (1) of section 196.202, Florida
 482 Statutes, is amended to read:

483 196.202 Property of widows, widowers, blind persons, and
 484 persons totally and permanently disabled.-

485 (1) Property to the value of \$5,000 ~~\$500~~ of every widow,
 486 widower, blind person, or totally and permanently disabled
 487 person who is a bona fide resident of this state is exempt from
 488 taxation. As used in this section, the term "totally and
 489 permanently disabled person" means a person who is currently
 490 certified by a physician licensed in this state, by the United
 491 States Department of Veterans Affairs or its predecessor, or by
 492 the Social Security Administration to be totally and permanently
 493 disabled.

494 Section 15. Paragraph (b) of subsection (4) of section
 495 197.3632, Florida Statutes, is amended to read:

496 197.3632 Uniform method for the levy, collection, and
 497 enforcement of non-ad valorem assessments.-

498 (4)

499 (b) At least 20 days prior to the public hearing, the
 500 local government shall notice the hearing by first-class United

501 States mail and by publication in a newspaper generally
 502 circulated within each county contained in the boundaries of the
 503 local government. The notice by mail shall be sent to each
 504 person owning property subject to the assessment and shall
 505 include the following information: the purpose of the
 506 assessment; the total amount to be levied against each parcel;
 507 the unit of measurement to be applied against each parcel to
 508 determine the assessment; the number of such units contained
 509 within each parcel; the total revenue the local government will
 510 collect by the assessment; a statement that failure to pay the
 511 assessment will cause a tax certificate to be issued against the
 512 property which may result in a loss of title; a statement that
 513 all affected property owners have a right to appear at the
 514 hearing and to file written objections with the local governing
 515 board within 20 days of the notice; and the date, time, and
 516 place of the hearing. However, notice by mail shall not be
 517 required if notice by mail is otherwise required by general or
 518 special law governing a taxing authority and such notice is
 519 served at least 30 days prior to the authority's public hearing
 520 on adoption of a new or amended non-ad valorem assessment roll.
 521 The published notice shall contain at least the following
 522 information: the name of the local governing board; a geographic
 523 depiction of the property subject to the assessment; the
 524 proposed schedule of the assessment; the fact that the
 525 assessment will be collected by the tax collector; and a

526 statement that all affected property owners have the right to
 527 appear at the public hearing and the right to file written
 528 objections within 20 days of the publication of the notice. In
 529 lieu of publishing notice in a newspaper, the local government
 530 may include, in the notice by mail, the name of the local
 531 government board, the date and location of the public hearing,
 532 and an easily accessible website address that contains the
 533 additional information otherwise required to be given in the
 534 notice by mail.

535 Section 16. Section 200.069, Florida Statutes, is amended
 536 to read:

537 200.069 Notice of proposed property taxes and non-ad
 538 valorem assessments.—Pursuant to s. 200.065(2)(b), the property
 539 appraiser, in the name of the taxing authorities and local
 540 governing boards levying non-ad valorem assessments within his
 541 or her jurisdiction and at the expense of the county, shall
 542 prepare and deliver by first-class mail to each taxpayer to be
 543 listed on the current year's assessment roll a notice of
 544 proposed property taxes, which notice shall contain the elements
 545 and use the format provided in the following form.

546 Notwithstanding the provisions of s. 195.022, no county officer
 547 shall use a form other than that provided herein. The Department
 548 of Revenue may adjust the spacing and placement on the form of
 549 the elements listed in this section as it considers necessary
 550 based on changes in conditions necessitated by various taxing

551 authorities. If the elements are in the order listed, the
 552 placement of the listed columns may be varied at the discretion
 553 and expense of the property appraiser, and the property
 554 appraiser may use printing technology and devices to complete
 555 the form, the spacing, and the placement of the information in
 556 the columns. In addition, the property appraiser may only
 557 include in the mailing of the notice of ad valorem taxes and
 558 non-ad valorem assessments additional statements explaining any
 559 item on the notice. A county officer may use a form other than
 560 that provided by the department for purposes of this part, but
 561 only if his or her office pays the related expenses and he or
 562 she obtains prior written permission from the executive director
 563 of the department; however, a county officer may not use a form
 564 the substantive content of which is at variance with the form
 565 prescribed by the department. The county officer may continue to
 566 use such an approved form until the law that specifies the form
 567 is amended or repealed or until the officer receives written
 568 disapproval from the executive director.

569 (1) The first page of the notice shall read:

570 NOTICE OF PROPOSED PROPERTY TAXES

571 DO NOT PAY—THIS IS NOT A BILL

572 The taxing authorities which levy property taxes against
 573 your property will soon hold PUBLIC HEARINGS to adopt budgets
 574 and tax rates for the next year.

575 The purpose of these PUBLIC HEARINGS is to receive opinions

576 from the general public and to answer questions on the proposed
 577 tax change and budget PRIOR TO TAKING FINAL ACTION.

578 Each taxing authority may AMEND OR ALTER its proposals at
 579 the hearing.

580 (2) (a) The notice shall include a brief legal description
 581 of the property, the name and mailing address of the owner of
 582 record, and the tax information applicable to the specific
 583 parcel in question. The information shall be in columnar form.
 584 There shall be seven column headings which shall read: "Taxing
 585 Authority," "Your Property Taxes Last Year," "Last Year's
 586 Adjusted Tax Rate (Millage)," "Your Taxes This Year IF NO Budget
 587 Change Is Adopted," "Tax Rate This Year IF PROPOSED Budget Is
 588 Adopted (Millage)," "Your Taxes This Year IF PROPOSED Budget
 589 Change Is Adopted," and "A Public Hearing on the Proposed Taxes
 590 and Budget Will Be Held:."

591 (b) As used in this section, the term "last year's
 592 adjusted tax rate" means the rolled-back rate calculated
 593 pursuant to s. 200.065(1).

594 (3) There shall be under each column heading an entry for
 595 the county; the school district levy required pursuant to s.
 596 1011.60(6); other operating school levies; the municipality or
 597 municipal service taxing unit or units in which the parcel lies,
 598 if any; the water management district levying pursuant to s.
 599 373.503; the independent special districts in which the parcel
 600 lies, if any; and for all voted levies for debt service

601 applicable to the parcel, if any.

602 (4) For each entry listed in subsection (3), there shall
 603 appear on the notice the following:

604 (a) In the first column, a brief, commonly used name for
 605 the taxing authority or its governing body. The entry in the
 606 first column for the levy required pursuant to s. 1011.60(6)
 607 shall be "By State Law." The entry for other operating school
 608 district levies shall be "By Local Board." Both school levy
 609 entries shall be indented and preceded by the notation "Public
 610 Schools:". For each voted levy for debt service, the entry shall
 611 be "Voter Approved Debt Payments."

612 (b) In the second column, the gross amount of ad valorem
 613 taxes levied against the parcel in the previous year. If the
 614 parcel did not exist in the previous year, the second column
 615 shall be blank.

616 (c) In the third column, last year's adjusted tax rate or,
 617 in the case of voted levies for debt service, the tax rate
 618 previously authorized by referendum.

619 (d) In the fourth column, the gross amount of ad valorem
 620 taxes which will apply to the parcel in the current year if each
 621 taxing authority levies last year's adjusted tax rate or, in the
 622 case of voted levies for debt service, the amount previously
 623 authorized by referendum.

624 (e) In the fifth column, the tax rate that each taxing
 625 authority must levy against the parcel to fund the proposed

626 budget or, in the case of voted levies for debt service, the tax
 627 rate previously authorized by referendum.

628 (f) In the sixth column, the gross amount of ad valorem
 629 taxes that must be levied in the current year if the proposed
 630 budget is adopted.

631 (g) In the seventh column, the date, the time, and a brief
 632 description of the location of the public hearing required
 633 pursuant to s. 200.065(2)(c).

634 (5) Following the entries for each taxing authority, a
 635 final entry shall show: in the first column, the words "Total
 636 Property Taxes:" and in the second, fourth, and sixth columns,
 637 the sum of the entries for each of the individual taxing
 638 authorities. The second, fourth, and sixth columns shall,
 639 immediately below said entries, be labeled Column 1, Column 2,
 640 and Column 3, respectively. Below these labels shall appear, in
 641 boldfaced type, the statement: SEE REVERSE SIDE FOR EXPLANATION.

642 (6)(a) The second page of the notice shall state the
 643 parcel's market value and for each taxing authority that levies
 644 an ad valorem tax against the parcel:

645 1. The assessed value, value of exemptions, and taxable
 646 value for the previous year and the current year.

647 2. Each assessment reduction and exemption applicable to
 648 the property, including the value of the assessment reduction or
 649 exemption and tax levies to which they apply.

650 (b) The reverse side of the second page shall contain

651 definitions and explanations for the values included on the
 652 front side.

653 (7) The following statement shall appear after the values
 654 listed on the front of the second page:

655 If you feel that the market value of your property is
 656 inaccurate or does not reflect fair market value, or if you are
 657 entitled to an exemption or classification that is not reflected
 658 above, contact your county property appraiser at ...(phone
 659 number)... or ...(location)....

660 If the property appraiser's office is unable to resolve the
 661 matter as to market value, classification, or an exemption, you
 662 may file a petition for adjustment with the Value Adjustment
 663 Board. Petition forms are available from the county property
 664 appraiser and must be filed ON OR BEFORE ...(date)....

665 (8) The reverse side of the first page of the form shall
 666 read:

667 EXPLANATION

668 *COLUMN 1—"YOUR PROPERTY TAXES LAST YEAR"

669 This column shows the taxes that applied last year to your
 670 property. These amounts were based on budgets adopted last year
 671 and your property's previous taxable value.

672 *COLUMN 2—"YOUR TAXES IF NO BUDGET CHANGE IS ADOPTED"

673 This column shows what your taxes will be this year IF EACH
 674 TAXING AUTHORITY DOES NOT CHANGE ITS PROPERTY TAX LEVY. These
 675 amounts are based on last year's budgets and your current

676 assessment.
 677 *COLUMN 3—"YOUR TAXES IF PROPOSED BUDGET CHANGE IS ADOPTED"
 678 This column shows what your taxes will be this year under the
 679 BUDGET ACTUALLY PROPOSED by each local taxing authority. The
 680 proposal is NOT final and may be amended at the public hearings
 681 shown on the front side of this notice. The difference between
 682 columns 2 and 3 is the tax change proposed by each local taxing
 683 authority and is NOT the result of higher assessments.

684 *Note: Amounts shown on this form do NOT reflect early payment
 685 discounts you may have received or may be eligible to receive.
 686 (Discounts are a maximum of 4 percent of the amounts shown on
 687 this form.)

688 (9) The bottom portion of the notice shall further read in
 689 bold, conspicuous print:

690 "Your final tax bill may contain non-ad valorem assessments
 691 which may not be reflected on this notice such as assessments
 692 for roads, fire, garbage, lighting, drainage, water, sewer, or
 693 other governmental services and facilities which may be levied
 694 by your county, city, or any special district."

695 (10)(a) If requested by the local governing board levying
 696 non-ad valorem assessments and agreed to by the property
 697 appraiser, the notice specified in this section may contain a
 698 notice of proposed or adopted non-ad valorem assessments. If so
 699 agreed, the notice shall be titled:

700 NOTICE OF PROPOSED PROPERTY TAXES

701 AND PROPOSED OR ADOPTED
 702 NON-AD VALOREM ASSESSMENTS
 703 DO NOT PAY--THIS IS NOT A BILL

704 There must be a clear partition between the notice of proposed
 705 property taxes and the notice of proposed or adopted non-ad
 706 valorem assessments. The partition must be a bold, horizontal
 707 line approximately 1/8-inch thick. By rule, the department
 708 shall provide a format for the form of the notice of proposed or
 709 adopted non-ad valorem assessments which meets the following
 710 minimum requirements:

711 1. There must be subheading for columns listing the
 712 levying local governing board, with corresponding assessment
 713 rates expressed in dollars and cents per unit of assessment, and
 714 the associated assessment amount.

715 2. The purpose of each assessment must also be listed in
 716 the column listing the levying local governing board if the
 717 purpose is not clearly indicated by the name of the board.

718 3. Each non-ad valorem assessment for each levying local
 719 governing board must be listed separately.

720 4. If a county has too many municipal service benefit
 721 units or assessments to be listed separately, it shall combine
 722 them by function.

723 5. A brief statement outlining the responsibility of the
 724 tax collector and each levying local governing board as to any
 725 non-ad valorem assessment must be provided on the form,

726 accompanied by directions as to which office to contact for
 727 particular questions or problems.

728 (b) If the notice includes all adopted non-ad valorem
 729 assessments, the provisions contained in subsection (9) shall
 730 not be placed on the notice.

731 Section 17. This act shall take effect July 1, 2017.

AGRICULTURE & PROPERTY RIGHTS SUBCOMMITTEE

HB 289 by Donalds Property Taxes

AMENDMENT SUMMARY March 21, 2017

Amendment 1 by Rep. Avila (Strike-all):

The amendment retains:

- The adverse possession provision, which requires the payment of all “delinquent” taxes instead of all “outstanding” taxes to establish title by adverse possession;
- The provision that removes the time limitation for business owners to receive the \$25,000 exemption on tangible personal property;
- The provision that increases the tax exemption for widows, widowers, blind persons, and disabled persons from \$500 to \$5,000; and
- The provision that restricts the content that is required to be included in the yearly TRIM notice.

The amendment removes:

- The provision that matches the value adjustment board (VAB) appeals timeframe for property appraisers with the 60 day VAB appeals timeframe for taxpayers, and removes the provision that grants each side 30 days to file a counterclaim;
- The provision that prohibits a tax assessment limitation from being based on a VAB final written decision that is under appeal;
- The provision that reduces the information that the notice by mail of non-ad valorem assessment hearings is required to include; and
- The provision that allows local governments to provide the notice by mail of non-ad valorem assessment hearings information via a website, instead of in a newspaper.

The amendment revises:

- The penalties and interest provision to require, instead of allow, property appraisers in specified circumstances to waive penalties and interest on tax liens for those who receive, but are not entitled to, homestead exemptions, homestead assessment limitations, homestead exemptions for persons age 65 or older, and homestead assessment reductions for parents and grandparents; and
- The “good cause” provision as it applies to rescheduling a VAB hearing to exclude scheduling two separate hearings in different jurisdictions at the same time or date.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Property
 2 Rights Subcommittee
 3 Representative Avila offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (1) of section 95.18, Florida

Statutes, is amended to read:

95.18 Real property actions; adverse possession without
color of title.—

(1) When a ~~the~~ possessor has been in actual continued
possession of real property for 7 years under a claim of title
exclusive of any other right, but not founded on a written
instrument, judgment, or decree, or when those under whom the
possessor claims meet these criteria, the property actually



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16 possessed is held adversely if the person claiming adverse
17 possession:

18 (a) Paid, subject to s. 197.3335, all delinquent
19 ~~outstanding~~ taxes and matured installments of special
20 improvement liens levied against the property by the state,
21 county, and municipality within 1 year after entering into
22 possession;

23 (b) Made a return, as required under subsection (3), of
24 the property by proper legal description to the property
25 appraiser of the county where it is located within 30 days after
26 complying with paragraph (a); and

27 (c) Has subsequently paid, subject to s. 197.3335, all
28 taxes and matured installments of special improvement liens
29 levied against the property by the state, county, and
30 municipality for all remaining years necessary to establish a
31 claim of adverse possession.

32 Section 2. Subsection (10) of section 193.155, Florida
33 Statutes, is amended to read:

34 193.155 Homestead assessments.—Homestead property shall be
35 assessed at just value as of January 1, 1994. Property receiving
36 the homestead exemption after January 1, 1994, shall be assessed
37 at just value as of January 1 of the year in which the property
38 receives the exemption unless the provisions of subsection (8)
39 apply.



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40 (10) (a) If the property appraiser determines that for any
41 year or years within the prior 10 years a person who was not
42 entitled to the homestead property assessment limitation granted
43 under this section was granted the homestead property assessment
44 limitation, the property appraiser making such determination
45 shall serve upon the owner a notice of intent to record in the
46 public records of the county a notice of tax lien against any
47 property owned by that person in the county, and such property
48 must be identified in the notice of tax lien. Such property that
49 is situated in this state is subject to the unpaid taxes, plus a
50 penalty of 50 percent of the unpaid taxes for each year and 15
51 percent interest per annum. However, when a person entitled to
52 exemption pursuant to s. 196.031 inadvertently receives the
53 limitation pursuant to this section following a change of
54 ownership, the assessment of such property must be corrected as
55 provided in paragraph (9) (a), and the person need not pay the
56 unpaid taxes, penalties, or interest. The property appraiser
57 shall waive the unpaid penalties and interest if the property
58 appraiser determines that the person qualified for the property
59 assessment limitation at the time the application was filed, the
60 person acted in good faith, and, other than improperly receiving
61 the tax savings, the person did not receive an additional
62 financial benefit, such as a rental payment or other income. The
63 property appraiser may not waive the penalty or interest if the
64 person claimed a property tax exemption or reduction predicated

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65 on the homestead exemptions provided in Article VII, Section 6,
66 of the Florida Constitution on another property.

67 (b) However, if the property appraiser improperly grants
68 the property assessment limitation as a result of a clerical
69 mistake or an omission, the person or entity improperly
70 receiving the property assessment limitation may not be assessed
71 a penalty or interest.

72 (c) Before a lien may be filed, the person or entity so
73 notified must be given 30 days to pay the taxes and any
74 applicable penalties and interest. ~~If the property appraiser~~
75 ~~improperly grants the property assessment limitation as a result~~
76 ~~of a clerical mistake or an omission, the person or entity~~
77 ~~improperly receiving the property assessment limitation may not~~
78 ~~be assessed a penalty or interest.~~

79 Section 3. Subsection (7) of section 193.703, Florida
80 Statutes, is amended to read:

81 193.703 Reduction in assessment for living quarters of
82 parents or grandparents.—

83 (7) (a) If the property appraiser determines that for any
84 year within the previous 10 years a property owner who was not
85 entitled to a reduction in assessed value under this section was
86 granted such reduction, the property appraiser shall serve on
87 the owner a notice of intent to record in the public records of
88 the county a notice of tax lien against any property owned by
89 that person in the county, and that property must be identified



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90 in the notice of tax lien. Any property that is owned by that
91 person and is situated in this state is subject to the taxes
92 exempted by the improper reduction, plus a penalty of 50 percent
93 of the unpaid taxes for each year and interest at a rate of 15
94 percent per annum. The property appraiser shall waive the unpaid
95 penalties and interest if the property appraiser determines that
96 the person qualified for the reduction at the time the
97 application was filed, the person acted in good faith, and that,
98 other than improperly receiving the tax savings, the person did
99 not receive an additional financial benefit, such as a rental
100 payment or other income. The property appraiser may not waive
101 the penalty or interest if the person claimed a property tax
102 exemption or reduction predicated on the homestead exemptions
103 provided in Article VII, Section 6, of the Florida Constitution
104 on another property. .

105 (b) However, if a reduction is improperly granted due to a
106 clerical mistake or an omission by the property appraiser, the
107 person who improperly received the reduction may not be assessed
108 a penalty or interest.

109 (c) Before such lien may be filed, the owner must be given
110 30 days within which to pay the taxes, penalties, and interest.
111 Such lien is subject to s. 196.161(3).

112 Section 4. Paragraph (d) of subsection (3) of section
113 194.011, Florida Statutes, is amended to read:

114 194.011 Assessment notice; objections to assessments.—



Amendment No. 1

115 (3) A petition to the value adjustment board must be in
116 substantially the form prescribed by the department.
117 Notwithstanding s. 195.022, a county officer may not refuse to
118 accept a form provided by the department for this purpose if the
119 taxpayer chooses to use it. A petition to the value adjustment
120 board must be signed by the taxpayer or be accompanied at the
121 time of filing by the taxpayer's written authorization or power
122 of attorney, unless the person filing the petition is listed in
123 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
124 petition with a value adjustment board without the taxpayer's
125 signature or written authorization by certifying under penalty
126 of perjury that he or she has authorization to file the petition
127 on behalf of the taxpayer. If a taxpayer notifies the value
128 adjustment board that a petition has been filed for the
129 taxpayer's property without his or her consent, the value
130 adjustment board may require the person filing the petition to
131 provide written authorization from the taxpayer authorizing the
132 person to proceed with the appeal before a hearing is held. If
133 the value adjustment board finds that a person listed in s.
134 194.034(1)(a) willfully and knowingly filed a petition that was
135 not authorized by the taxpayer, the value adjustment board shall
136 require such person to provide the taxpayer's written
137 authorization for representation to the value adjustment board
138 clerk before any petition filed by that person is heard, for 1
139 year after imposition of such requirement by the value

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140 adjustment board. A power of attorney or written authorization
141 is valid for 1 assessment year, and a new power of attorney or
142 written authorization by the taxpayer is required for each
143 subsequent assessment year. A petition shall also describe the
144 property by parcel number and shall be filed as follows:

145 (d) The petition may be filed, as to valuation issues, at
146 any time during the taxable year on or before the 25th day
147 following the mailing of the notice by the property appraiser as
148 provided in subsection (1). With respect to an issue involving
149 the denial of an exemption, an agricultural or high-water
150 recharge classification application, an application for
151 classification as historic property used for commercial or
152 certain nonprofit purposes, or a deferral, the petition must be
153 filed at any time during the taxable year on or before the 30th
154 day following the mailing of the notice by the property
155 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173,
156 or s. 196.193 or notice by the tax collector under s. 197.2425.
157 If the petitioner identifies extenuating circumstances
158 demonstrating to the value adjustment board that the petitioner
159 was unable to file a petition in a timely manner, the petitioner
160 may file a petition within 60 days after the deadline. However,
161 the value adjustment board is not required to delay proceedings
162 for the 60-day timeframe and no late petition is authorized
163 after the value adjustment board has concluded its review of
164 petitions.

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165 Section 5. Paragraph (a) of subsection (2) of section
166 194.032, Florida Statutes, is amended to read:
167 194.032 Hearing purposes; timetable.—
168 (2)(a) The clerk of the governing body of the county shall
169 prepare a schedule of appearances before the board based on
170 petitions timely filed with him or her. The clerk shall notify
171 each petitioner of the scheduled time of his or her appearance
172 at least 25 calendar days before the day of the scheduled
173 appearance. The notice must indicate whether the petition has
174 been scheduled to be heard at a particular time or during a
175 block of time. If the petition has been scheduled to be heard
176 within a block of time, the beginning and ending of that block
177 of time must be indicated on the notice; however, as provided in
178 paragraph (b), a petitioner may not be required to wait for more
179 than a reasonable time, not to exceed 2 hours, after the
180 beginning of the block of time. The property appraiser must
181 provide a copy of the property record card containing
182 information relevant to the computation of the current
183 assessment, with confidential information redacted, to the
184 petitioner upon receipt of the petition from the clerk
185 regardless of whether the petitioner initiates evidence
186 exchange, unless the property record card is available online
187 from the property appraiser, in which case the property
188 appraiser must notify the petitioner that the property record
189 card is available online. The petitioner and the property

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190 appraiser may each reschedule the hearing a single time for good
191 cause. As used in this paragraph, the term "good cause" means
192 circumstances beyond the control of the person seeking to
193 reschedule the hearing which reasonably prevent the party from
194 having adequate representation at the hearing. Good cause does
195 not include being scheduled for two separate hearings in
196 different jurisdictions at the same time or date unless the
197 hearings involve the same petitioner or the property appraiser
198 and petitioner agree to reschedule the hearing. Before the value
199 adjustment board begins hearings for the roll year, the property
200 appraiser and the individual, agent, or legal entity that signed
201 the petition may identify up to 15 business days per roll year
202 for which they are unavailable for hearings. If the hearing is
203 rescheduled by the petitioner or the property appraiser, the
204 clerk shall notify the petitioner of the rescheduled time of his
205 or her appearance at least 15 calendar days before the day of
206 the rescheduled appearance, unless this notice is waived by both
207 parties.

208 Section 6. Subsection (1) of section 194.035, Florida
209 Statutes, is amended to read:

210 194.035 Special magistrates; property evaluators.-

211 (1) In counties having a population of more than 75,000,
212 the board shall appoint special magistrates for the purpose of
213 taking testimony and making recommendations to the board, which
214 recommendations the board may act upon without further hearing.



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215 These special magistrates may not be elected or appointed
216 officials or employees of the county but shall be selected from
217 a list of those qualified individuals who are willing to serve
218 as special magistrates. Employees and elected or appointed
219 officials of a taxing jurisdiction or of the state may not serve
220 as special magistrates. The clerk of the board shall annually
221 notify such individuals or their professional associations to
222 make known to them that opportunities to serve as special
223 magistrates exist. The Department of Revenue shall provide a
224 list of qualified special magistrates to any county with a
225 population of 75,000 or less. Subject to appropriation, the
226 department shall reimburse counties with a population of 75,000
227 or less for payments made to special magistrates appointed for
228 the purpose of taking testimony and making recommendations to
229 the value adjustment board pursuant to this section. The
230 department shall establish a reasonable range for payments per
231 case to special magistrates based on such payments in other
232 counties. Requests for reimbursement of payments outside this
233 range shall be justified by the county. If the total of all
234 requests for reimbursement in any year exceeds the amount
235 available pursuant to this section, payments to all counties
236 shall be prorated accordingly. If a county having a population
237 less than 75,000 does not appoint a special magistrate to hear
238 each petition, the person or persons designated to hear
239 petitions before the value adjustment board or the attorney

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240 appointed to advise the value adjustment board shall attend the
241 training provided pursuant to subsection (3), regardless of
242 whether the person would otherwise be required to attend, but
243 shall not be required to pay the tuition fee specified in
244 subsection (3). A special magistrate appointed to hear issues of
245 exemptions, classifications, and determinations that a change of
246 ownership, a change of ownership or control, or a qualifying
247 improvement has occurred shall be a member of The Florida Bar
248 with no less than 5 years' experience in the area of ad valorem
249 taxation. A special magistrate appointed to hear issues
250 regarding the valuation of real estate shall be a state
251 certified real estate appraiser with not less than 5 years'
252 experience in real property valuation. A special magistrate
253 appointed to hear issues regarding the valuation of tangible
254 personal property shall be a designated member of a nationally
255 recognized appraiser's organization with not less than 5 years'
256 experience in tangible personal property valuation. A special
257 magistrate need not be a resident of the county in which he or
258 she serves. A special magistrate may not represent a person
259 before the board in any tax year during which he or she has
260 served that board as a special magistrate. An appraisal
261 performed by a special magistrate may not be submitted as
262 evidence to the value adjustment board in any roll year during
263 which he or she has served that board as a special magistrate.
264 Before appointing a special magistrate, a value adjustment board



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265 shall verify the special magistrate's qualifications. The value
266 adjustment board shall ensure that the selection of special
267 magistrates is based solely upon the experience and
268 qualifications of the special magistrate and is not influenced
269 by the property appraiser. The special magistrate shall
270 accurately and completely preserve all testimony and, in making
271 recommendations to the value adjustment board, shall include
272 proposed findings of fact, conclusions of law, and reasons for
273 upholding or overturning the determination of the property
274 appraiser. The expense of hearings before magistrates and any
275 compensation of special magistrates shall be borne three-fifths
276 by the board of county commissioners and two-fifths by the
277 school board. When appointing special magistrates or when
278 scheduling special magistrates for specific hearings, the board,
279 the board attorney, and the board clerk may not consider the
280 dollar amount or percentage of any assessment reductions
281 recommended by any special magistrate in the current year or in
282 any previous year.

283 Section 7. Paragraph (a) of subsection (9) of section
284 196.011, Florida Statutes, is amended to read:

285 196.011 Annual application required for exemption.-

286 (9)(a) A county may, at the request of the property
287 appraiser and by a majority vote of its governing body, waive
288 the requirement that an annual application or statement be made
289 for exemption of property within the county after an initial



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290 application is made and the exemption granted. The waiver under
291 this subsection of the annual application or statement
292 requirement applies to all exemptions under this chapter except
293 the exemption under s. 196.1995. Notwithstanding such waiver,
294 refiling of an application or statement shall be required when
295 any property granted an exemption is sold or otherwise disposed
296 of, when the ownership changes in any manner, when the applicant
297 for homestead exemption ceases to use the property as his or her
298 homestead, or when the status of the owner changes so as to
299 change the exempt status of the property. In its deliberations
300 on whether to waive the annual application or statement
301 requirement, the governing body shall consider the possibility
302 of fraudulent exemption claims which may occur due to the waiver
303 of the annual application requirement. The owner of any property
304 granted an exemption who is not required to file an annual
305 application or statement shall notify the property appraiser
306 promptly whenever the use of the property or the status or
307 condition of the owner changes so as to change the exempt status
308 of the property. If any property owner fails to so notify the
309 property appraiser and the property appraiser determines that
310 for any year within the prior 10 years the owner was not
311 entitled to receive such exemption, the owner of the property is
312 subject to the taxes exempted as a result of such failure plus
313 15 percent interest per annum and a penalty of 50 percent of the
314 taxes exempted. Except for homestead exemptions controlled by s.

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315 196.161, the property appraiser making such determination shall
316 record in the public records of the county a notice of tax lien
317 against any property owned by that person or entity in the
318 county, and such property must be identified in the notice of
319 tax lien. Such property is subject to the payment of all taxes
320 and penalties. Such lien when filed shall attach to any
321 property, identified in the notice of tax lien, owned by the
322 person who illegally or improperly received the exemption. If
323 such person no longer owns property in that county but owns
324 property in some other county or counties in the state, the
325 property appraiser shall record a notice of tax lien in such
326 other county or counties, identifying the property owned by such
327 person or entity in such county or counties, and it shall become
328 a lien against such property in such county or counties. The
329 property appraiser shall waive the unpaid penalties and interest
330 if the property appraiser determines that the person qualified
331 for the exemption at the time the application was filed, the
332 person acted in good faith, and that, other than improperly
333 receiving the tax savings, the person did not receive an
334 additional financial benefit, such as a rental payment or other
335 income. The property appraiser may not waive the penalty or
336 interest if the person claimed a property tax exemption or
337 reduction predicated on the homestead exemptions provided in
338 Article VII, Section 6 of the Florida Constitution on another
339 property.

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340 Section 8. Subsection (9) of section 196.075, Florida
341 Statutes, is amended to read:

342 196.075 Additional homestead exemption for persons 65 and
343 older.-

344 (9) (a) If the property appraiser determines that for any
345 year within the immediately previous 10 years a person who was
346 not entitled to the additional homestead exemption under this
347 section was granted such an exemption, the property appraiser
348 shall serve upon the owner a notice of intent to record in the
349 public records of the county a notice of tax lien against any
350 property owned by that person in the county, and that property
351 must be identified in the notice of tax lien. Any property that
352 is owned by the taxpayer and is situated in this state is
353 subject to the taxes exempted by the improper homestead
354 exemption, plus a penalty of 50 percent of the unpaid taxes for
355 each year and interest at a rate of 15 percent per annum. The
356 property appraiser shall waive the unpaid penalties and interest
357 if the property appraiser determines that the person qualified
358 for the exemption at the time the application was filed, the
359 person acted in good faith, and that, other than improperly
360 receiving the tax savings, the person did not receive an
361 additional financial benefit, such as a rental payment or other
362 income. The property appraiser may not waive the penalty or
363 interest if the person claimed a property tax exemption or
364 reduction predicated on the homestead exemptions provided in



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365 Article VII, Section 6, of the Florida Constitution on another
366 property.

367 (b) However, if such an exemption is improperly granted as
368 a result of a clerical mistake or an omission by the property
369 appraiser, the person who improperly received the exemption may
370 not be assessed a penalty and interest.

371 (c) Before any such lien may be filed, the owner must be
372 given 30 days within which to pay the taxes, penalties, and
373 interest. Such a lien is subject to the procedures and
374 provisions set forth in s. 196.161(3).

375 Section 9. Subsection (4) of section 196.183, Florida
376 Statutes, is amended to read:

377 196.183 Exemption for tangible personal property.—

378 (4) Owners of property ~~previously~~ assessed by the property
379 appraiser without a return being filed may, at the option of the
380 property appraiser, qualify for the exemption under this section
381 without filing an initial return.

382 Section 10. Subsection (1) of section 196.202, Florida
383 Statutes, is amended to read:

384 196.202 Property of widows, widowers, blind persons, and
385 persons totally and permanently disabled.—

386 (1) Property to the value of \$5,000 ~~\$500~~ of every widow,
387 widower, blind person, or totally and permanently disabled
388 person who is a bona fide resident of this state is exempt from
389 taxation. As used in this section, the term "totally and



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390 permanently disabled person" means a person who is currently
391 certified by a physician licensed in this state, by the United
392 States Department of Veterans Affairs or its predecessor, or by
393 the Social Security Administration to be totally and permanently
394 disabled.

395 Section 11. Section 200.069, Florida Statutes, is amended
396 to read:

397 200.069 Notice of proposed property taxes and non-ad
398 valorem assessments.—Pursuant to s. 200.065(2)(b), the property
399 appraiser, in the name of the taxing authorities and local
400 governing boards levying non-ad valorem assessments within his
401 or her jurisdiction and at the expense of the county, shall
402 prepare and deliver by first-class mail to each taxpayer to be
403 listed on the current year's assessment roll a notice of
404 proposed property taxes, which notice shall contain the elements
405 and use the format provided in the following form.

406 Notwithstanding the provisions of s. 195.022, no county officer
407 shall use a form other than that provided herein. The Department
408 of Revenue may adjust the spacing and placement on the form of
409 the elements listed in this section as it considers necessary
410 based on changes in conditions necessitated by various taxing
411 authorities. If the elements are in the order listed, the
412 placement of the listed columns may be varied at the discretion
413 and expense of the property appraiser, and the property
414 appraiser may use printing technology and devices to complete

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415 the form, the spacing, and the placement of the information in
416 the columns. In addition, the property appraiser may only
417 include in the mailing of the notice of ad valorem taxes and
418 non-ad valorem assessments additional statements explaining any
419 item on the notice. A county officer may use a form other than
420 that provided by the department for purposes of this part, but
421 only if his or her office pays the related expenses and he or
422 she obtains prior written permission from the executive director
423 of the department; however, a county officer may not use a form
424 the substantive content of which is at variance with the form
425 prescribed by the department. The county officer may continue to
426 use such an approved form until the law that specifies the form
427 is amended or repealed or until the officer receives written
428 disapproval from the executive director.

429 (1) The first page of the notice shall read:

430 NOTICE OF PROPOSED PROPERTY TAXES

431 DO NOT PAY—THIS IS NOT A BILL

432 The taxing authorities which levy property taxes against
433 your property will soon hold PUBLIC HEARINGS to adopt budgets
434 and tax rates for the next year.

435 The purpose of these PUBLIC HEARINGS is to receive opinions
436 from the general public and to answer questions on the proposed
437 tax change and budget PRIOR TO TAKING FINAL ACTION.

438 Each taxing authority may AMEND OR ALTER its proposals at
439 the hearing.



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440 (2)(a) The notice shall include a brief legal description
441 of the property, the name and mailing address of the owner of
442 record, and the tax information applicable to the specific
443 parcel in question. The information shall be in columnar form.
444 There shall be seven column headings which shall read: "Taxing
445 Authority," "Your Property Taxes Last Year," "Last Year's
446 Adjusted Tax Rate (Millage)," "Your Taxes This Year IF NO Budget
447 Change Is Adopted," "Tax Rate This Year IF PROPOSED Budget Is
448 Adopted (Millage)," "Your Taxes This Year IF PROPOSED Budget
449 Change Is Adopted," and "A Public Hearing on the Proposed Taxes
450 and Budget Will Be Held:."

451 (b) As used in this section, the term "last year's
452 adjusted tax rate" means the rolled-back rate calculated
453 pursuant to s. 200.065(1).

454 (3) There shall be under each column heading an entry for
455 the county; the school district levy required pursuant to s.
456 1011.60(6); other operating school levies; the municipality or
457 municipal service taxing unit or units in which the parcel lies,
458 if any; the water management district levying pursuant to s.
459 373.503; the independent special districts in which the parcel
460 lies, if any; and for all voted levies for debt service
461 applicable to the parcel, if any.

462 (4) For each entry listed in subsection (3), there shall
463 appear on the notice the following:



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464 (a) In the first column, a brief, commonly used name for
465 the taxing authority or its governing body. The entry in the
466 first column for the levy required pursuant to s. 1011.60(6)
467 shall be "By State Law." The entry for other operating school
468 district levies shall be "By Local Board." Both school levy
469 entries shall be indented and preceded by the notation "Public
470 Schools:". For each voted levy for debt service, the entry shall
471 be "Voter Approved Debt Payments."

472 (b) In the second column, the gross amount of ad valorem
473 taxes levied against the parcel in the previous year. If the
474 parcel did not exist in the previous year, the second column
475 shall be blank.

476 (c) In the third column, last year's adjusted tax rate or,
477 in the case of voted levies for debt service, the tax rate
478 previously authorized by referendum.

479 (d) In the fourth column, the gross amount of ad valorem
480 taxes which will apply to the parcel in the current year if each
481 taxing authority levies last year's adjusted tax rate or, in the
482 case of voted levies for debt service, the amount previously
483 authorized by referendum.

484 (e) In the fifth column, the tax rate that each taxing
485 authority must levy against the parcel to fund the proposed
486 budget or, in the case of voted levies for debt service, the tax
487 rate previously authorized by referendum.



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488 (f) In the sixth column, the gross amount of ad valorem
489 taxes that must be levied in the current year if the proposed
490 budget is adopted.

491 (g) In the seventh column, the date, the time, and a brief
492 description of the location of the public hearing required
493 pursuant to s. 200.065(2)(c).

494 (5) Following the entries for each taxing authority, a
495 final entry shall show: in the first column, the words "Total
496 Property Taxes:" and in the second, fourth, and sixth columns,
497 the sum of the entries for each of the individual taxing
498 authorities. The second, fourth, and sixth columns shall,
499 immediately below said entries, be labeled Column 1, Column 2,
500 and Column 3, respectively. Below these labels shall appear, in
501 boldfaced type, the statement: SEE REVERSE SIDE FOR EXPLANATION.

502 (6)(a) The second page of the notice shall state the
503 parcel's market value and for each taxing authority that levies
504 an ad valorem tax against the parcel:

505 1. The assessed value, value of exemptions, and taxable
506 value for the previous year and the current year.

507 2. Each assessment reduction and exemption applicable to
508 the property, including the value of the assessment reduction or
509 exemption and tax levies to which they apply.

510 (b) The reverse side of the second page shall contain
511 definitions and explanations for the values included on the
512 front side.



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513 (7) The following statement shall appear after the values
514 listed on the front of the second page:

515 If you feel that the market value of your property is
516 inaccurate or does not reflect fair market value, or if you are
517 entitled to an exemption or classification that is not reflected
518 above, contact your county property appraiser at ...(phone
519 number)... or ...(location)....

520 If the property appraiser's office is unable to resolve the
521 matter as to market value, classification, or an exemption, you
522 may file a petition for adjustment with the Value Adjustment
523 Board. Petition forms are available from the county property
524 appraiser and must be filed ON OR BEFORE ...(date)....

525 (8) The reverse side of the first page of the form shall
526 read:

527 EXPLANATION

528 *COLUMN 1--"YOUR PROPERTY TAXES LAST YEAR"

529 This column shows the taxes that applied last year to your
530 property. These amounts were based on budgets adopted last year
531 and your property's previous taxable value.

532 *COLUMN 2--"YOUR TAXES IF NO BUDGET CHANGE IS ADOPTED"

533 This column shows what your taxes will be this year IF EACH
534 TAXING AUTHORITY DOES NOT CHANGE ITS PROPERTY TAX LEVY. These
535 amounts are based on last year's budgets and your current
536 assessment.

537 *COLUMN 3--"YOUR TAXES IF PROPOSED BUDGET CHANGE IS ADOPTED"



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538 This column shows what your taxes will be this year under the
539 BUDGET ACTUALLY PROPOSED by each local taxing authority. The
540 proposal is NOT final and may be amended at the public hearings
541 shown on the front side of this notice. The difference between
542 columns 2 and 3 is the tax change proposed by each local taxing
543 authority and is NOT the result of higher assessments.

544 *Note: Amounts shown on this form do NOT reflect early payment
545 discounts you may have received or may be eligible to receive.
546 (Discounts are a maximum of 4 percent of the amounts shown on
547 this form.)

548 (9) The bottom portion of the notice shall further read in
549 bold, conspicuous print:

550 "Your final tax bill may contain non-ad valorem assessments
551 which may not be reflected on this notice such as assessments
552 for roads, fire, garbage, lighting, drainage, water, sewer, or
553 other governmental services and facilities which may be levied
554 by your county, city, or any special district."

555 (10)(a) If requested by the local governing board levying
556 non-ad valorem assessments and agreed to by the property
557 appraiser, the notice specified in this section may contain a
558 notice of proposed or adopted non-ad valorem assessments. If so
559 agreed, the notice shall be titled:

560 NOTICE OF PROPOSED PROPERTY TAXES
561 AND PROPOSED OR ADOPTED



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562 NON-AD VALOREM ASSESSMENTS
563 DO NOT PAY—THIS IS NOT A BILL
564 There must be a clear partition between the notice of proposed
565 property taxes and the notice of proposed or adopted non-ad
566 valorem assessments. The partition must be a bold, horizontal
567 line approximately 1/8-inch thick. By rule, the department
568 shall provide a format for the form of the notice of proposed or
569 adopted non-ad valorem assessments which meets the following
570 minimum requirements:

- 571 1. There must be subheading for columns listing the
572 levying local governing board, with corresponding assessment
573 rates expressed in dollars and cents per unit of assessment, and
574 the associated assessment amount.
- 575 2. The purpose of each assessment must also be listed in
576 the column listing the levying local governing board if the
577 purpose is not clearly indicated by the name of the board.
- 578 3. Each non-ad valorem assessment for each levying local
579 governing board must be listed separately.
- 580 4. If a county has too many municipal service benefit
581 units or assessments to be listed separately, it shall combine
582 them by function.
- 583 5. A brief statement outlining the responsibility of the
584 tax collector and each levying local governing board as to any
585 non-ad valorem assessment must be provided on the form,



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586 accompanied by directions as to which office to contact for
587 particular questions or problems.

588 (b) If the notice includes all adopted non-ad valorem
589 assessments, the provisions contained in subsection (9) shall
590 not be placed on the notice.

591 Section 12. This act shall take effect July 1, 2017.

592

593

594

T I T L E A M E N D M E N T

595

Remove everything before the enacting clause and insert:

596

597

A bill to be entitled

598

An act relating to property taxes; amending s. 95.18, F.S.;

599

providing that a possessor of real property for 7 years

600

must pay all delinquent taxes prior to claiming adverse

601

possession; amending ss. 193.155, 193.703, 196.011, and

602

196.075, F.S.; providing criteria under which a property

603

appraiser must waive unpaid penalties and interest for

604

improper nonpayment or reduction of payment of ad valorem

605

taxes by certain property owners claiming a homestead

606

exemption; providing criteria under which a property

607

appraiser may not waive penalties and interest; amending s.

608

194.011, F.S.; providing circumstances and timeframes under

609

which a person may file a petition late to a value

610

adjustment board; amending s. 194.032, F.S.; specifying



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611 situations under which the term "good cause" does not apply
612 in rescheduling a hearing before a value adjustment board;
613 amending s. 194.035, F.S.; specifying the circumstances
614 under which a special magistrate's appraisal may not be
615 submitted as evidence to a value adjustment board; amending
616 s. 196.183, F.S.; revising a provision authorizing a
617 property appraiser to exempt certain tangible personal
618 property from ad valorem taxation without filing an initial
619 return; amending s. 196.202, F.S.; revising the value of
620 property owned by certain persons that is exempt from
621 taxation; amending s. 200.069, F.S.; authorizing property
622 appraisers to include certain information in the notice of
623 ad valorem taxes and non-ad valorem assessments; providing
624 an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1083 Small Food Retailers
SPONSOR(S): Lee, Jr. and others
TIED BILLS: IDEN./SIM. BILLS: SB 1592

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee		Thompson	Smith
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Healthy Food Financing Initiatives have been developed at the local, state, and federal levels to provide funding to create healthy food options in low-income areas in which residents do not live in close proximity to affordable and healthy food retailers. The Department of Agriculture and Consumer Services (DACS) administers the state's Healthy Food Financing Initiative.

The bill repeals the Healthy Food Financing Initiative and directs DACS to establish the Healthy Food Assistance Program that focuses on providing smaller retailers assistance for projects that increase the availability and sales of fresh and nutritious food in low-income and moderate-income communities.

The bill provides the duties and responsibilities of DACS in administering the Healthy Food Assistance Program to include:

- Establishing program administrator eligibility guidelines;
- Establishing criteria for a project administrator to use in the selection of projects;
- Providing educational materials to a project administrator to educate consumers regarding healthy eating;
- Granting appropriated funds to a qualified not-for-profit project administrator; and
- Electronically submitting an annual report on the program to the President of the Senate and Speaker of the House of Representatives.

The bill provides that the project administrator of the Healthy Food Assistance Program be responsible for implementing and operating the program by:

- Establishing and administering an application process, based on enumerated requirements, for small food retailers to participate;
- Promoting program availability throughout the state and undertake efforts to raise funds from private and public sources;
- Using up to ten percent of the funds distributed by DACS for administrative and operational costs;
- Collecting and providing data as required by DACS;
- Establishing goals, standards, and accountability mechanisms for eligible project applicants; and
- Expending funds for each approved project only for certain purposes.

The bill requires the Office of Program Policy Analysis and Government Accountability to study policy impacts of the program.

Provided in the bill is a repeal date of June 30, 2020, unless the Healthy Food Assistance Program is reviewed and saved from repeal by the Legislature.

The bill appears to have an indeterminate negative fiscal impact on DACS. The bill may have a positive fiscal impact on the "small food retailers" eligible to receive financial assistance.

The effective date of the bill is July 1, 2017.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1083.APR

DATE: 3/18/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Access to Healthy Food Options

According to DACS, access to quality retail grocers in Florida is strongly linked to a variety of diet-related health outcomes.¹ Communities, particularly low-income areas, in which residents do not live in close proximity to affordable and healthy food retailers are known as food deserts.² Healthy food options in these communities are hard to find or are unaffordable.³ There are food deserts in urban, rural, and tribal communities.⁴

There are many ways to measure food store access for individuals and for neighborhoods, and many ways to define which areas are food deserts.⁵ Most measures and definitions take into account at least some of the following indicators of access:

- Accessibility to sources of healthy food, as measured by distance to a store or by the number of stores in an area;
- Individual-level resources that may affect accessibility, such as family income or vehicle availability; and
- Neighborhood-level indicators of resources, such as the average income of the neighborhood and the availability of public transportation.⁶

Census-tract-level⁷ characteristics provide context on food access in neighborhoods.⁸ The United States Department of Treasury defines a low-income census tract as any tract where:

- The tract's poverty rate is 20 percent or greater;
- The tract's median family income is less than or equal to 80 percent of the State-wide median family income; or
- The tract is in a metropolitan area and has a median family income less than or equal to 80 percent of the metropolitan area's median family income.⁹

¹ Florida Department of Agriculture and Consumer Services, Impact of Food Deserts on Diet-Related Health Outcomes, available at: <http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Florida-s-Roadmap-To-Living-Healthy/Impact-of-Food-Deserts-on-Diet-Related-Health-Outcomes> (last visited Mar. 16, 2017).

² Administration for Children & Families, U.S. Department of Health & Human Services, available at: <http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Florida-s-Roadmap-To-Living-Healthy/Impact-of-Food-Deserts-on-Diet-Related-Health-Outcomes> <https://www.acf.hhs.gov/ocs/programs/community-economic-development/healthy-food-financing> (last visited Mar. 15, 2017).

³ Id.

⁴ Id.

⁵ U.S. Department of Agriculture, Food Access Research Atlas, Documentation, <https://www.ers.usda.gov/data-products/food-access-research-atlas/documentation/> (last visited Mar. 15, 2017).

⁶ Id.

⁷ U.S. Census Bureau provides that "Census Tracts" are small, relatively permanent statistical subdivisions of a county or equivalent entity that are updated by local participants prior to each decennial census as part of the Census Bureau's Participant Statistical Areas Program. The Census Bureau delineates census tracts in situations where no local participant existed or where state, local, or tribal governments declined to participate. The primary purpose of census tracts is to provide a stable set of geographic units for the presentation of statistical data, available at: https://www.census.gov/geo/reference/gtc/gtc_ct.html (last visited Mar. 15, 2017).

⁸ U.S. Department of Agriculture, Food Access Research Atlas, Documentation, <https://www.ers.usda.gov/data-products/food-access-research-atlas/documentation/> (last visited Mar. 15, 2017).

⁹ U.S. Department of the Treasury, New Markets Tax Credit (NMT) Program Evaluation Final Report, p. 36, available at: <https://www.cdfifund.gov/Documents/NMTC%20Program%20Evaluation%20Final%20Report.pdf> (last visited Mar. 15, 2017).

A census tract is considered to have low access if a significant number or share of individuals in the tract is far from a supermarket. Recent data provides that the number of low-income census tracts increased from 29,285 in 2010 to 30,870 in 2015.¹⁰

To increase food store access, states, and the federal government have undertaken initiatives to increase access to healthy, affordable foods in these low access communities. Twenty-eight states have taken some action to address the issue.¹¹ These actions include, but are not limited to, creating financing initiatives, undertaking studies, and studying access to food.

Healthy Food Financing Initiative

Current law directs DACS to establish by rule a Healthy Food Financing Initiative (program) that comprises and coordinates the use of federal, state, and private loans and grants, federal tax credits, and other forms of financial assistance.¹² This financial assistance must be used for rehabilitation or expansion of independent grocery stores, supermarkets, and community facilities to increase access to fresh produce and other nutritious food in underserved communities.¹³

The law defines the following terms:

- "Community facility" means a property owned by a nonprofit or for-profit entity in which health and human services are provided and space is offered in a manner that provides increased access to, or delivery or distribution of, food or other agricultural products to encourage public consumption and household purchases of fresh produce or other healthy food to improve the public health and well-being of low-income children, families, and older adults.¹⁴
- "Independent grocery store or supermarket" means an independently-owned grocery store or supermarket whose parent company does not own more than 40 grocery stores throughout the country based upon ownership conditions as identified in the latest Nielsen TDLinx Supermarket/Supercenter database.¹⁵
- "Low-income community" means a population census tract, as reported in the most recent U.S. Census Bureau American Community Survey,¹⁶ that meets one of the following criteria:
 - A poverty rate of at least 20 percent;
 - In the case of a low-income community located outside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income; or
 - In the case of a low-income community located inside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan median family income, whichever is greater.¹⁷
- "Program" means the Healthy Food Financing Initiative established by DACS.¹⁸
- "Underserved community" means a distressed urban, suburban, or rural geographic area where a substantial number of residents have low access to a full-service grocery store or supermarket. An area with limited supermarket access must be:
 - A census tract, as determined to be an area with low access by the USDA, as identified in the Food Access Research Atlas;¹⁹

¹⁰ U.S. Department of Agriculture, Economic Research Service Economic Information Bulletin Number 165 (January 2017), p. 3, available at: <https://www.ers.usda.gov/webdocs/publications/eib165/eib-165.pdf?v=42752> (last visited Mar. 15, 2017).

¹¹ Healthy Food Portal, *Policy Efforts and Impacts, State and Local*, <http://healthyfoodaccess.org/policy-efforts-and-impacts/state-and-local> (last visited November 18, 2015).

¹² Ch. 2016-221, Laws of Fla., codified in s. 500.81, F.S.

¹³ s. 500.81(2), F.S.

¹⁴ s. 500.81(1)(a), F.S.

¹⁵ s. 500.81(1)(c), F.S.

¹⁶ U.S. Census Bureau, *Our Surveys and Programs*, <https://www.census.gov/programs-surveys.html> (last visited November 20, 2015).

¹⁷ s. 500.81(1)(d), F.S.

¹⁸ s. 500.81(1)(e), F.S.

¹⁹ U.S. Department of Agriculture, *Food Access Research Atlas*, <http://www.ers.usda.gov/data-products/food-access-research-atlas.aspx> (last visited November 18, 2015).

- Identified as a limited supermarket access area as recognized by the CDFI Fund;²⁰ or
- Identified as an area with low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.²¹

DACS is authorized to contract with one or more nonprofit organizations or Florida-based federally certified CDFI to administer the program.²² To be eligible to contract with DACS to administer the program, the CDFI or nonprofit organization must demonstrate:

- Prior experience in healthy food financing;
- Support from the CDFI Fund within the Treasury;
- The ability to manage and operate lending and tax credit programs; and
- The ability to assume full financial risk for loans made under the program.²³

DACS is required to establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor program compliance and impact.²⁴ To carry out these directives, the law authorizes DACS to contract with a third-party.²⁵ If DACS contracts with a third party administrator, the third party administrator must create a revolving loan fund for the purpose of financing projects that meet the criteria of the program.²⁶ The third-party administrator must report to DACS annually.²⁷

DACS is also required to create eligibility guidelines and provide financing through an application process.²⁸ Eligible projects must:

- Be located in an underserved community;
- Primarily serve low-income communities; and
- Provide for renovation or expansion of, including infrastructure upgrades to, existing independent grocery stores or supermarkets; or the renovation or expansion of, including infrastructure upgrades to, community facilities to improve the availability and quality of fresh produce and other healthy foods.²⁹

DACS is required to report to the Legislature annually on the projects funded, the geographic distribution of the projects, the costs of the program, and the outcomes, including the number and type of jobs created.³⁰

The law requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the program after 7 years and report to the Speaker of the House of Representatives and the President of the Senate.³¹ The report must include, but is not limited to, health impacts based on data collected by the state on diabetes, heart disease and other obesity-related diseases, and other factors as determined by DACS.³² If the OPPAGA report determines the program to be unsuccessful after 7 years, DACS must create guidelines to return unused funds to the initial investor.³³

²⁰ CDFI Fund, *CDFI Information Mapping System*, <https://www.cdfifund.gov/Pages/mapping-system.aspx> (last visited November 18, 2015).

²¹ s. 500.81(1)(f), F.S.

²² s. 500.81(3)(a), F.S.

²³ Id.

²⁴ s. 500.81(3)(b), F.S.

²⁵ s. 500.81(3)(b)1., F.S.

²⁶ Id.

²⁷ Id.

²⁸ s. 500.81(3)(b)2., F.S.

²⁹ Id.

³⁰ s. 500.81(3)(b)3., F.S.

³¹ s. 500.81(4)(a), F.S.

³² Id.

³³ s. 500.81(4)(b), F.S.

Eligible applicants for financing include for-profit entities, including a convenience store or a fueling station, or not-for-profit entities, including, but not limited to, a sole proprietorship, partnership, limited liability company, corporation, cooperative, nonprofit organization, nonprofit community development entity, or private university.³⁴

To receive program financing, applicants must:

- Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;
- Demonstrate the ability to repay the loan; and
- Agree, as an independent grocery store or supermarket, for at least 5 years, to:
 - Accept Supplemental Nutrition Assistance Program (SNAP)³⁵ benefits;
 - Apply to accept Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)³⁶ benefits and accept such benefits if approved;
 - Allocate at least 30 percent of food retail space for the sale of perishable foods, which may include fresh or frozen dairy products, fresh produce, and fresh meats, poultry, and fish;
 - Comply with all data collection and reporting requirements established by DACS; and
 - Promote the hiring of local residents.³⁷

The law provides an exception to the 30 percent minimum requirement for food retail space for corner stores, bodegas, and other non-traditional grocery stores if the funding will be used for refrigeration displays, or other one-time capital expenditures to promote the sale of fresh produce or perishables.³⁸

DACS or its third-party administrator is required to determine which projects receive financing by:

- Giving preference to local Florida-based grocers or local business owners with experience in grocery stores and to grocers and business owners with a business plan model that includes written documentation of opportunities to purchase from Florida farmers and growers before seeking out-of-state purchases;
- Considering the level of need in the area to be served;
- Considering the degree to which the project will have a positive economic impact on the underserved community, including the creation or retention of jobs for local residents;
- Considering the location of existing independent grocery stores, supermarkets, or other markets relevant to the applicant's project and provide the established entity the right of first refusal for such projects; and
- Considering other criteria as may be determined by DACS.³⁹

Financing is authorized for selected projects for the following purposes:

- Site acquisition and preparation;
- Construction and build-out costs;
- Equipment and furnishings;
- Workforce training or security;
- Predevelopment costs, such as market studies and appraisals;
- Energy-efficiency measures;

³⁴ s. 500.81(5), F.S.

³⁵ SNAP is a federal program that offers nutrition assistance to millions of eligible, low-income individuals and families and provides economic benefits to communities. USDA, *Supplemental Nutrition Assistance Program*, <http://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap> (last visited November 18, 2015).

³⁶ WIC is a federal program that provides grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk. USDA, *Women, Infants, and Children (WIC)*, <http://www.fns.usda.gov/wic/women-infants-and-children-wic> (last visited November 18, 2015).

³⁷ s. 500.81(5), F.S.

³⁸ Id.

³⁹ s. 500.81(6), F.S.

- Working capital for first-time inventory and startup costs;
- Acquisition of seeds and starter plants for the residential cultivation of fruits, vegetables, herbs, and other culinary products. The bill stipulates that only 7 percent of the total funds expended in any one project may be used for such acquisition; and
- Other purposes as may be determined by DACS or its third-party administrator.⁴⁰

DACS is prohibited from distributing more than \$500,000 among more than three recipients.⁴¹

Effect of Proposed Changes

The bill provides the following findings:

- Overweight children and adults are at greater risk for numerous adverse health consequences, including type-two diabetes, heart disease, stroke, high blood pressure, high cholesterol, certain cancers, asthma, low self-esteem, depression, and other debilitating diseases.
- In Florida, nearly 27 percent of adults were considered overweight or obese in 2015, and nearly 13 percent of children were considered overweight and obese in 2011.
- Obese children are at least twice as likely as non-obese children to become obese adults.
- Obesity-related health conditions have serious economic costs.
- Annual health care costs from obesity are at least \$190 billion dollars, or 21 percent of the nation's total health care spending, and are expected to rise substantially.
- Roughly 40 percent of these costs are paid through Medicare and Medicaid, meaning that taxpayers pay much of the cost.
- Medicare and Medicaid spending would be reduced by 8.5 percent and 11.8 percent, respectively, in the absence of obesity-related spending.
- Annual medical expenditures in Florida related to obesity are estimated at \$6,675,670,940 with approximately \$2.6 billion of this amount paid by Medicare and Medicaid in the state.
- Many Americans, particularly those in low-income neighborhoods, rural areas, and communities of color, reside where adequate access to full-service grocery stores is not guaranteed.
- Low-income areas have more than twice as many convenience stores and four times as many small grocery stores as high-income areas.
- Proximity to convenience stores within a neighborhood is associated with higher rates of obesity and diabetes.
- Small food retailers tend to sell few fresh produce, whole grains, or low-fat dairy products.
- Small food retailers commonly sell highly processed foods that are high in fat and low in nutrients.
- Small food retailers tend to charge higher prices for their food as compared to grocery stores and supermarkets.
- Providing assistance to existing small food retailers to stock fresh produce and other healthy foods and promote good nutrition can provide residents with access to healthier foods.
- Community programs that work with small food retailers have shown promise in increasing healthy food sales, improving store offerings, and promoting good nutrition.
- The program established pursuant to this act is intended to be a source of funding to provide assistance for Florida's small food retailers operating in certain urban and rural areas so that the retailers sell more fresh fruits and vegetables and other healthy foods at affordable prices to neighboring residents in an effort to improve residents' diets and health.

Healthy Food Assistance Program

The bill repeals the Healthy Food Financing Initiative and establishes the Healthy Food Assistance Program (Program) within DACS.

⁴⁰ s. 500.81(7), F.S.

⁴¹ s. 500.81(8), F.S.

The purpose of the program is to provide a process for small food retailers to receive assistance for projects that increase the availability and sales of fresh and nutritious food, including fresh vegetables, fruits, meats, and seafood in low-income and moderate-income communities.

The bill requires OPPAGA to conduct an independent study to evaluate the policy impact of placing healthy food in previously underserved communities.

The bill defines the following terms:

Low-income community: a population census tract, as reported in the most recent United States Census Bureau American Community Survey, which meets one of the following criteria:

- The poverty rate is at least 20 percent;
- In the case of a low-income community located outside a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income; or
- In the case of a low-income community located within a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan area's median family income, whichever is greater.

Moderate-income community: means a population census tract, as reported in the most recent United States Census Bureau American Community Survey, in which the median family income is between 81 percent and 95 percent of the statewide median family income or metropolitan area's median family income.

Program: the Healthy Food Assistance Program established within DACS pursuant to s. 595.430, F.S.

Project administrator: an entity selected by DACS to manage the program to assist small food retailers in low-income and moderate-income communities in the state.

Small food retailer: a small-scale retail store of less than 3,000 square feet, such as a corner store, convenience store, neighborhood store, small grocery store, or bodega, which sells a limited selection of foods and other products.

Development of the Healthy Food Assistance Program

The bill requires DACS to administer, and develop guidelines for the operation of the program. The guidelines may include procedures for granting appropriated funds to a qualified project administrator to provide assistance to small food retailers in urban and rural low-income and moderate-income communities to increase the sales of fresh produce and other healthy foods.

In administering the program, DACS is required to:

- Establish program administrator eligibility guidelines, including, but not limited to, the development of an application process for project administrators and monitoring and accountability mechanisms for projects receiving assistance under the program. At a minimum, a project administrator must be a not-for-profit entity and have demonstrated experience in developing and implementing strategies for healthy food retail in small stores.
- Establish criteria for a project administrator to use in determining which projects to select, including, but not limited to, consideration of the level of need in the area proposed to be served by the applicant.
- Provide materials to a project administrator that educate consumers on the benefits of healthy eating and encourage, when possible, buying Fresh from Florida agricultural products for distribution.
- Electronically submit an annual report to the President of the Senate and the Speaker of the House of Representatives regarding the program, including, but not limited to, projects funded,

project expenditures, the geographic distribution of funds, program results, and the program's impact on any health-related initiatives.

Project Administrator of the Healthy Food Assistance Program

The bill provides duties and responsibilities for project administrators who are responsible for implementing and operating the program. The project administrator is required to establish and administer an application process for small food retailers to participate in the program.

At a minimum, in order to receive assistance under the program, a small food retailer must be located in a low-income community or moderate-income community, and accept, or agree to apply to and accept Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits.

The project administrator is also required to;

- Promote the program availability throughout the state and undertake efforts to raise funds from other private and public sources;
- Use up to 10 percent of the funds distributed by DACS for administrative and operational costs associated with operating the program, if such costs are not covered by other budgets or in-kind resources;
- Collect and provide data and other information quarterly as required by DACS;
- Establish defined goals, standards, and accountability mechanisms for eligible project applicants to ensure that the expenditure of moneys is consistent with the purpose of the program;
- Develop a plan for eligible project applicants by describing specific goals for increasing the sales of produce and other healthy foods and educating consumers on the benefits of healthy eating, including, but not limited to, mechanisms to:
 - Engage communities to support participating small food retailers; and
 - Seek guidance from state, county, or municipal agencies, private or public universities, cooperative extension services, community-based organizations, and community members.
- Establish standards to assess whether project goals are met;
- Ensure expenditures are appropriate by monitoring the activities of small food retailers.
- Expend funds for each approved project only for the following purposes:
 - Refrigeration, display shelving, or other equipment that small food retailers need, up to a maximum of \$7,500 per retailer.
 - Materials and supplies for nutrition education and healthy food promotion.
 - Initial purchases of healthy foods, including dairy products, and fresh produce, up to a maximum of \$2,000 per retailer.

The bill exempts the project administrator of the program from provisions of Chapter 287, F.S., relating to state procurement of certain property services.

Funding/Repeal Date of the Healthy Food Assistance Program

Funding for DACS to perform its duties and responsibilities as it relates to the Healthy Food Assistance Program is contingent upon appropriations provided by the Legislature in the General Appropriations Act.

The bill includes a repeal date of June 30, 2020, unless the Healthy Food Assistance Program is reviewed and saved from repeal by the Legislature.

B. SECTION DIRECTORY:

Section 1 creates s. 595.430, F.S., related to Healthy Food Assistance Program.

- Section 2** creates s. 595.431, F.S., related to definitions.
- Section 3** creates s. 595.432, F.S., related to duties and responsibilities of the department.
- Section 4** creates s. 595.433, F.S., related to duties and responsibilities of project administrators.
- Section 5** repeals s. 500.81, F.S., related to Healthy Food Financing Initiative.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill has no fiscal impact on state revenues.

2. Expenditures:

The fiscal impact on state government is indeterminate. The bill requires funding for DACS to be as provided by the Legislature in the General Appropriations Act.

According to DACS, not knowing the amount of an appropriation for the program, it is difficult to estimate costs to the department. The larger the appropriation, the greater the number of small retailers that could be served and the bigger the impact to the department, including the need for an FTE and costs to cover materials that educate consumers on the benefits of healthy eating.⁴²

According to OPPAGA, it can meet the requirements of the bill within existing resources.⁴³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill has no fiscal impact on local government revenues.

2. Expenditures:

The bill has no fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on the private sector since small food retailers in urban and rural low-income and moderate-income communities will be eligible to receive financial assistance to increase the sales of fresh produce and other healthy foods.

D. FISCAL COMMENTS:

The bill requires funding for DACS to perform its duties and responsibilities pursuant to the bill to be as provided by the Legislature in the General Appropriations Act.

⁴² Florida Department of Agriculture & Consumer Services, Agency Analysis of 2017 HB 1083, p. 3 (Mar. 8, 2017).

⁴³ Office of Program Policy Analysis and Government Accountability, Agency Analysis of 2017 HB 1083, p. 3 (Mar. 6, 2017).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to small food retailers; creating s.
 595.430, F.S.; establishing the Healthy Food
 Assistance Program within the Department of
 Agriculture and Consumer Services; providing a
 purpose; requiring the Office of Program Policy
 Analysis and Government Accountability to conduct an
 independent study evaluating the program's policy
 impact; providing for future repeal and legislative
 review; creating s. 595.431, F.S.; providing
 definitions; creating s. 595.432, F.S.; requiring the
 department to administer the program; providing
 department duties and responsibilities; providing for
 funding; creating s. 595.433, F.S.; providing duties
 and responsibilities of program administrators;
 exempting program administrators from provisions
 relating to state procurement of certain property and
 services; repealing s. 500.81, F.S., relating to the
 Healthy Food Financing Initiative; providing an
 effective date.

WHEREAS, overweight children and adults are at greater risk
 for numerous adverse health consequences, including type 2
 diabetes, heart disease, stroke, high blood pressure, high
 cholesterol, certain cancers, asthma, low self-esteem,

26 | depression, and other debilitating diseases, and

27 | WHEREAS, in Florida, nearly 27 percent of adults were
28 | considered overweight or obese in 2015, and nearly 13 percent of
29 | children were considered overweight and obese in 2011, and

30 | WHEREAS, obese children are at least twice as likely as
31 | non-obese children to become obese adults, and

32 | WHEREAS, obesity-related health conditions have serious
33 | economic costs, and

34 | WHEREAS, annual health care costs from obesity are at least
35 | \$190 billion dollars, or 21 percent of the nation's total health
36 | care spending, and are expected to rise substantially, and

37 | WHEREAS, roughly 40 percent of these costs are paid through
38 | Medicare and Medicaid, meaning that taxpayers pay much of the
39 | cost, and

40 | WHEREAS, Medicare and Medicaid spending would be reduced by
41 | 8.5 percent and 11.8 percent, respectively, in the absence of
42 | obesity-related spending, and

43 | WHEREAS, annual medical expenditures in Florida related to
44 | obesity are estimated at \$6,675,670,940 with approximately \$2.6
45 | billion of this amount paid by Medicare and Medicaid in the
46 | state, and

47 | WHEREAS, many Americans, particularly those in low-income
48 | neighborhoods, rural areas, and communities of color, reside
49 | where adequate access to full-service grocery stores is not
50 | guaranteed, and

51 WHEREAS, low-income areas have more than twice as many
 52 convenience stores and four times as many small grocery stores
 53 as high-income areas, and

54 WHEREAS, proximity to convenience stores within a
 55 neighborhood is associated with higher rates of obesity and
 56 diabetes, and

57 WHEREAS, small food retailers tend to sell few fresh
 58 produce, whole grains, or low-fat dairy products, and

59 WHEREAS, small food retailers commonly sell highly
 60 processed foods that are high in fat and low in nutrients, and

61 WHEREAS, small food retailers tend to charge higher prices
 62 for their food as compared to grocery stores and supermarkets,
 63 and

64 WHEREAS, providing assistance to existing small food
 65 retailers to stock fresh produce and other healthy foods and
 66 promote good nutrition can provide residents with access to
 67 healthier foods, and

68 WHEREAS, community programs that work with small food
 69 retailers have shown promise in increasing healthy food sales,
 70 improving store offerings, and promoting good nutrition, and

71 WHEREAS, the program established pursuant to this act is
 72 intended to be a source of funding to provide assistance for
 73 Florida's small food retailers operating in certain urban and
 74 rural areas so that the retailers sell more fresh fruits and
 75 vegetables and other healthy foods at affordable prices to

76 neighboring residents in an effort to improve residents' diets
 77 and health, NOW, THEREFORE,

78

79 Be It Enacted by the Legislature of the State of Florida:

80

81 Section 1. Section 595.430, Florida Statutes, is created
 82 to read:

83 595.430 Healthy Food Assistance Program.-

84 (1) There is established within the department the Healthy
 85 Food Assistance Program.

86 (2) The purpose of the program is to provide a process for
 87 small food retailers to receive assistance for projects that
 88 increase the availability and sales of fresh and nutritious
 89 food, including fresh vegetables, fruits, meats, and seafood in
 90 low-income and moderate-income communities.

91 (3) The Office of Program Policy Analysis and Government
 92 Accountability shall conduct an independent study to evaluate
 93 the policy impact of placing healthy food in previously
 94 underserved communities.

95 (4) This section and ss. 595.431-595.433 are repealed June
 96 30, 2020, unless reviewed and saved from repeal through
 97 reenactment by the Legislature.

98 Section 2. Section 595.431, Florida Statutes, is created
 99 to read:

100 595.431 Definitions.-As used in ss. 595.430-595.433, the

101 term:

102 (1) "Low-income community" means a population census
 103 tract, as reported in the most recent United States Census
 104 Bureau American Community Survey, which meets one of the
 105 following criteria:

106 (a) The poverty rate is at least 20 percent;

107 (b) In the case of a low-income community located outside
 108 a metropolitan area, the median family income does not exceed 80
 109 percent of the statewide median family income; or

110 (c) In the case of a low-income community located within a
 111 metropolitan area, the median family income does not exceed 80
 112 percent of the statewide median family income or 80 percent of
 113 the metropolitan area's median family income, whichever is
 114 greater.

115 (2) "Moderate-income community" means a population census
 116 tract, as reported in the most recent United States Census
 117 Bureau American Community Survey, in which the median family
 118 income is between 81 percent and 95 percent of the statewide
 119 median family income or metropolitan area's median family
 120 income.

121 (3) "Program" means the Healthy Food Assistance Program
 122 established within the department pursuant to s. 595.430.

123 (4) "Project administrator" means an entity selected by
 124 the department to manage the program to assist small food
 125 retailers in low-income and moderate-income communities in the

126 state.

127 (5) "Small food retailer" means a small-scale retail store
 128 of less than 3,000 square feet, such as a corner store,
 129 convenience store, neighborhood store, small grocery store, or
 130 bodega, which sells a limited selection of foods and other
 131 products.

132 Section 3. Section 595.432, Florida Statutes, is created
 133 to read:

134 595.432 Duties and responsibilities of the department.-

135 (1) The department shall administer the program and
 136 develop guidelines for the operation of the program. The
 137 guidelines may include procedures for granting appropriated
 138 funds to a qualified project administrator to provide assistance
 139 to small food retailers in urban and rural low-income and
 140 moderate-income communities to increase the sales of fresh
 141 produce and other healthy foods.

142 (2) In administering the program, the department shall:

143 (a) Establish program administrator eligibility
 144 guidelines, including, but not limited to, the development of an
 145 application process for project administrators and monitoring
 146 and accountability mechanisms for projects receiving assistance
 147 under the program. At a minimum, a project administrator must be
 148 a not-for-profit entity and have demonstrated experience in
 149 developing and implementing strategies for healthy food retail
 150 in small stores.

151 (b) Establish criteria for a project administrator to use
 152 in determining which projects to select, including, but not
 153 limited to, consideration of the level of need in the area
 154 proposed to be served by the applicant.

155 (c) Provide materials to a project administrator that
 156 educate consumers on the benefits of healthy eating and
 157 encourage, when possible, buying Fresh from Florida agricultural
 158 products for distribution.

159 (d) Electronically submit an annual report to the
 160 President of the Senate and the Speaker of the House of
 161 Representatives regarding the program, including, but not
 162 limited to, projects funded, project expenditures, the
 163 geographic distribution of funds, program results, and the
 164 program's impact on any health-related initiatives.

165 (3) Funding for the department to perform its duties and
 166 responsibilities pursuant to this section shall be as provided
 167 by the Legislature in the General Appropriations Act.

168 Section 4. Section 595.433, Florida Statutes, is created
 169 to read:

170 595.433 Duties and responsibilities of project
 171 administrators.-

172 (1) A project administrator shall be responsible for
 173 implementing and operating the program. The project
 174 administrator shall:

175 (a) Establish and administer an application process for

176 small food retailers to participate in the program. At a
 177 minimum, in order to receive assistance under the program, a
 178 small food retailer must:

179 1. Be located in a low-income community or moderate-income
 180 community.

181 2. Accept, or agree to apply to and accept Special
 182 Supplemental Nutrition Program for Women, Infants, and Children
 183 (WIC) benefits.

184 (b) Promote program availability throughout the state and
 185 undertake efforts to raise funds from other private and public
 186 sources.

187 (c) Use up to 10 percent of the funds distributed by the
 188 department for administrative and operational costs associated
 189 with operating the program, if such costs are not covered by
 190 other budgets or in-kind resources.

191 (d) Collect and provide data and other information
 192 quarterly as required by the department.

193 (e) Establish defined goals, standards, and accountability
 194 mechanisms for eligible project applicants to ensure that the
 195 expenditure of moneys is consistent with the purpose of the
 196 program.

197 (f) Develop a plan for eligible project applicants by
 198 describing specific goals for increasing the sales of produce
 199 and other healthy foods and educating consumers on the benefits
 200 of healthy eating, including, but not limited to, mechanisms to:

201 1. Engage communities to support participating small food
 202 retailers.

203 2. Seek guidance from state, county, or municipal
 204 agencies, private or public universities, cooperative extension
 205 services, community-based organizations, and community members.

206 (g) Establish standards to assess whether project goals
 207 are met.

208 (h) Ensure expenditures are appropriate by monitoring the
 209 activities of small food retailers.

210 (i) Expend funds for each approved project only for the
 211 following purposes:

212 1. Refrigeration, display shelving, or other equipment
 213 that small food retailers need, up to a maximum of \$7,500 per
 214 retailer.

215 2. Materials and supplies for nutrition education and
 216 healthy food promotion.

217 3. Initial purchases of healthy foods, including dairy
 218 products, and fresh produce, up to a maximum of \$2,000 per
 219 retailer.

220 (2) For purposes of this section, a project administrator
 221 is not subject to chapter 287.

222 Section 5. Section 500.81, Florida Statutes, is repealed.

223 Section 6. This act shall take effect July 1, 2017.

AGRICULTURE & PROPERTY RIGHTS SUBCOMMITTEE

**HB 1083 by Lee
Small Food Retailers**

**AMENDMENT SUMMARY
March 21, 2017**

Amendment 1 by Rep. Lee (Line 91): The amendment removes the provision requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study the policy impact of placing healthy food in previously underserved communities.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Property
 2 Rights Subcommittee
 3 Representative Lee offered the following:

Amendment (with title amendment)

Remove lines 91-95 and insert:

(3) This section and ss. 595.431-595.433 are repealed June

T I T L E A M E N D M E N T

Remove lines 6-9 and insert:

purpose; providing for future repeal and legislative

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1217 Industrial Hemp Programs
SPONSOR(S): Massullo, MD
TIED BILLS: IDEN./SIM. BILLS: SB 1726

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Property Rights Subcommittee		Thompson	JAT Smith MD
2) Post-Secondary Education Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The bill authorizes the establishment of industrial hemp programs by state colleges and universities in rural areas of the state. In part, the bill:

- Authorizes any college or university in the state that has a college of agriculture, upon approval by its board of trustees, to engage in an industrial hemp program;
- Provides that the purpose of the program is to conduct projects related to the research, cultivation, harvesting, processing, testing, marketing, commercial sales, and uses of industrial hemp and to identify rural areas of the state that would benefit from the commercialization of industrial hemp;
- Requires a college or university to establish an Office of Industrial Hemp Program Compliance to manage the program and enforce rules regulating the program consistent with rules adopted by the Department of Agriculture and Consumer Services (DACs);
- Requires the college or university to adopt rules to ensure the proper operation and security of the program;
- Requires the college and university rules to, at a minimum: designate the physical location of the project facility; establish minimum security standards for growing, handling, and processing the hemp; facilitate coordination with local and state law enforcement agencies to ensure program compliance; and establish testing and research to ensure proper chemical composition and labeling of the hemp material;
- Requires, to the fullest extent feasible, an industrial hemp program to be financed through private resources;
- Requires a college or university that implements an industrial hemp program to pursue and develop partnerships with private investors to minimize risk to the college or university and maximize the effectiveness of the program;
- Requires, within 4 years after implementing an industrial hemp program, the college or university to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the program; research related to the cultivation, harvesting, processing, and uses of industrial hemp; identification of rural areas of the state that would benefit from the commercialization of industrial hemp, and recommendations for implementing such commercialization;
- Requires DACs to adopt rules as required under 7 C.F.R. s. 5940 of the United States Agricultural Act of 2014 to implement provisions of the industrial hemp program.

The fiscal impact to state government and the private sector is indeterminate. See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT for discussion.

The effective date of the bill is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Industrial Hemp

Industrial hemp is an agricultural commodity grown from the plant species *Cannabis sativa* that is used worldwide to produce a variety of industrial and consumer products.¹ Approximately 30 countries in Europe, Asia, and North and South America currently permit farmers to grow hemp.² The United States (U.S.) market is largely dependent on imports, both as finished hemp-containing products and as ingredients for use in further processing.³ Although hemp and marijuana products both come from the cannabis plant, hemp is typically distinguished by its use, physical appearance and lower concentration of tetrahydrocannabinol (THC).⁴

Industrial hemp was grown historically in the U.S. with peak production occurring in the 1940's during World War II when it was used by the armed forces.⁵ Subsequently, production sharply declined to the point of elimination by the mid-1950's.⁶ Currently, all cannabis varieties, including hemp used for fiber and marijuana that contain THC used as a drug, are classified as "Schedule 1 controlled substances" under the Controlled Substance Act.⁷

Federal Agricultural Act of 2014 (2014 Farm Bill)

Recently, there has been a resurgence in interest⁸ in industrial hemp production in the U.S.⁹ Following the enactment of the 2014 Farm Bill,¹⁰ hemp cultivation is now allowed under certain circumstances by research institutions and state departments of agriculture if:

- The industrial hemp is grown or cultivated for research conducted under an agricultural pilot program or other agricultural or academic research; and
- The growing or cultivating of industrial hemp is allowed under state law where the university or state department of agriculture is located.¹¹

¹ Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700 Mar. 10, 2017, at Summary, available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

² Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700 Mar. 10, 2017, at p. 7, available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

³ Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700, at Summary (Mar. 10, 2017) available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

⁴ National Conference of State Legislatures State Industrial Hemp Statutes, available at <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx> (last visited Mar. 17, 2017).

⁵ UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, at p. 1 (Sept. 15, 2015) available at https://www.votehemp.com/PDF/Potential%20for%20Industrial%20Hemp%20Production%20in%20Florida_9-15-2015.pdf (last visited Mar. 17, 2017).

⁶ Id.

⁷ 21 U.S.C. §§801 et seq.; Title 21 C.F.R. Part 1308.11.

⁸ Logan Yonavjak, *Industrial Hemp: A Win-Win For The Economy And The Environment*, Forbes (May 29, 2013), <https://www.forbes.com/sites/ashoka/2013/05/29/industrial-hemp-a-win-win-for-the-economy-and-the-environment/#2c4e3f4b289b> (last visited Mar. 17, 2017).

⁹ According to UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, at p. 1 (Sept. 15, 2015) "future markets are continuing to emerge, led primarily by the cosmetic and health food industry, leading to greater demand for hemp products.";

¹⁰ Agricultural Act of 2014, Pub. L. 113-79.

¹¹ 7 U.S.C. § 5940.

The 2014 Farm Bill defines “industrial hemp” as the plant *Cannabis sativa L.* and any part thereof, whether growing or not, with a delta-9 THC concentration of no more than 0.3 percent on a dry weight basis.¹²

According to the Congressional Research Service, Congress has blocked the U.S. Drug Enforcement Administration (DEA) and federal law enforcement authorities from interfering with state agencies, hemp growers, and agricultural research.¹³ In addition, appropriators have blocked the U.S. Department of Agriculture (USDA) from prohibiting the transportation, processing, sale, or use of industrial hemp that is grown or cultivated in accordance with the 2014 Farm Bill.¹⁴

Other States

Approximately 30 states have enacted laws regarding industrial hemp production.¹⁵ These laws have generally taken the following three approaches:

- Establishing commercial industrial hemp programs;
- Establishing industrial hemp research programs; or
- Authorizing studies of industrial hemp or the industrial hemp industry.¹⁶

At least 20 states have passed laws creating industrial hemp research or pilot programs.¹⁷ State agencies and institutions of higher education administer these programs in order to study the cultivation, processing, and economics of industrial hemp.¹⁸ Some states establish specific regulatory agencies or committees, rules, and goals to oversee the research programs, and may also require coordination between colleges or universities and the programs.¹⁹

The following is an example of several state laws that have recently been passed creating industrial hemp programs:

- Alabama provides for an industrial hemp research program overseen by the Alabama Department of Agriculture and Industries.²⁰ The department is authorized to coordinate the study with institutions of higher education.²¹
- North Carolina provides for an agricultural hemp pilot program overseen by the North Carolina Industrial Hemp Commission within the North Carolina Department of Agriculture.²² The commission must collaborate with North Carolina State University and North Carolina A&T State University.²³
- New York allows for the growth of hemp as part of an agricultural pilot program by its Department of Agriculture and Markets and/or an institution of higher education.²⁴ The commissioner of agriculture and markets may authorize no more than 10 sites for growing hemp as part of a pilot program.²⁵

¹² Agricultural Act of 2014, Pub. L. 113-79.

¹³ Congressional Research Service, *Hemp as an Agricultural Commodity*, CRS Report 7-5700, at p. 1 (Mar. 10, 2017) available at <https://fas.org/sgp/crs/misc/RL32725.pdf> (last visited Mar. 17, 2017).

¹⁴ *Id.*

¹⁵ National Conference of State Legislatures State Industrial Hemp Statutes, available at <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx> (last visited Jan. 26, 2016).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Ala. Code § 2-8-380 to 2-8-383 and § 20-2-2.

²¹ *Id.*

²² N.C. Gen. Stat. § 106-568.50 to 106-568.54 and § 90-87.

²³ *Id.*

²⁴ N.Y. Agriculture and Markets Law § 505 to 508.

²⁵ *Id.*

- Illinois provides for an industrial hemp pilot program which allows the Illinois Department of Agriculture or state institutions of higher education to grow hemp for research purposes.²⁶ The law requires institutions of higher education to provide annual reports to the department.²⁷
- Tennessee allows commercial hemp production overseen by the Tennessee Department of Agriculture.²⁸ The law directs the commissioner of agriculture to develop licensing rules for processors and distributors, and allows institutions of higher education to acquire and study seeds for research and possible certification.²⁹

Effect of Proposed Changes

Industrial Hemp Programs

The bill creates s. 570.085, F.S., authorizing the establishment of industrial hemp programs by state colleges and universities in rural areas of the state.

Legislative Findings/Definitions

The bill provides that the Legislature finds that: Industrial hemp is a suitable crop for this state, and its production will contribute positively to the future of agriculture in the state; the infrastructure needed to process industrial hemp will increase business opportunities and new jobs in communities throughout the state; as a food crop, industrial hemp seeds and oil produced from the seeds have high nutritional value, including healthy fats and proteins; as a fiber crop, industrial hemp can be used in the manufacture of products such as clothing, building supplies, and animal bedding; as a fuel crop, industrial hemp seeds can be processed into biodiesel and stalks can be pelletized or flaked for burning or processed for cellulosic ethanol; and the production of industrial hemp can play an important role in farm land management as part of a crop rotation system.

The bill provides the following definitions:

Industrial hemp: the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry-weight basis. Industrial hemp includes products imported under the Harmonized Tariff Schedule, 2013, of the United States International Trade Commission, including hemp seed per subheading 1207.99.03, hemp oil per subheading 1515.90.80, oilcake per subheading 2306.90.01, true hemp per heading 5302, true hemp yarn per subheading 5308.20.00, and woven fabrics of true hemp fibers per subheading 5311.00.40. A plant that meets the definition of "industrial hemp" under this subsection is not "cannabis" as defined in chapter 893.

Industrial hemp project: a project associated with an industrial hemp program that includes any aspect of research, cultivation, harvesting, processing, testing, marketing, commercial sales, and uses of approved industrial hemp agricultural, industrial, and commercial products.

Qualified program personnel: persons certified by the Office of Industrial Hemp Program Compliance to work on an industrial hemp project. At a minimum, a person applying for certification must be 18 years of age or older, pass a criminal background check, and be either employed by or enrolled in the college or university.

²⁶ Ill. Ann. Stat. ch. 720 § 550/15.2

²⁷ Id.

²⁸ Tenn. Code Ann. § 43-26-101 to 43-26-103.

²⁹ Id.

Establishing an Industrial Hemp Program

The bill authorizes any college or university in the state that has a college of agriculture, upon approval by its board of trustees, to engage in an industrial hemp program consistent with provisions of law governing industrial hemp programs and all other state and federal laws. The purpose of the program must be to conduct projects related to the research, cultivation, harvesting, processing, testing, marketing, commercial sales, and uses of industrial hemp and to identify rural areas of the state that would benefit from the commercialization of industrial hemp.

Implementation of Industrial Hemp Programs

In implementing an industrial hemp program, the bill requires a college or university to establish an Office of Industrial Hemp Program Compliance. The office is required to manage the program and enforce rules regulating the program consistent with rules adopted by the Department of Agriculture and Consumer Services (DACCS). The bill requires the college or university to adopt rules to ensure the proper operation and security of the program.

At a minimum, the rules must:

- Designate the physical location of the industrial hemp project facility;
 - Areas must be designated within the facility as general access or limited access.
 - An area where industrial hemp is cultivated, processed, stored, or packaged, or where industrial hemp research is conducted, must be designated as limited access.
 - Access to limited-access areas is restricted to qualified program personnel and authorized visitors accompanied at all times by qualified program personnel.
 - All other areas of the project facility may be designated as general access and open to authorized visitors accompanied or not accompanied by qualified program personnel.
- Establish minimum security standards for the growing, handling, and processing of industrial hemp, including:
 - Lawful growing, planting, treating, fertilizing, pruning, and tending hemp plants;
 - Biotracking and testing industrial hemp plants to ensure that all samples comply with the chemical properties as defined;
 - Processing and disposal requirements for any waste containing any hemp material that does not meet the standards as defined;
 - Storage, processing, product development, and transportation requirements for hemp material; and
 - Packaging, labeling, and tracking requirements for hemp material.
- Facilitate coordination with state and local law enforcement agencies to ensure the program complies with this section and other state and federal laws; and
- Establish a seed-to-product testing program and research protocols to ensure the proper chemical composition and labeling of hemp material.

Financing of Industrial Hemp Programs

The bill requires, to the fullest extent feasible, an industrial hemp program to be financed through private resources. A college or university that implements an industrial hemp program are to pursue and develop partnerships with private investors that demonstrate successful entrepreneurial experience with industrial hemp and that are interested in participating in the industrial hemp program. These partnerships must be structured to minimize any risk to the college or university and to maximize the effectiveness of the program.

Rural Agricultural Areas

To the fullest extent feasible, industrial hemp projects are to be implemented in rural agricultural areas of the state where the potential for enhancing agricultural economic development is high.

Reporting of Industrial Hemp Programs

Within 4 years after implementing an industrial hemp program, the college or university must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the program and any research related to the cultivation, harvesting, processing, and uses of industrial hemp, as well as identification of rural areas of the state that would benefit from the commercialization of industrial hemp and any recommendations for implementing such commercialization.

The bill requires DACS to adopt rules as required under 7 C.F.R. s. 5940 of the United States Agricultural Act of 2014 to implement Industrial Hemp Programs.

B. SECTION DIRECTORY:

Section 1 creates s. 570.085, F.S., related to industrial hemp programs.

Section 2 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The fiscal impact to state government revenues is indeterminate. According to DACS, industrial hemp would fall under ch. 581.083 F.S., and rule 5B-57, F.A.C., as it is non-native and invasive.³⁰ The producer would be required to obtain a special permit and pay a fee not to exceed \$50.³¹ DACS would also recommend quarterly inspections for the first year and could reduce that number once the producer has a track record of passed inspections.³² There is a \$50 inspection fee.³³ Without knowing how many producers will participate, it is difficult to estimate a fiscal impact or the need for FTE.³⁴

2. Expenditures:

The impact to state government expenditures is indeterminate. To the fullest extent feasible, the bill requires an industrial hemp program to be financed through private resources to minimize any risk to a participating college or university.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact on the private sector is indeterminate. To the fullest extent feasible an industrial hemp program must be financed through partnerships with private investors and implemented

³⁰ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 HB 1217, p. 1 (Mar. 9, 2017).

³¹ Id.

³² Id. at p. 2.

³³ Id.

³⁴ Id.

in rural agricultural areas of the state where the potential for enhancing agricultural economic development is high.

According to DACS, industrial hemp would fall under ch. 581.083 F.S., and rule 5B-57, F.A.C., as it is non-native and invasive.³⁵ The producer would be required to obtain a special permit and pay a fee not to exceed \$50.³⁶ DACS would also recommend quarterly inspections for the first year and could reduce that number once the producer has a track record of passed inspections.³⁷ There is a \$50 inspection fee.³⁸ Without knowing how many producers will participate, it is difficult to estimate a fiscal impact or the need for FTE.³⁹

The producer would also be required to obtain bond issued by a surety company admitted to do business in this state or a certificate of deposit, or other type of security which provides a financial assurance of cost recovery for the removal of a planting.⁴⁰

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DACS to adopt rules as required under 7 C.F.R. s. 5940 of the United States Agricultural Act of 2014 to implement the Industrial Hemp Programs. This is the federal provision that authorizes an institution of higher education or a State department of agriculture to grow or cultivate industrial hemp.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³⁵ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2017 HB 1217, p. 1 (Mar. 9, 2017).

³⁶ Id.

³⁷ Id. at p. 2.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

1 A bill to be entitled
 2 An act relating to industrial hemp programs; creating
 3 s. 570.085, F.S.; providing legislative findings;
 4 providing definitions; authorizing specified state
 5 colleges and universities to engage in industrial hemp
 6 programs under certain conditions; providing the
 7 purpose of the program; requiring a participating
 8 college or university to establish an Office of
 9 Industrial Hemp Program Compliance to manage the
 10 program and enforce rules regulating the program;
 11 providing for partnerships in implementing programs;
 12 requiring a report to the Governor and Legislature;
 13 directing the Department of Agriculture and Consumer
 14 Services to adopt specified rules; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 570.085 Florida Statutes, is created to
 20 read:

21 570.085 Industrial hemp programs.-

22 (1) The Legislature finds that:

23 (a) Industrial hemp is a suitable crop for this state, and
 24 its production will contribute positively to the future of
 25 agriculture in the state.

26 (b) The infrastructure needed to process industrial hemp
 27 will increase business opportunities and new jobs in communities
 28 throughout the state.

29 (c) As a food crop, industrial hemp seeds and oil produced
 30 from the seeds have high nutritional value, including healthy
 31 fats and proteins.

32 (d) As a fiber crop, industrial hemp can be used in the
 33 manufacture of products such as clothing, building supplies, and
 34 animal bedding.

35 (e) As a fuel crop, industrial hemp seeds can be processed
 36 into biodiesel and stalks can be pelletized or flaked for
 37 burning or processed for cellulosic ethanol.

38 (f) The production of industrial hemp can play an
 39 important role in farm land management as part of a crop
 40 rotation system.

41 (2) As used in this section, the term:

42 (a) "Industrial hemp" means the plant *Cannabis sativa L.*
 43 and any part of such plant, whether growing or not, with a
 44 delta-9 tetrahydrocannabinol concentration of not more than 0.3
 45 percent on a dry-weight basis. Industrial hemp includes products
 46 imported under the Harmonized Tariff Schedule, 2013, of the
 47 United States International Trade Commission, including hemp
 48 seed per subheading 1207.99.03, hemp oil per subheading
 49 1515.90.80, oilcake per subheading 2306.90.01, true hemp per
 50 heading 5302, true hemp yarn per subheading 5308.20.00, and

51 woven fabrics of true hemp fibers per subheading 5311.00.40. A
52 plant that meets the definition of "industrial hemp" under this
53 subsection is not "cannabis" as defined in chapter 893.

54 (b) "Industrial hemp project" means a project associated
55 with an industrial hemp program that includes any aspect of
56 research, cultivation, harvesting, processing, testing,
57 marketing, commercial sales, and uses of approved industrial
58 hemp agricultural, industrial, and commercial products.

59 (c) "Qualified program personnel" means persons certified
60 by the Office of Industrial Hemp Program Compliance to work on
61 an industrial hemp project. At a minimum, a person applying for
62 certification must be 18 years of age or older, pass a criminal
63 background check, and be either employed by or enrolled in the
64 college or university.

65 (3) Any college or university in the state that has a
66 college of agriculture, upon approval by its board of trustees,
67 may engage in an industrial hemp program consistent with this
68 section and all other state and federal laws.

69 (4) Subject to an affirmative vote of the board of
70 trustees of a college or university specified in subsection (3),
71 an industrial hemp program shall be established at that college
72 or university. The purpose of the program is to conduct projects
73 related to the research, cultivation, harvesting, processing,
74 testing, marketing, commercial sales, and uses of industrial
75 hemp and to identify rural areas of the state that would benefit

76 from the commercialization of industrial hemp.

77 (5) In implementing an industrial hemp program, the
 78 college or university shall establish an Office of Industrial
 79 Hemp Program Compliance. The office shall manage the program and
 80 enforce rules regulating the program consistent with rules
 81 adopted by the department. The college or university shall adopt
 82 rules to ensure the proper operation and security of the
 83 program. At a minimum, the rules must:

84 (a) Designate the physical location of the industrial hemp
 85 project facility. Areas must be designated within the facility
 86 as general access or limited access. An area where industrial
 87 hemp is cultivated, processed, stored, or packaged, or where
 88 industrial hemp research is conducted, must be designated as
 89 limited access. Access to limited-access areas is restricted to
 90 qualified program personnel and authorized visitors accompanied
 91 at all times by qualified program personnel. All other areas of
 92 the project facility may be designated as general access and
 93 open to authorized visitors accompanied or not accompanied by
 94 qualified program personnel.

95 (b) Establish minimum security standards for the growing,
 96 handling, and processing of industrial hemp, including:

97 1. Lawful growing, planting, treating, fertilizing,
 98 pruning, and tending hemp plants.

99 2. Biotracking and testing industrial hemp plants to
 100 ensure that all samples comply with the chemical properties

101 defined in paragraph (2)(a).

102 3. Processing and disposal requirements for any waste
 103 containing any hemp material that does not meet the standards
 104 defined in paragraph (2)(a).

105 4. Storage, processing, product development, and
 106 transportation requirements for hemp material.

107 5. Packaging, labeling, and tracking requirements for hemp
 108 material.

109 (c) Facilitate coordination with state and local law
 110 enforcement agencies to ensure the program complies with this
 111 section and other state and federal laws.

112 (d) Establish a seed-to-product testing program and
 113 research protocols to ensure the proper chemical composition and
 114 labeling of hemp material.

115 (6)(a) To the fullest extent feasible, an industrial hemp
 116 program shall be financed through private resources. A college
 117 or university that implements an industrial hemp program
 118 pursuant to this section shall pursue and develop partnerships
 119 with private investors that demonstrate successful
 120 entrepreneurial experience with industrial hemp and that are
 121 interested in participating in the industrial hemp program.
 122 These partnerships shall be structured to minimize any risk to
 123 the college or university and to maximize the effectiveness of
 124 the program.

125 (b) To the fullest extent feasible, industrial hemp

126 projects should be implemented in rural agricultural areas of
 127 the state where the potential for enhancing agricultural
 128 economic development is high.

129 (7) Within 4 years after implementing an industrial hemp
 130 program, the college or university shall submit a report to the
 131 Governor, the President of the Senate, and the Speaker of the
 132 House of Representatives on the status of the program and any
 133 research related to the cultivation, harvesting, processing, and
 134 uses of industrial hemp, as well as identification of rural
 135 areas of the state that would benefit from the commercialization
 136 of industrial hemp and any recommendations for implementing such
 137 commercialization.

138 (8) The department shall adopt rules as required under 7
 139 C.F.R. s. 5940 of the United States Agricultural Act of 2014 to
 140 implement this section.

141 Section 2. This act shall take effect upon becoming a law.

AGRICULTURE & PROPERTY RIGHTS SUBCOMMITTEE

**HB 1217 by Massullo
Industrial Hemp Programs**

**AMENDMENT SUMMARY
March 21, 2017**

Amendment 1 by Rep. Albritton (Strike-all): The amendment replaces the language in the bill, which authorizes specified state colleges and universities to engage in industrial hemp programs, with an authorization that specified state universities engage in industrial hemp research projects.

Amendment 2 by Rep. Raburn (Line 140): The amendment provides a recurring \$150,000 appropriation from the General Revenue Fund to the Department of Agriculture and Consumer Services to fund industrial hemp programs pursuant to this act.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Property
 2 Rights Subcommittee
 3 Representative Albritton offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 570.085 Florida Statutes, is created to
 8 read:

9 570.085 Industrial hemp program.-

10 (1) The Legislature finds that:

11 (a) Industrial hemp may have the potential to be a viable,
 12 commercially grown crop in this state.

13 (b) Before industrial hemp plants are allowed to be
 14 cultivated commercially in this state, it must be proven
 15 scientifically and beyond a reasonable doubt by an industrial
 16 hemp research project pursuant to subsection (3) that any other



Amendment No. 1

17 commercially grown crop in this state is not put at greater risk
18 of disease or mortality due to the introduction of industrial
19 hemp cultivation.

20 (2) As used in this section, the term "industrial hemp"
21 means the plant *Cannabis sativa L.* and any part of such plant,
22 whether growing or not, with a delta-9 tetrahydrocannabinol
23 concentration of not more than 0.3 percent on a dry-weight
24 basis. Industrial hemp includes products imported under the
25 Harmonized Tariff Schedule, 2013, of the United States
26 International Trade Commission, including hemp seed per
27 subheading 1207.99.03, hemp oil per subheading 1515.90.80,
28 oilcake per subheading 2306.90.01, true hemp per heading 5302,
29 true hemp yarn per subheading 5308.20.00, and woven fabrics of
30 true hemp fibers per subheading 5311.00.40. A plant that meets
31 the definition of "industrial hemp" under this subsection is not
32 "cannabis" as defined in chapter 893.

33 (3) A university in this state that has a departmental or
34 generalization specialization in Florida agriculture may conduct
35 an industrial hemp research project consistent with this section
36 and all other state and federal laws. The research project shall
37 include hemp cultivation projects that specifically relate to
38 potential impacts on any other crops commercially grown in the
39 state, including, but not limited to, the impacts of plant
40 pests, diseases, and any related vectors as well as definitive
41 research on the invasive nature of industrial hemp, and may



Amendment No. 1

42 include hemp harvesting and processing. The research project
43 shall take place over a minimum of 10 semi-annual crop rotations
44 or 5 years, whichever is longer.

45 (4) Within 90 days after the end of an industrial hemp
46 research project pursuant to subsection (3), the university
47 shall submit a report to the Governor, the President of the
48 Senate, and the Speaker of the House of Representatives on the
49 findings of the research project.

50 (5) The department shall adopt rules as required under 7
51 C.F.R. s. 5940 of the United States Agricultural Act of 2014 to
52 implement this section.

53 Section 2. For the 2017-2018 fiscal year, and annually
54 thereafter through the 2022-2023 fiscal year, the sum of
55 \$150,000 in recurring funds shall be appropriated from the
56 General Revenue Fund to the Department of Agriculture and
57 Consumer Services for the purpose of funding industrial hemp
58 research projects pursuant to this act.

59 Section 3. This act shall take effect July 1, 2017.

60

61

62

T I T L E A M E N D M E N T

63

Remove everything before the enacting clause and insert:

64

A bill to be entitled

65

An act relating to industrial hemp programs; creating

66

s. 570.085, F.S.; providing legislative findings;



Amendment No. 1

67 providing a definition; authorizing specified state
68 universities to engage in industrial hemp research
69 projects; providing research project requirements;
70 requiring such universities to submit a report to the
71 Governor and Legislature; directing the Department of
72 Agriculture and Consumer Services to adopt rules;
73 providing appropriations; providing an effective date.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Property
 2 Rights Subcommittee
 3 Representative Raburn offered the following:

Amendment (with title amendment)

Between lines 140 and 141, insert:

7 Section 2. For the 2017-2018 fiscal year, and annually
 8 thereafter through the 2022-2023 fiscal year, the sum of
 9 \$150,000 in recurring funds shall be appropriated from the
 10 General Revenue Fund to the Department of Agriculture and
 11 Consumer Services for the purpose of funding industrial hemp
 12 programs pursuant to this act.

T I T L E A M E N D M E N T

Remove line 14 and insert:



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1217 (2017)

Amendment No. 2

17 Services to adopt specified rules; providing appropriations;
18 providing an