

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1031 Property Tax Payments
SPONSOR(S): Military & Local Affairs Policy Committee, Holder and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1580

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	13 Y, 0 N, As CS	Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council			
3)	Finance & Tax Council			
4)	Full Appropriations Council on Education & Economic Development			
5)				

SUMMARY ANALYSIS

Current law generally provides that real property taxes must bear interest at a rate of 18 percent per year from the date of delinquency until a certificate is sold. Also, current law provides that a county tax collector may allow the partial payment of a tax notice under certain conditions.

This bill authorizes the governing bodies of charter counties to limit the amount of interest charged for the unpaid portion of property taxes, and provides that current law still applies to non-charter counties.

In addition, this bill authorizes the governing bodies of charter counties to require tax collectors to accept three or six equal payments that add up to the total amount of taxes specified in the tax notice after the date of delinquency.

Because this bill creates a separate tax collection procedure for certain counties, this bill could be construed to violate Article III, section 11(a)(2) of the Florida Constitution, which prohibits general laws of local application pertaining to the assessment or collection of taxes for state or county purposes.

This bill does not appear to have a fiscal impact on state government.

This bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Property taxes become due on November 1 of each year and are considered delinquent by April 1 of the following year.

Section 197.172, F.S., provides that real property taxes must bear interest at a rate of 18 percent per year from the date of delinquency until a certificate is sold, except for the minimum charge of 3 percent for delinquent taxes paid prior to the sale of a tax certificate. In addition, this section provides for a personal property tax interest rate of 18 percent, as well as guidelines associated with the monthly calculation of accrued interest.

Section 197.373, F.S., provides that a county tax collector may allow partial payment of a tax notice when the part to be paid can be ascertained by legal description, such part is under contract for sale or has been transferred to a new owner, and the request is made by the person purchasing the property or the new owner or someone acting on behalf of the purchaser or owner. This request must be made at least 15 days prior to the sale of the tax certificate and, once requested by the tax collector, the property appraiser has 10 days to apportion the property into the parts sought to be paid or redeemed.

Article VIII, section 1(g) of the Florida Constitution, provides that:

“counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.”

There are currently 20 charter counties in Florida. The following table provides a list of these counties, along with the year each charter was adopted:¹

¹ This information in this section is found on the *Florida Association of Counties'* web site:

<http://www.fl-counties.com/aboutflco/chartercounties.shtml>.

<u>Charter Counties</u>	<u>Year Charter Was Adopted</u>
Alachua	1987
Brevard	1994
Broward	1975
Charlotte	1986
Clay	1991
Columbia	2002
Duval	1968
Hillsborough	1983
Lee	1998
Leon	2002
Miami-Dade	1957
Orange	1987
Osceola	1992
Palm Beach	1985
Pinellas	1980
Polk	1998
Sarasota	1971
Seminole	1989
Volusia	1971
Wakulla	2008

Article III, section 11(a)(2) of the Florida Constitution provides that “there shall be no special law or general law of local application pertaining to assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability.”

Proposed Changes

This bill authorizes the governing bodies of charter counties to limit the amount of interest charged for the unpaid portion of property taxes, and eliminates the minimum charge of 3 percent for late property tax payments. In addition, this bill provides that interest on the unpaid portion of property taxes would accrue daily.

This bill creates s. 197.172(2), F.S., to provide that current law relating to delinquent real property taxes still applies to non-charter counties.

In addition, this bill authorizes the governing bodies of charter counties to require tax collectors to accept three or six equal payments that add up to the total amount of taxes specified in the tax notice after the date of delinquency.

This bill does not address the following issues related to partial tax payments:

- it does not provide for the tax collector to inform taxpayers of the option of making partial payments;
- it does not specify what responsibility the tax collector has with respect to sending subsequent notices for partial payments;

- it does not specify how the discounts granted to early payments will apply to partial payments; and
- it does not specify how interest on delinquent taxes is calculated in a charter county that does not approve partial payments.

This bill has an effective date of July 1, 2009.

B. SECTION DIRECTORY:

Section 1: Amends s. 197.172, F.S., to authorize the governing body of a charter county to limit the amount of interest charged for unpaid property taxes, eliminates a minimum charge for late property tax payment in charter counties, and provides that interest on the unpaid portion of property taxes accrues daily in charter counties.

Section 2: Creates s. 197.373(2), F.S., to authorize the governing body of charter county to require tax collectors to accept partial payments of property taxes.

Section 3: Provides an effective date of July 1, 2009.

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:

Charter counties that elect to implement the provisions of this bill may experience a revenue decrease by limiting the amount of interest charged for unpaid property taxes, and by eliminating a minimum charge for late property tax payments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Property owners with delinquent property taxes may see a reduction in interest charges in charter counties that elect to limit the interest charged for unpaid property taxes.

D. FISCAL COMMENTS:

DOR has indicated that this bill would not have an operational impact on the agency.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

Because this bill creates a separate tax collection procedure for certain counties, this bill could be construed to violate Article III, section 11(a)(2) of the Florida Constitution, which prohibits general laws of local application pertaining to the assessment or collection of taxes for state or county purposes.

B. RULE-MAKING AUTHORITY:

The Department of Revenue (DOR) has indicated that revisions to Rules 12D-13.004, F.A.C., and 12D-13.007, F.A.C., would be needed as a result of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2009, the Military & Local Affairs Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute.

This amendment changed the authorized number of payments to “three or six equal payments that add up to the total amount of taxes.” In addition, this amendment made a change recommended by DOR to replace the phrase “the deadline specified in the tax notice” with “after the date of delinquency.”

This analysis reflects the amendment adopted by the Military & Local Affairs Policy Committee.