

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 295 Disclosure of Estimated Ad Valorem Taxes

SPONSOR(S): Ways & Means Committee, Anderson

TIED BILLS: **IDEN./SIM. BILLS:** SB 380

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	15 Y, 0 N	Thompson	Anstead
2) Ways & Means Committee	21 Y, 0 N, As CS	Rexford	Aldridge
3) Commerce Committee			

SUMMARY ANALYSIS

The marketplace for real estate has shifted over time in favor of online property listings. There are many large online platforms which list real estate, the most familiar of which being Zillow, Realtor.com, Trulia, and Redfin. Many individual realtors have websites which include listings of real estate for sale. These platforms are not unified in the information displayed to the user. Some include the property's public tax history, a link to the county property appraiser's website, and an estimate of property taxes. There is currently no requirement that a real property listing platform include a property tax estimate or link to a property appraiser's website.

Estimating an individual's tax estimate requires several pieces of information. These might include the parcel's millage rate, applicable exemptions, the property's value, applicable classified property uses, and other assessments on the property. While there is no requirement to this effect, some property appraisers include on their website a tool or worksheet to assist homeowners in estimating property taxes.

The bill requires online listings of residential property to include an ad valorem tax estimator tool which calculates the ad valorem tax that would be due on the property at current rates, as follows:

- Requires residential property visible on a listing platform to include the estimated ad valorem taxes.
- Prohibits the current owner's ad valorem taxes from being displayed or used to calculate the estimated ad valorem taxes, unless the current owner's ad valorem taxes or similar historical data existed on the platform as of January 1, 2024, and as long as this information is not displayed more prominently than the tax estimate for the new buyer.
- Provides that if not using a tax estimator or buyer payment calculator, the listing platform is required to include a link to the local property appraiser's tax estimator.
- Requires the Department of Revenue (DOR) to maintain links to each property appraiser's home page and tax estimator.
- Prohibits printed listing materials and social media posts from including the current owner's ad valorem taxes.
- Requires DOR to annually develop a formula that must be used by a listing platform if the ad valorem taxes are estimated using a tax estimator or buyer payment calculator.
- Requires each property appraiser to provide DOR with any information needed to develop the formula.
- Beginning December 15, 2024, and annually thereafter, requires DOR to publish on its website the formula and the information collected from each property appraiser in accordance with the bill.
- Authorizes DOR to adopt rules to implement its responsibilities regarding the formula.
- Provides that listing platforms and their licensees are not liable, and no cause of action is created, for errors in the accuracy of the estimates, as long as the platform or licensee is compliant with law.

The bill does not appear to have a fiscal impact on state or local government.

Except as otherwise provided, the effective date of the bill is January 1, 2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Online Real Property Listing Platforms

The marketplace for real estate has shifted over time in favor of online listings of property. More than half of all homebuyers in 2022 found the home they purchased on the internet.¹ There are many large online platforms which list real estate, the most familiar of which being Zillow, Realtor.com, Trulia, and Redfin. In addition to large platforms, many individual realtors have websites which include listings of real estate for sale.²

Online real property listing platforms are not unified in the information displayed to the user. Some, but not all, include the property's public tax history, a link to the county property appraiser's website, and an estimate of property taxes.³

There is currently no requirement that a real property listing platform include a property tax estimate or link to a property appraiser's website.⁴

Disclosure of Ad Valorem Taxes to Prospective Purchasers

Current law governing the "**disclosure**" of ad valorem taxes to prospective purchasers of residential property requires a prospective purchaser to be presented a **disclosure** summary at or before execution of the contract for sale. Unless a substantially similar disclosure summary is included in the contract for sale, a separate disclosure summary must be attached to the contract for sale. The disclosure summary, whether separate or included in the contract, must be in a form substantially similar to the following:⁵

PROPERTY TAX DISCLOSURE SUMMARY

BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

The law provides that, unless included in the contract, the disclosure summary must be provided by the seller. If the disclosure summary is not included in the contract for sale, the contract for sale must refer to and incorporate by reference the disclosure summary and include, in prominent language, a statement that the potential purchaser should not execute the contract until he or she has read the disclosure summary.⁶

¹ National Ass'n of Realtors, *Quick Real Estate Statistics*, Nov. 3, 2022, available at <https://www.nar.realtor/research-and-statistics/quick-real-estate-statistics> (last visited Feb. 8, 2024).

² *Id.* The National Association of Realtors posits that it has more than 1,600,000 members, 70% of brokers and sales agents have a website, and 81% of their members have their own listings on their website.

³ For example, Zillow's listings include all of the listed information, and the website's mortgage calculator includes estimated property taxes based on the home's value. <https://www.zillowhomeloans.com/calculators/mortgage-calculator/> (last visited Jan. 18, 2024).

⁴ Florida Department of Revenue, Analysis of 2024 HB 295, p. 2 (Feb. 8, 2023).

⁵ S. 689.261(1), F.S.

⁶ S. 689.261(2), F.S.

Property Tax Estimates

Estimating an individual's tax estimate requires several pieces of information. These might include the parcel's millage rate, applicable exemptions, the property's value, applicable classified property uses, and other assessments on the property.⁷ While there is no requirement to this effect, some property appraisers include on their website a tool or worksheet to assist homeowners in estimating property taxes.⁸

Ad Valorem Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.⁹ The property appraiser annually determines the "just value"¹⁰ of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."¹¹ Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,¹² and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.¹³

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;¹⁴ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often results in lower assessments. Properties that receive classified use treatment in Florida include agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;¹⁵ land used for conservation purposes;¹⁶ historic properties when authorized by the county or municipality;¹⁷ and certain working waterfront property.¹⁸

Property Tax Exemptions for Homesteads

A homestead exemption is a reduction of assessed value, and therefore tax liability, based on the individual's maintaining a property as their primary residence. Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹⁹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.²⁰ This exemption does not apply to ad valorem taxes levied by school districts.

⁷ Florida Department of Revenue, *Property Tax Information for First-Time Florida Homebuyers*, available at <https://floridarevenue.com/property/Documents/pt107.pdf> (last visited Feb 8, 2024).

⁸ See, e.g., Miami-Dade County, *Tax Estimator*, available at <https://www.miamidade.gov/Apps/PA/PAOnlineTools/Taxes/TaxEstimator.aspx> (last visited Feb. 8, 2024).

⁹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

¹⁰ Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

¹¹ See s. 192.001(2) and (16), F.S.

¹² Art. VII, s. 1(a), Fla. Const.

¹³ See art. VII, s. 4, Fla. Const.

¹⁴ Section 193.011(2), F.S.

¹⁵ Art. VII, s. 4(a), Fla. Const.

¹⁶ Art. VII, s. 4(b), Fla. Const.

¹⁷ Art. VII, s. 4(e), Fla. Const.

¹⁸ Art. VII, s. 4(j), Fla. Const.

¹⁹ Art. VII, s. 6(a), Fla. Const., and s. 196.031, F.S.

²⁰ Section 196.031(1)(b), F.S.

The Florida Constitution authorizes various additional homestead exemptions, either directly through legislation or through statutory permission for local governments to enact. These homesteads are based largely on the status or profession of the person maintaining the homestead property.²¹

Real Estate Sales Associates and Brokers

The Florida Real Estate Commission (FREC), within the Division of Real Estate (Division), at DBPR, administers and enforces real estate licensing laws applicable to real estate brokers²² and sales associates²³ (real estate agents).²⁴ The FREC is also empowered to adopt rules that enable it to implement its statutorily authorized duties and responsibilities.²⁵

A person who operates as a broker or sales associate in Florida without having a valid, current, and active license commits a felony of the third degree.²⁶ FREC may also discipline licensed real estate brokers and sales associates if FREC finds that the broker or sales associate violated the practice act, which violations may include:²⁷

- Engaging in dishonest, fraudulent transactions;
- Advertising property or services in a manner which is fraudulent, false, deceptive, or misleading in form or content;
- Making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession;
- Failing to include in any written listing agreement a definite expiration date, description of the property, price and terms, fee or commission, and a proper signature of the principal; or
- Failing to perform any statutory or legal obligation placed upon a licensee.

The FREC may:²⁸

- Deny an application for licensure, registration, or permit, or renewal; may place a licensee, registrant, or permittee on probation;
- Suspend a license, registration, or permit for a period not exceeding 10 years;
- Revoke a license, registration, or permit;
- Impose an administrative fine not to exceed \$5,000 for each count or separate offense; and
- Issue a reprimand.

Effect of Proposed Changes

The bill defines the term "listing platform" as any public-facing online real property listing platform, including, but not limited to, websites, web applications, and mobile applications.

The bill defines the term "property" as residential real property located within the state.

The bill requires any residential property visible on a listing platform to include the estimated ad valorem taxes for such property.

The bill prohibits the current owner's ad valorem taxes from being displayed or used to calculate the estimated ad valorem taxes, unless the current owner's ad valorem taxes or similar historical data existed on the platform as of January 1, 2024. If current owner's ad valorem taxes or similar historical

²¹ See, e.g., art. VII, s. 6(d), Fla. Const.; Ss. 196.081, 196.082, 196.091, and 196.102, F.S.

²² "Broker" means, in pertinent part, a person who, for another, and for compensation or valuable consideration directly or indirectly paid or promised, expressly or implied, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents any real property or an interest in or concerning the same; or who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in such business. S. 475.01(1)(a), F.S.

²³ "Sales associate" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of another person. S. 475.01(1)(j), F.S.

²⁴ Ch. 475, Part I, F.S.

²⁵ These rules are contained in ch. 61J2, F.A.C.

²⁶ S. 475.42(1)(a), F.S.

²⁷ Ss. 475.25 and s. 455.227, F.S.

²⁸ S. 475.25, F.S.

data is displayed, this information cannot be displayed more prominently than the tax estimate for the new buyer.

The bill provides that if the ad valorem taxes are estimated using a tax estimator or buyer payment calculator, the listing platform must calculate and display the ad valorem taxes that would be due if the purchaser were taxed on the listing price of the property at current millage rates using the data and formula published by Department of Revenue (DOR).

The bill provides that the use of such data and formula constitutes a reasonable estimate of ad valorem taxes.

The bill requires the listing platform to include a disclaimer next to the estimated ad valorem taxes that the millage rates of applicable taxing authorities may vary within a county and that the estimated ad valorem taxes do not include all applicable non-ad valorem assessments or exemptions, discounts, and other tax benefits, including, but not limited to, transfer of the homestead assessment difference under s. 4, Art. VII of the State Constitution.

The bill provides that if ad valorem taxes are not estimated using a tax estimator or buyer payment calculator, the listing platform is required to include a link to the property appraiser's tax estimator for the county in which the property is located, if available, or to such property appraiser's home page.

The bill requires DOR to maintain a table of links to each property appraiser's home page and tax estimator, if available, on its website.

The bill prohibits printed listing materials and social media postings from including the current owner's ad valorem taxes.

The bill provides that listing platforms and realtor licensees of platforms are not liable, and no cause of action is created, for errors in the accuracy of the estimates, as long as the listing platform or licensee is compliant with provisions of the law created by the bill.

The bill requires DOR to annually develop a formula that may be used by a listing platform to calculate the estimated ad valorem taxes required under the bill.

The bill requires DOR to require each property appraiser to provide DOR with any information needed to develop the formula, including, at a minimum, the county name, tax district code, summary school millage rate, and summary millage rate for all other applicable taxing authorities.

Beginning December 15, 2024, and annually thereafter, the bill requires DOR to publish the formula and the information collected from each property appraiser under the bill on its website.

The bill authorizes DOR to adopt rules to implement its responsibilities regarding the formula to be used by a listing platform to calculate the estimated ad valorem taxes required under the bill.

B. SECTION DIRECTORY:

Section 1: Amends s. 689.261, F.S., relating to sale of residential property; disclosure of ad valorem taxes to prospective purchaser.

Section 2: Provides an effective date of January 1, 2025.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to DOR, the bill will not have an impact on its expenditures and operational expenses.²⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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 action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DOR to adopt rules to implement its responsibilities regarding the formula to be used by a listing platform to calculate the estimated ad valorem taxes. According to DOR, it “will promulgate rules to implement s. 689.261(3)(d), F.S.”³⁰

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 14, 2024, the Ways & Means Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Added a definition of “property” to clarify that the property tax disclosures created by the bill only apply to residential properties.
- Removed the requirement that a listing platform include a calculation of the ad valorem taxes both with and without the homestead exemption.

²⁹ Florida Department of Revenue, Analysis of 2024 HB 295, p. 3 (Nov. 15, 2023).

³⁰ *Id.*

- Added the requirement that social media postings pertaining to a listed property may not include the current owner's ad valorem taxes in the post.
- Added language to clarify that listing platforms using tax estimators or buyer payment calculators can include historical tax data, including the current owner's ad valorem taxes, on their platform if similar historical data existed on the platform as of January 1, 2024, and as long as the historical data is not displayed more prominently than the tax estimate for the new buyer.
- Added language to clarify that listing platforms and realtor licensees of platforms are not liable, and no cause of action is created, for errors in the accuracy of the ad valorem estimates, as long as the platform or licensee is compliant with the provisions of law created by the bill.
- Changed the effective date of the bill to January 1, 2025.

The analysis is drafted to the committee substitute as passed by the Ways & Means Committee.