



2011 Officers

President

Lynn Vilmar, RPA
*BOMA Greater
Tampa Bay*
(727) 573-7778

Vice-President

Richard King
BOMA SW Florida
(954) 927-6119

Treasurer

Ron Macklin
*BOMA Ft.
Lauderdale/Palm
Beaches*
(305) 373-0021

Secretary

Dianne Crouse
BOMA Orlando
(321) 257-0311

Past President

Jack Goodrich, RPA
BOMA Miami-Dade
(305) 670-3056

Executive Director

Melanie Schrul
BOMA Florida
(561) 395-6664

Tax Chair

Lacey Willard
Hlacey.willard@bcr.com

TAXES EFFECTING COMMERCIAL PROPERTY

For a summary of BOMA's stance See Exhibit A: 2011 Bills Pertaining to Taxation Impacting Commercial Real Estate

BACKGROUND:

A vibrant Commercial Real Estate Industry is a key contributor to economic and employment opportunities for individuals, families, communities, businesses and institutions. Developing, managing, and maintaining commercial office, retail, and industrial facilities provides "housing venues" for public and private employers and employees. There is an established correlation between a healthy commercial real estate industry and thriving, economically viable, secure communities.

BOMA members recognize the prominent role their industry plays in the economic well-being of our communities and the quality of life that has become synonymous with the State of Florida. We are committed to the continued enhancement of professional and technological skills as tools for attaining efficiency and stability.

A major source of revenue to the State of Florida is sales tax from occupied commercial properties. Increased occupancy equates to increased State revenue. Permit fees, license fees, concurrency fees, and impact fees fund a multitude of public improvement projects including buildings, utilities, and transportation.

ISSUES:

Operating expenses, already at an all time high, continue to increase in the categories of materials, insurance, utilities, and environmentally protective programs. In a typical commercial building, the single highest component in operating expense is property tax, which has been publicly recognized as excessive.

A critical saturation point has been reached relative to operational costs. As operating expenses, including taxes, have accelerated, vacancy has increased, resulting in reduced revenues for building upkeep, and reduced tax revenue to the State.

Anticipated return on investment in commercial real estate is discouraging to investors. Economically effective operation of commercial facilities is becoming increasingly difficult. Further increases in tax or other expense components will preclude entrepreneurial consideration of Florida as a future location for office development or employer relocation. Last year, the legislature passed a law that shifted the burden of proof in an ad valorem property tax challenge from the property owner to the appraiser. That change was long overdue. This year, Senate Bill 836 has already been introduced that would "undue" all of the recent successes obtained on behalf of the taxpayer. The bill, if passed, will require the taxpayer to provide burdensome information, including an estimate of value at the time of filing, and mortgage, insurance and other information that really has no bearing on ad valorem taxes.

The past two years have witnessed local government increases in license, impact, inspection, affordable housing, and concurrency fees for commercial developers and investors. These increases are based on the faulty assumption that commercial property owners have access to a "bottomless pool of funds". Failure to recognize the negative impact on employment opportunity, personal income, and overall quality-of-life due to an overburdened commercial real estate industry could result in economic disaster.

Building Owners and Managers Association of Florida

7050 West Palmetto Park Road, Suite 15-668
Boca Raton, Florida 33433 * (561) 395-6664 * (561) 395-6692 fax
Melanie@bomaflorida.org * www.bomaflorida.org

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BOMA'S POSITION:

- (1) Revise tax regulations to create fair and equitable participation among business and residential properties, thereby eliminating disproportionate burden currently imposed on commercial properties.
- (2) Place limits on local government spending.
- (3) Mandate the *Income Approach* as the basis for commercial appraisals. Reasonable guidelines for challenging valuations should include open access to appraisal documentation and payment of litigation costs by the prevailing party.
- (4) Presumption of proof should be placed on the State, not the tax payer.
- (5) Taxes added to previously untaxed services severely impair the value and viability of commercial properties.
- (6) Maintain a clear tie between property values and property taxes.
- (7) BOMA is committed to tracking Senate and House bills that impact commercial real estate interests and, for the 2011 session, we will be closely following bills pertaining to taxation. As the bills further develop during committee meetings, BOMA representatives will offer comments, support, or response in line with our stated positions.

ACTION REQUESTED:

BOMA Florida is committed to the preservation of Florida's outstanding quality of life for all citizens. BOMA Florida is prepared to volunteer time and talent to work with other concerned citizens in evaluating needs, identifying resources, and developing proposed courses of action that will ensure economic strength and growth for our communities and State.

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EXHIBIT A:
2011 Bills Pertaining to Taxation Impacting Commercial Real Estate

**Bolded items are of particular interest to BOMA-Florida*

BILL #	BILL TITLE	BOMA POSITION
S 0210	Homestead Property Assessed Value	Opposed; proposal does not maintain a clear tie between property values and property taxes
S 0214	Deepwater Horizon Oil Spill/Tax Relief	Monitoring
S 0216	Deepwater Horizon Oil Disaster/Federal Income Tax	Monitoring
S 0220	Unemployment Assistance/Oil Spill	Monitoring
S 0268	Super Enterprise Zones	Monitoring
S 0270	Property Tax Discounts for Early Payment	Support; proposal allows for increased discounts for early payment
S 0376	Tax on Sales, Use, and Other Transactions	Monitoring; proposal pertains to transient <i>rental</i> accommodations
S 0382	Tax Certificates	Monitoring; proposal allows tax collectors to recover reimbursement for fees paid to vendors
S 0384	Tangible Personal Property Taxes	Monitoring; proposal pertains to rental of heavy equipment
S 0390	Homestead Property Assessed Value	Opposed; proposal does not maintain a clear tie between property values and property taxes
S 0412	Property Tax Exemption/Renewable Energy	Support; proposal allows for property tax exemption for a renewable energy source device and the property on which the device is installed and operated
S 0456	Working Waterfront Property	Monitoring; defining working waterfront property
S 0466	Tourist Development Tax	Monitoring; proposal provides additional bonding authority for a certain additional tourist development tax
S 0478	Property Taxation	Monitoring; proposal allows tolling the statute of limitations relating to proceedings involving tax lien certificates or tax deeds during the period of an intervening bankruptcy
S 0506	Economic Development	Monitoring; authorizing the board of county commissioners of a charter county to call and hold a referendum to determine whether to grant economic development ad valorem tax exemptions
S 0508	Tax on Sales, Use, and Other Transactions	Monitoring; proposal establishes an annual 3-day sales tax holiday
S 0582	Local Business Taxes	Monitoring; pertaining to defining independent contractor
S 0596	Homestead Property Assessments	Monitoring; regarding just value of homesteaded property
S 0616	Ad Valorem Taxes/Maximum Amount	Monitoring; pertains to the maximum amount of ad valorem taxes that may be collected on a parcel of real property
S 0658	Homestead/Nonhomestead Property	Opposed; proposal does not maintain a clear tie between property values and property taxes
S 0790	Tax Credits	Monitoring; revising the priority of tax credits that may be taken against the corporate income tax or the franchise tax
S 0814	Ad Valorem Tax Exemptions	Monitoring; relating to ad valorem tax exemptions for real property used for charitable purposes
H 0117	Homestead Property Assessments	Monitoring; regarding just value of homesteaded property
H 0141	Tourist Development Tax	Monitoring; proposal provides additional bonding authority for a certain additional tourist development tax
H 0143	Tax Credits	Monitoring; revising the priority of tax credits that may be taken against the corporate income tax or the franchise tax
H 0161	Tax Deeds	Monitoring; proposal allows tax collectors to recover reimbursement for fees paid to vendors
H 0183	Estate, Inheritance, and Other Death Taxes	Monitoring
H 0243	Tangible Personal Property Taxation	Monitoring; proposal pertains to rental of heavy equipment
H 0273	Limitations on Annual Assessment Increases	Opposed; proposal does not maintain a clear tie between property values and property taxes
H 0275	Ad Valorem Tax Exemptions	Monitoring; relating to ad valorem tax exemptions for real property used for charitable purposes
H 0287	Economic Development	Monitoring; authorizing the board of county commissioners of a charter county to call and hold a referendum to determine whether to grant economic development ad valorem tax exemptions
H 0281	Property Taxation	Monitoring; requiring payment of a specified percentage of a tax bill before an action contesting a tax assessment may be brought in circuit court
H 0311	Local Business Taxes	Monitoring; pertaining to defining independent contractor
H 0355	Property Taxation	Monitoring; proposal allows tolling the statute of limitations relating to proceedings involving tax lien certificates or tax deeds during the period of an intervening bankruptcy
H 0381	Property Assessment; Homestead Value Decline; Nonhomestead Increase Limitation Reduction; Additional Homestead Exemption	Opposed; proposal does not maintain a clear tie between property values and property taxes
H 0455	Streamlined Sales and Use Tax Agreement	Monitoring; specifying certain facilities that are exempt from the transient rentals tax
H 0461	Tax on Sales, Use, and Other Transactions	Monitoring; pertaining to tax on firearms
H 0475	Corporate Income Tax Credits	Monitoring; providing for credits against the corporate income tax for contributions to public schools for certain purposes
H 0493	Tax on Sales, Use & Other Transactions	Monitoring; proposal pertains to transient <i>rental</i> accommodations
H 0503	Reduction & Future Repeal/Corporate Income Tax	Monitoring; pertaining to incremental reduction and future repeal of the corporate income tax
H 0511	Tax Discounts	Support; proposal allows for increased discounts for early payment
H 0531	Assessment of Residential Real Property	Monitoring
H 0537	Property Taxes/Homestead and Nonhomestead Property	Opposed; proposal does not maintain a clear tie between property values and property taxes
H 0539	Deepwater Horizon Oil Spill/Tax Relief	Monitoring

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Talking Points on Tax Caps

1. *What is BOMA-Florida's position on caps on commercial property taxes?*

BOMA Florida has an interest in avoiding dramatically disproportionate tax burdens among property owners in the state of Florida. Consequences of a disproportionate tax burden have been outlined by Todd D. Jones, as stated in the March 2010 Florida Tax Watch article *When Good Policies Go Bad: Unintended Economic Consequences of Assessment Caps*,¹ "...by severing the connection between property values and property taxes, assessment limits impose disproportionate tax obligations on the owners of otherwise identical properties, **reduce economic growth** by distorting taxpayer decision making, and **greatly reduce the transparency** and accountability of the property tax system as a whole, which contributes to the public's continued ire."

Additionally, reducing economic growth is directly in opposition to the commercial real estate industry's efforts to climb out of this recession, discourages property owners who have accumulated a substantial portion of sheltered equity from selling, and **encourages devaluation of newly constructed structures**, thus **reducing investment in the community**.

2. *Does BOMA Florida support caps on residential properties?*

BOMA Florida represents the interests of commercial property owners and managers. While a cap on residential properties is seemingly beyond the sights of BOMA Florida, a cap on residential properties potentially generates an unfair burden on commercial properties through disproportionate taxation. Commercial properties may bear the burden of under-assessed residential structures, thus affecting commercial property owners and managers.

¹ Available at: <http://www.floridatxwatch.org/resources/pdf/03012010AssessmentCaps.pdf>.