

STORAGE NAME: h0799z.ca
DATE: May 16, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS**

BILL #: HB 799

RELATING TO: Ad Valorem Tax Exemptions/Social Security Numbers

SPONSOR(S): Representative J. Miller and Others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 1
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill repeals the requirement that an applicant for homestead tax exemption must provide his or her social security number as a condition of receiving the exemption. The bill deletes the requirement that property appraisers submit to the Department of Revenue (DOR) social security numbers from all homestead exemption applications for the 2000 tax year and thereafter. The bill also repeals the requirement that assessment rolls submitted by property appraisers include social security numbers.

To the extent this bill limits DOR's ability to use submitted social security numbers to cross-check against intangible personal property records, anticipated revenues from the intangible property tax will decrease. This bill may result in an increase in homestead exemption fraud, and local government revenues may decrease, or millage rates may increase to compensate for the lost revenue. The Revenue Estimating Conference has not addressed this bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Florida Law

Homestead & Other Exemptions

Section 6, Article VII of the Florida Constitution grants a homestead exemption to every person who has legal or equitable title to real estate and maintains his or her permanent residence thereon, upon establishment of right thereto in the manner prescribed by law. The exemption is also granted to the owner if a legal or natural dependent is a permanent resident of the property. Section 196.031, F.S., provides the statutory authority for the exemption.

Section 3, Article VII of the Florida Constitution permits exemptions, pursuant to general law, to widows and widowers, to the blind, and to those totally and permanently disabled. Florida Statutes grant an exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans, s. 196.081, F.S.; an exemption for disabled veterans confined to wheelchairs, s. 196.091, F.S.; an exemption for totally and permanently disabled persons, s. 196.101, F.S.; and an exemption for widows, widowers, blind persons, and persons totally and permanently disabled, s. 196.202, F.S.

Effective January 1, 1994, subsection (c) of Section 4, Article VII, of the Florida Constitution provides a limitation to the extent that assessments for homesteads may be changed annually on January 1 of each year. Changes in assessment may not exceed the lower of 3 percent of the assessment for the prior year or the percent change in the Consumer Price Index. Section 193.155, F.S., implements subsection (c) of Section 4, Article VII, of the Florida Constitution.

Homestead Exemption/Social Security Numbers

Section 196.011, F.S., requires an annual application by March 1, to obtain any real or personal property tax exemption, but authorizes counties to waive the annual application or to require only short form applications.

Chapter 94-353, L.O.F., amended section 196.011, F.S., to require the annual application for homestead exemptions to contain the social security number of the applicant and the applicant's spouse. The statute also was amended to require property appraisers to obtain

the social security numbers for all persons currently receiving homestead exemptions and to submit them to the department for exemptions granted in the year 2000. In addition, section 193.1142, F.S., was amended by chapter 94-353, L.O.F., to require property appraisers to include social security numbers on the assessment roll. According to the House of Representatives, Committee on Finance & Taxation, 1994 Final Bill Analysis and Economic Impact Statement, the "purpose of obtaining the numbers is to increase compliance with the intangibles tax and to reduce erroneous and fraudulent ad valorem exemptions."

Section 196.011(1)(b), F.S., requires the annual application form for homestead exemptions granted pursuant to ss. 196.031, 196.081, 196.091, 196.101, and 196.202, F.S., to include a space for the applicant to list the social security number of the applicant and the applicant's spouse. The exemptions for which social security numbers are required include the \$25,000 Homestead Exemption (s. 196.031, F.S.), the Disabled Veteran's Homestead Exemptions (ss.196.081 and 196.091, F.S.), the exemption for totally permanently disabled persons (s. 196.101, F.S.), and the \$500 exemption for widows, widowers, blind persons, and totally and permanently disabled persons (s. 196.202, F.S.). If the applicant fails to include the required social security numbers, the property appraiser must contact the applicant, who will have until April 1, to complete the application. Failure to provide the social security numbers constitutes a waiver of the exemption for the year, except as otherwise provided in s. 196.011, F.S.

For exemptions enumerated in section 196.011(1)(b), F.S., granted for the 2000 tax year and thereafter, s. 196.011(11), F.S., provides that the social security numbers of the applicant and the applicant's spouse, if any, are required and must be submitted to DOR. The subsection also grants property appraisers the authority to require short form applications to include the social security numbers and requires such short forms include social security numbers after the year 2000. This provision also authorizes the property appraiser to require refiling of applications in counties where the annual application requirement has been waived.

Section 193.114(6), F.S., provides that social security numbers submitted under s. 196.011(1), F.S., are confidential and exempt from Section 24(a), Article I of the State Constitution and the provisions of s. 119.07(1), F.S.

The Florida Attorney General recently issued an advisory legal opinion (AGO 99-59) addressing the question: "Does section 196.11(11), Florida Statutes, require that social security numbers be provided for the tax year 2000 on homestead exemption renewals that have been automatically renewed for up to ten years and for which no social security numbers previously have been provided?" In summary, the Attorney General responded in the affirmative.

The Attorney General notes that the first sentence of section 196.11(11), F.S., expressly states that social security numbers are required for the exemptions enumerated in section 196.011(1)(b), F.S., granted for the 2000 tax year and thereafter. Further, the opinion states that it "does not refer to, and is therefore not limited to, only those applications that are filed pursuant to section 196.011(1)(b); rather, the requirement applies to all exemptions enumerated in that section granted for the 2000 tax year and thereafter. Regarding the provision in section 196.011(11), F.S., providing that in those counties where the annual application requirements have been waived the property appraiser "may require" refiling of an application to obtain such information, the opinion states that this language "merely provides a method by which the property appraiser may accomplish the mandate established in the first sentence of section 196.011(11), Florida Statutes." It does

not, according to the opinion, "remove or alter the requirement that social security numbers are required for all exemptions enumerated in section 196.011(1)(b), Florida Statutes, granted for the 2000 tax year and thereafter."

Federal Law

The Tax Reform Act of 1976 amended the Social Security Act to specify that any state in the administration of any tax, among other purposes, may use the social security account numbers to establish the identification of individuals affected by such law, and may require an individual to furnish to such state their social security account number [42 U.S.C. 405(c)(2)(C)(I)]. The act also provided that to the extent that any provision of federal law is inconsistent with this policy, such provision is "null, void, and of no effect" [Section 1211, Public Law 94-455]. This last provisions was important because the Federal Privacy Act of 1974 prohibited states from denying to individuals any right, benefit, or privilege, with some exceptions, because the individual refuses to provide a social security number. In addition to permitting states to utilize social security numbers for the purpose of establishing identification of individuals affected by laws relating to taxation, the Tax Reform Act of 1976 also permits the utilization of social security numbers for identification purposes relating to child support enforcement, general public assistance/welfare, and motor vehicle or driver license registration.

Federal law requires that social security numbers be confidential. Section 193.114(6), Florida Statutes, provides that social security numbers submitted on homestead exemption applications, pursuant to s. 196.011(1), F.S., are confidential and exempt from the public access provisions of the Public Records Law and section 24(a), Article 1, of the State Constitution. Copies of documents containing the numbers furnished or sold by the property appraiser, or copies of documents containing social security numbers provided by the department or any state or local agency for inspection or examination by the public, must exclude those social security numbers. However, copies provided to DOR may include those social security numbers.

Other Florida Statutes Requiring or Permitting Social Security Numbers

There are many other statutes in Florida that require or permit collecting social security numbers. Some examples are:

Required:

1. Section 61.052, F.S., provides that in a dissolution of marriage, each party must provide his or her social security number, as a separate attachment to the initial pleadings. This information can only be used for public assistance child support enforcement purposes.
2. Section 205.0535, F.S., provides that applicants for local occupational licenses must provide either a social security number or federal employee identification number.
3. Section 414.095, F.S., provides that when applying for the WAGES Program each member of a family must provide the Department of Children and Family Services with the member's social security number or proof of application for a social security number.

4. Section 455.213, F.S., requires any person desiring to be licensed by the Department of Business & Professional Regulation must submit an application for licensure including the applicant's social security number.
5. Section 455.564, F.S., requires any person desiring to be licensed in a profession within the jurisdiction of the Department of Health must apply to take the licensure examination. The application must include the social security number of the applicant.
6. Section 626.171, F.S., requires a written application including the applicant's social security number for persons wishing to apply to the Department of Insurance for a license as agent, customer representative, solicitor, adjuster, insurance agency, service representative, managing general agent, reinsurance intermediary, or claims investigator.
7. Section 741.04, F.S., requires in the affidavit to apply for a marriage license, both parties to provide their social security numbers in addition to other requirements in law. This information is limited to public assistance child support enforcement purposes.

Permitted:

1. Section 55.01, F.S., provides for the address and social security number, if known to the prevailing party, on each person against whom a judgment is rendered.
2. Section 97.052, F.S., provides that social security numbers may be elicited for voter registration purposes. This is optional to the voter.
3. Section 229.559, F.S., requires school districts to request social security numbers from each public school student, however, the student is not required to provide the social security number as a condition of enrollment or graduation.

C. EFFECT OF PROPOSED CHANGES:

This bill repeals the requirement that an applicant for homestead tax exemption must provide his or her social security number as a condition of receiving the exemption. The bill deletes the requirement that property appraisers submit to DOR social security numbers from all homestead exemption applications for the 2000 tax year and thereafter. The bill repeals the requirement that assessment rolls submitted by property appraisers include social security numbers. The bill also revises the current public records exemption of social security numbers submitted with homestead exemption applications to specify that social security numbers submitted prior to the effective date of this act are exempt.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Paragraph (b) of subsection (1) and subsection (11) of s. 196.011, F.S., are repealed.

Section 2. Subsection (6) of s. 193.114, F.S., is amended to revise the current public records exemption of social security numbers submitted under s. 196.011(1), F.S., to specify that social security numbers submitted under s. 196.011(1), F.S., prior to the effective date of this act are exempt.

Section 3. Subsection (1) of s. 193.1142, F.S., is amended to delete language directing DOR to require assessment rolls to include the social security numbers required under s. 196.011, F.S.

Section 4. This section provides that the act shall take effect upon becoming law shall apply beginning with the 2000 tax year.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent DOR will not be able to use the submitted social security numbers to cross-check against intangible personal property records, anticipated collections from the intangible tax may decrease.

2. Expenditures:

DOR indicates the bill has no fiscal impact on the department.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

When enacted in 1994, the provisions repealed by this bill were anticipated to increase tax compliance, with a resulting increase in tax revenues for local governments. This bill may result in an increase in homestead exemption fraud, and local government revenues may decrease, or millage rates may increase to compensate for the lost revenue.

During the 1999 Legislative Session, the Revenue Estimating Conference estimated SB 884, which is similar to HB 799, to result in a recurring loss of \$26 million in local ad valorem tax revenue, with a one-time loss of \$68 million.

2. Expenditures:

This bill eliminates any need for property appraisers to incur costs associated with collecting social security numbers.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may financially benefit individuals who would otherwise lose their homestead exemptions due to noncompliance. The bill also could result in increased homestead exemption tax fraud, which could lead to tax increases in some areas.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rule making authority.

C. OTHER COMMENTS:

Department of Revenue

DOR submitted an analysis of HB 799. The analysis provides a history of the statutory provisions repealed by HB 799, which states in part:

Access to the social security number on the application form (property appraisers and the Department of Revenue must keep the numbers confidential) will better enable local officials to ensure that only those entitled to the exemption receive it, and receive it for only that property which they declare to be their homestead. As receiver of the tax rolls, the Department is in the position to compare the data and provide information back to the counties to determine whether improper and/or duplicative homestead exemptions have been erroneously granted.

Regarding HB 799, DOR notes that other provisions of law require documents with social security numbers to be submitted in order to qualify for exemptions from ad valorem tax. DOR states it is unclear what effect this bill may have on those other provisions. DOR also states:

Removing this provision from the law will increase the counties' cost to obtain a relatively inexpensive tool necessary to monitor duplicative or improper claims for homestead exemptions in Florida. While individual social security numbers are not difficult to obtain from private data base services, . . . these services are only available by purchase from vendors.

It is also noted that personal information contained in the Department of Highway Safety and Motor Vehicles' records, which has been redacted at the request of an individual, is available for use by any state or local government agency in carrying out its official function.

Removing the requirement for the social security numbers on the homestead exemption application form eliminates an important and relatively inexpensive tool now available to counties to cross-check with other counties in the state to determine whether individuals are claiming duplicative or improper homestead exemptions on properties that are not eligible for the exemption.

DOR's analysis also discusses various statutory provisions governing the actions of county officials in the assessment of ad valorem tax containing numerous references to the confidentiality of specified information received by county officials and/or the Department. The analysis describes DOR Directive #1010-10: Confidential Information Procedures, which governs confidentiality of information shared with the Department. DOR states:

The Department's position in the property tax administration process as an oversight agency for the tax roll preparation process allows it the unique opportunity to monitor whether the confidentiality of SSN's obtained from homestead exemption applications or from other counties via the Department is being maintained at the county level.

Property Appraisers Association of Florida

A representative of the Property Appraisers Association of Florida indicates the Association supports HB 799.

Florida Association of Property Appraisers

The Florida Association of Property Appraisers does not support or oppose HB 799.

1998 Veto

The 1998 Legislature passed SB 830, which is similar to HB 799. On May 15, 1998, the Governor vetoed the bill. The veto message reads in part:

Approximately 3.5 million properties in Florida are granted a homestead exemption. To date, at the mid-point in the phase-in of current law, social security numbers have been collected for over one million of these property owners. The department has found several thousand instances where multiple properties have the same social security number on the homestead exemption application. Citizens claiming more than one homestead exemption unlawfully reduce the amount of tax revenue available to local governments and schools, and they unfairly shift the tax burden to law-abiding citizens and businesses.

By filing an application for homestead exemption in Florida, citizens also affirm that they are Florida residents and subject to our tax laws. Determining residency is necessary in determining potential liability for the intangibles tax. The use of social security numbers for this purpose is a straightforward and simple tool for enforcing the intangibles tax law.

The proponents of Senate Bill 830 argued that using social security numbers in this manner is violative of federal law. In fact, the federal law was amended in 1976 to specifically allow for the use of social security numbers for tax administration purposes.

As part of my initiatives to improve the efficiency of government agencies, I have encouraged innovative efforts such as the Department of Revenue's business-like approach to their operations. Removing the requirement for social security numbers without a compelling reason to do so would be a step toward inefficient and ineffective tax administration.

I am sensitive to the privacy rights of our citizens. There are safeguards in the law that prohibit the property appraisers, tax collectors, and the Department of Revenue from releasing social security numbers. Florida law is clear and in accordance with federal law that each agency must keep social security numbers confidential and restrict their use to official purposes only. Just as we should be diligent in guarding the privacy of Floridians, we should be just as diligent in ensuring that the tax burden is fair for our citizens.

Florida is a state that relies on the voluntary tax compliance by its citizens to minimize the intrusion of government in their lives. The degree to which citizens adhere to the principle of voluntary compliance is in part determined by their perceptions of equity and fairness in the government's administration of tax policy. Any policy that reduces taxpayers' expectation of fairness and equity erodes their willingness to comply with the tax laws, thus making the role of government more burdensome and punitive.

In deciding whether or not to veto legislation, I have the responsibility to consider whether the legislation is more detrimental than the problem it seeks to resolve. In my opinion, adequate safeguards are already in place to insure that social security numbers provided to obtain a homestead exemption remain confidential. On the other hand, repealing this requirement will almost assuredly lead to more fraudulent homestead exemptions and reduced compliance with state and local tax laws. Thus, I believe that, on balance, Senate Bill 830 does more harm than good for Florida's citizens.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Thomas L. Hamby

Staff Director:

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Thomas L. Hamby

Staff Director:

Joan Highsmith-Smith