

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1220

SPONSOR: Finance and Taxation Committee

SUBJECT: Reduction in Property Assessment for Living Quarters of Parents or Grandparents

DATE: March 10, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper/Perrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable</u>
2.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	<u>Favorable</u>
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill implements the recommendations made by staff of the Senate Finance & Taxation Committee in *Report Number 2004-136, Administration of Art. VII, Sec. 4(e), Florida Constitution: The "Granny Flats" Amendment*. Specifically, this bill:

- Provides a timeline for a county to adopt the assessment reduction by ordinance and notify the property appraiser;
- States explicitly that the reduction in assessed value applies to the property tax levies of all taxing authorities in the county;
- Defines the term "qualified parent or grandparent";
- Allows the Department of Revenue (Department) to prescribe an application form, and requires the applications to include the social security numbers of the parents or grandparents for whom the living quarters were constructed; and
- Provides the same penalties for fraudulently claiming the assessment reduction as are provided in the statute for other homestead exemption fraud.

This bill substantially amends s. 193.703 of the Florida Statutes.

II. Present Situation:

The “Granny Flats” Constitutional Property Tax Exemption

The State Constitution contains a number of provisions designed to provide property tax relief to property owners in this state. This relief is in the form of valuation differentials (based on character or use, such as agricultural land),¹ assessment limitations,² and exemptions.³

In 2002, the Florida Legislature proposed a constitutional amendment that allows a county to provide a tax exemption for property constructed or reconstructed for the purpose of providing living quarters for grandparents or parents of the owner or the owner’s spouse, if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Section 193.703, F.S., was also enacted, contingent upon voter approval of the proposed amendment, to implement its provisions. The proposed amendment was approved by voters in November 2002, and became effective, along with the implementing legislation, on January 7, 2003. This exemption will take effect for taxes levied against the 2004 tax roll in the counties that have adopted the exemption.

The constitutional provision⁴ reads:

(e) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

- (1) The increase in assessed value resulting from construction or reconstruction of the property.
- (2) Twenty percent of the total assessed value of the property as improved.

Section 193.703, F.S., the statutory implementation of the amendment, does not answer all questions that have been raised by counties and property appraisers about how to implement this constitutional provision. In January 2003, the Department’s Property Tax Administration Division sponsored a workshop to identify issues dealing with the administration of this provision and to discuss possible solutions to clarify its administration. This workshop resulted in the identification of problems in the existing language and solutions proposed by the workshop’s participants, which included property appraisers, representatives of local

¹ Article VII, Section 4(a) of the State Constitution.

² Article VII, Section 4(c) of the State Constitution. This is popularly referred to as the “Save Our Homes” property assessment limitation. Implemented in s. 193.155, F.S., it limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. After any change in ownership, homestead property is assessed at just value as of January 1 of the following year.

³ Article VII, Sections 3 & 6 of the State Constitution.

⁴ Article VII, section 4(e) of the State Constitution.

governments, and legislative staff who had worked on the original legislation. Some of these solutions can be accomplished by rule, while others require legislation.

As required under ss. 195.027 and 213.06, F.S., the Department has initiated development of a rule to implement the provisions of this statute. Adoption of a rule will allow the Department to specify how the provisions of the statute will be implemented, but since agency rules are limited by s. 120.536(1), F.S., to implementing or interpreting the specific powers and duties conferred by the enabling statute, the rule cannot require any action that is not specifically required by the statute and some issues will remain unresolved even if the rule is adopted.

The following issues were identified by some of the property appraisers:

- The current statute provides no timelines for the adoption of the assessment reduction by the county commission or for notification of the property appraiser.
- There is no requirement in the statute that the parent or grandparent spend a minimum amount of time in the homestead. The primary residence condition could be met even if the parent or grandparent spends most of the year traveling or staying with other family members, as long as he or she does not claim a homestead exemption or tax credit on other property.
- The property appraisers have no authority to require that the social security numbers of parents or grandparents be provided to ascertain that they are not receiving homestead exemptions somewhere else in Florida. Section 196.011(11), F.S., requires that social security numbers be submitted to the Department of Revenue of all applicants for homestead exemptions and their spouses.
- The penalty provisions for fraudulently filing for this assessment reduction are much weaker than other homestead exemption fraud penalties, as provided in s. 196.161, F.S. Current law penalties are likely to be less than the tax savings from the exemption.

As of January 2004, six counties have implemented this exemption: Brevard, Leon, Madison, Miami-Dade, Seminole, and Volusia.

In November, 2003, staff of the Senate Finance & Taxation Committee issued a report recommending that s. 193.705, F.S., be amended to address these concerns.⁵

Social Security Numbers

Section 119.0721, F.S., provides that social security numbers held by an agency, its agents, employees, or contractors are made confidential and exempt from the public records requirements of s. 119.07(1), F.S., and section 24(a) of Article 1 of the State Constitution. However, social security numbers may be disclosed to another governmental entity, its agents, employees, or contractors if necessary for the receiving entity to perform its duties. The receiving entity must maintain the confidential and exempt status upon receipt. In addition,

⁵ Report Number 2004-136, Administration of Art. VII, Sec.4(e), Florida Constitution: The "Granny Flats" Amendment, November, 2003.

another exception to the exemption is provided for commercial interests under specified circumstances, provided certain requirements are met.

III. Effect of Proposed Changes:

This bill implements the recommendations made by staff of the Senate Finance & Taxation Committee to address issues related to implementation of Article VII, section 4(e) of the State Constitution, popularly referred to as the “Granny Flats” Amendment.

Section 1 amends s. 193.703, F.S., to:

- Provide a timeline for a county to adopt the assessment reduction by ordinance and notify the property appraiser. The property appraiser must be notified by December 1 for an assessment reduction that will apply to the next year’s property tax assessments;
- Explicitly state that the reduction in assessed value applies to the property tax levies of all taxing authorities in the county, and requires that these authorities be notified that the board of county commissioners will vote on adopting an ordinance providing for the reduction;
- Define the term “qualified parent or grandparent” to mean a parent or grandparent permanently residing in the living quarters qualifying for the assessment reduction — and who does not otherwise qualify for a homestead exemption on other property — and provides that the assessment reduction applies as long as a qualified parent or grandparent permanently resides in the homestead;
- Allow the Department to prescribe an application form, and requires the applications to include the social security numbers of the parents or grandparents for whom the living quarters were constructed; and
- Provide the same penalties for fraudulently claiming the assessment reduction as are provided in the statute for other homestead exemption fraud.

Section 2 states that this act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill clarifies the implementation of s. 4(e), Art. VII, FL Const.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill will encourage consistent implementation of this provision across those counties that choose to adopt it, and will allow the property appraisers to ensure that the assessment reduction is claimed properly.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
