

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 441                      Sale of Homestead Property  
**SPONSOR(S):** Brutus  
**TIED BILLS:** None                      **IDEN./SIM. BILLS:** SB 478

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary		Jaroslav	Havlicak
2) Finance & Tax			
3)			
4)			
5)			

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### SUMMARY ANALYSIS

After any change in ownership, homestead property is assessed at just value as of January 1 of the following year. Under current law, sellers of homestead property are not required to inform prospective purchasers that ad valorem taxes on the property may be in excess of those assessed at the time of sale.

This bill requires that a prospective purchaser of homestead property be presented with a separate disclosure summary attached to the contract for sale before executing the contract for sale. In a form substantially similar to one provided in this bill, the disclosure summary must state that:

- ad valorem taxes for subsequent years may be in excess of the ad valorem taxes assessed at the time of sale;
- the ad valorem taxes are required to be assessed at just value on the property in the year following a change of ownership; and
- in the event of questions concerning valuation and ad valorem taxes, the purchaser should contact his or her county property appraiser or tax collector.

The disclosure must be provided by the seller, and the contract for sale must refer to and incorporate the disclosure summary. The contract for sale must state in prominent language that the prospective purchaser should not execute the contract until he or she has received and read the disclosure statement.

Failure to provide the required disclosure statement would render the contract for sale voidable by the purchaser. To void the contract, the purchaser must deliver to the seller, or seller's agent, a written notice of the purchaser's intent to cancel the contract. This notice to cancel must be made either within 3 days after receipt of the disclosure summary or 3 days prior to closing, whichever occurs first. The purchaser's right to void the contract terminates at closing.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0441.ju.doc  
**DATE:** February 27, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

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

This bill could be said to increase the scope of government and diminish personal freedom because it imposes additional requirements for the conduct of certain private property transactions.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation: Property Assessment**

Article VII, section 4(c) of the Florida Constitution limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index (“CPI”).<sup>1</sup> After any change in ownership, homestead property is assessed at just value as of January 1 of the following year.<sup>2</sup> It is possible that buyers of homestead property may not be aware that their property taxes will be based on the just value assessment, not the assessment before the property is sold.

Chapter 193, F.S., specifies procedures for county property appraisers. Section 193.155, F.S., provides the means for the tax assessment of homestead property. Specifically, s. 193.155(3), F.S., requires that:

...property assessed under this section shall be assessed at just value as of January 1 of the year following a change of ownership. Thereafter, the annual changes in the assessed value of the property are subject to the limitations in subsections (1) and (2). For the purpose of this section, a change in ownership means any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person, except as provided in this subsection. There is no change of ownership if:

(a) Subsequent to the change or transfer, the same person is entitled to the homestead exemption as was previously entitled and:

1. The transfer of title is to correct an error; or
2. The transfer is between legal and equitable title;

(b) The transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage;

(c) The transfer occurs by operation of law under s. 732.4015; or

(d) Upon the death of the owner, the transfer is between the owner and another who is a permanent resident and is legally or naturally dependent upon the owner.

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<sup>1</sup> The CPI is a monthly measure of inflation in the price of consumer goods. The Bureau of Labor Statistics, an agency of the federal Department of Labor, determines the CPI through its Consumer Expenditure Survey (“CES”). The CES uses a combination of quarterly interviews and two-week spending diaries to track both the large expenditures (such as cars and appliances) and smaller purchases (such as food, housekeeping supplies, and personal care products) of each participant over a year-long period. See <http://stats.bls.gov/cpi/home.htm>.

<sup>2</sup> See s. 193.155(3), F.S.

Section 195.002, F.S., provides the Department of Revenue with the “general supervision of the assessment and valuation of property” to ensure that all property in the state is valued according to its just valuation.

Chapter 689, F.S., establishes numerous requirements and limitations on the conveyance of land and declarations of trust, but does not currently require a disclosure by sellers of homestead property that ad valorem taxes on the property may be in excess of those assessed at the time of sale.

### **Proposed Changes**

This bill creates s. 689.261, F.S., requiring a prospective purchaser of homestead property to be presented with a separate disclosure summary attached to the contract for sale before executing the contract for sale. In a form substantially similar to one provided in this bill, the disclosure summary must state that:

- ad valorem taxes for subsequent years may be in excess of the ad valorem taxes assessed at the time of sale;
- the ad valorem taxes are required to be assessed at just value on the property in the year following a change of ownership; and
- in the event of questions concerning valuation and ad valorem taxes, the purchaser should contact his or her county property appraiser or tax collector.

Unless included in the contract, the disclosure must be provided by the seller, and the contract for sale must refer to and incorporate the disclosure summary. The contract for sale must state in prominent language that the prospective purchaser should not execute the contract until he or she has received and read the disclosure statement.

Failure to provide the required disclosure statement would render the contract for sale voidable by the purchaser. To void the contract, the purchaser must deliver to the seller, or seller’s agent, a written notice of the purchaser’s intent to cancel the contract. This notice to cancel must be made either within 3 days after receipt of the disclosure summary or 3 days prior to closing, whichever occurs first. The purchaser’s right to void the contract terminates at closing.

#### **C. SECTION DIRECTORY:**

**Section 1.** Requires additional disclosures in the sale of homestead property and provides forms for those disclosures.

**Section 2.** Provides an effective date of July 1, 2004.

## **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:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

This bill will require sellers of homestead property to make additional disclosures. The direct cost is probably negligible.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

N/A