

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: CS/SB 478
SPONSOR: Regulated Industries Committee and Senator Margolis
SUBJECT: Homestead Property/Sale
DATE: February 12, 2004 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------|
| 1. | Oxamendi | Imhof | RI | Fav/CS |
| 2. | _____ | _____ | CP | _____ |
| 3. | _____ | _____ | FT | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill creates s. 689.261, F.S., to require that a prospective purchaser of homestead property must be presented a separate disclosure summary attached to the contract for sale before executing the contract. A substantially similar disclosure summary may alternatively be included in the contract for sale. The bill provides the form with which the disclosure summary in the contract for sale or separate document must substantially comply.

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 within either 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 bill would take effect July 1, 2004.

This bill creates section 689.261, Florida Statutes.

II. Present Situation:

Property Assessment

Section 4(c), Art. VII of the State Constitution 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. 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.

Property Assessment Administration

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.

Section 195.002, F.S., provides the Department of Revenue (DOR) 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 requirements and limitations on the conveyance of land and declarations of trust.

III. Effect of Proposed Changes:

Section 1. The bill creates s. 689.261, F.S., to require that a prospective purchaser of homestead property must be presented a separate disclosure summary attached to the contract for sale before executing the contract for sale, unless a substantially similar disclosure is included in the contract for sale. The bill provides the form with which the disclosure summary must substantially comply. 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.
- 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.

Section 2. This bill would take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sellers of real property would have to make the disclosure required by this bill.

C. Government Sector Impact:

None.

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.
