

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 157 CS Homestead Assessments
SPONSOR(S): Littlefield
TIED BILLS: None **IDEN./SIM. BILLS:** SB 264

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Civil Justice Committee</u>	<u>5 Y, 0 N, w/CS</u>	<u>Bond</u>	<u>Bond</u>
2) <u>Local Government Council</u>	<u>7 Y, 0 N</u>	<u>Camechis</u>	<u>Hamby</u>
3) <u>Finance & Tax Committee</u>		<u>Monroe</u>	<u>Diez-Arguelles</u>
4) <u>Justice Council</u>			
5) _____			

SUMMARY ANALYSIS

The 1992 Save Our Homes amendment to the Florida Constitution places a “cap” on annual increases of the assessed value of homestead real property, providing substantial ad valorem tax relief to Florida homeowners. However, the amendment requires reassessment of homestead property to reflect the property’s current just value when a “change in ownership”, as defined by the Legislature, occurs. Reassessment generally results in higher annual ad valorem taxes assessed against the property due to the higher assessed value. The current statute defining “change in ownership” lists two types of title transfers that do not constitute a “change of ownership”, but adding a co-owner to a homestead property is not included. Therefore, it appears that reassessment is required if a co-owner is added to the title for homestead property even when the original owner continues to qualify for the homestead exemption.

This bill amends the statute defining “change of ownership” to specify that adding co-owners of homestead property is not a “change in ownership” that requires reassessment of the homestead property if the same person is entitled to the homestead exemption as was previously entitled. Therefore, the assessed value of the property is not increased and higher ad valorem taxes on the property are avoided. However, if a new co-owner applies for a homestead exemption on the property, the application is considered a “change in ownership” that requires reassessment of the property to reflect its just value.

The bill does not have a direct fiscal impact on state government. However, the Revenue Estimating Conference has estimated that this bill would reduce local property tax revenues by 8.6 million, assuming there is no offsetting change to millage rates

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes -- This bill prevents automatic reassessment of homestead real property when a co-owner is added to the deed if the same person continues to qualify for the homestead exemption, thereby preventing a potential increase in ad valorem taxes on the property.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The local ad valorem tax is an annual tax levied by local governments based on the value of real and tangible personal property as of January 1 of each year.¹ Florida's Constitution prohibits the state government from levying an ad valorem tax except on intangible personal property. The taxable value of real and tangible personal property is the fair market value of the property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.² Tax bills are mailed in November of each year based on the previous January 1st valuation and payment is due by the following March 31.³ Local ad valorem tax revenues in Florida were approximately \$22.4 billion in 2004.⁴

Article VII, § 6, Fla.Const., authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner. The value of the homestead exemption is currently \$25,000 of the assessed value of the real estate.

In 1992, the electorate adopted an amendment to art. VII, § 4, Fla.Const., known as the "Save Our Homes" amendment. The amendment limits increases in the ad valorem taxation on homestead real property by limiting increases in the assessed value of such property. The amendment provided for a base year "just value" assessment for each homestead as of January 1, 1994, and restricts subsequent increases in assessments to the lower of either (a) three percent of the prior year's assessment, or (b) the percent change in the Consumer Price Index. Homestead real property purchased after 1994 has a base year "just value" set in the first year that the exemption is available, with the same limits on future increases in the assessed value. In 2004, the Save Our Homes amendment provided approximately \$4.5 billion in property tax relief to Florida homeowners.⁵

The limitation on future increases in the assessed value of homestead real property is only available to a current owner of the homestead real property. Article VII, § 4(c)3., Fla.Const., provides:

After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the homestead shall be assessed as provided herein.

The statutory definition of a change of ownership is codified in s. 193.155, F.S., which provides:

(3) Except as provided in this subsection, property assessed under this section shall be assessed at just value as of January 1 of the year

¹ 2005 Florida Tax Handbook, p. 138, available from the House Finance & Tax Committee.

² 2005 Florida Tax Handbook, p. 138.

³ 2005 Florida Tax Handbook, p. 136.

⁴ 2005 Florida Tax Handbook, p. 135.

⁵ 2005 Florida Tax Handbook, p. 139.

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.

It is not unusual for a homeowner to add an additional co-owner to their property. One common reason for this type of transaction is that an elderly person wishes to add adult children as co-owners of homestead property in an attempt to avoid probate. This type of transaction, however, may be deemed a change in ownership that will result in an increase in the assessed value of the property (that is, a loss of the Save Our Homes benefit) in the year following the transaction.⁶

Effect of Proposed Changes

This bill amends s. 193.155, F.S., to provide that when a change or transfer of title is by an instrument in which the owner is listed as both grantor and grantee of the real property, and one or more other individuals are additionally named as grantee, the change or transfer is not a change in ownership that would require an increase in the assessed value as long as the same person is entitled to the homestead exemption as was previously entitled. However, if any individual who is additionally named as a grantee applies for a homestead exemption on the property, the application is considered a change of ownership and reassessment is required.

C. SECTION DIRECTORY:

Section 1 amends s. 193.155, F.S., to provide an additional exception applicable to the Save Our Homes amendment of the Florida Constitution.

Section 2 provides an effective date of July 1, 2006.

⁶ See Attorney General Opinion 2001-31. See also:

<http://pqasb.pqarchiver.com/sptimes/887477751.html?MAC=707a8e7ae0b21690200d46a180abdacb&did=887477751&FMT=FT&FMTS=FT&date=Aug+25%2C+2005&author=HELEN+HUNTLEY&pub=St.+Petersburg+Times&printformat=&desc=Many+are+trying+to+save+that+tax+cap>

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: The Revenue Estimating Conference has estimated that this bill would reduce local property tax revenues by \$8.6 million, assuming there is no offsetting change to millage rates..
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: As a result of this bill, an individual may add one or more co-owners to the deed for homestead property without losing the Save Our Homes benefit, assuming the individual continues to qualify for the homestead exemption on the property. If the Save Our Homes benefit is not lost, an increase in annual ad valorem taxes may be avoided.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: This bill reduces the authority that cities or counties have to raise ad valorem tax revenues in the aggregate. As such, the mandates provision would appear to apply. However, since the bill is implementing a constitutional provision, it can be argued that the mandates provision does not affect this bill. Nevertheless, it is recommended that the bill be passed by a two-thirds margin to avoid any possible constitutional issues.
2. Other: The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁷ This bill implements Art. VII, § 4, Fla. Const., which authorizes the Legislature to define, by general law, what constitutes a change in ownership.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On October 19, 2005, the Civil Justice Committee adopted one amendment to this bill. The language in the bill as filed was not an accurate reflection of technical terminology used in real property transactions. The amendment corrected language without changing the apparent intent of the bill. The bill was then reported favorably with a committee substitute.

⁷*Sebring Airport Authority v. McIntyre*, 783 So.2d 238, 247 (Fla. 2001).