

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.)

Prepared By: Community Affairs Committee

BILL: SB 264

INTRODUCER: Senator Fasano

SUBJECT: Homestead Assessments

DATE: November 23, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Favorable
2.			GE	
3.				
4.				
5.				
6.				

I. Summary:

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 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.

This bill amends s. 193.155, F.S., to provide that the act of adding an additional co-owner is not a change in ownership requiring a reassessment of the homestead property. However, the bill specifies that should any new co-owner apply for a homestead exemption on the property, the application will be considered a change in ownership requiring a reassessment of the property to reflect its just value.

This bill substantially amends section 193.155 of the Florida Statutes.

II. 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 Ad valorem is the Latin term “according to the value.” 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

¹ 2005 Florida Tax Handbook, p. 138.

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, s. 6, Florida Constitution, 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 Article VII, s. 4, Florida Constitution, 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, s. 4(c)3., Florida Constitution, 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 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:

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.

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

III. Effect of Proposed Changes:

This bill amends s. 193.155, F.S., to provide that there is no change in ownership if a change or transfer merely adds an additional person or persons to the title and none of the persons added apply for homestead exemption on the property. However, the bill specifies that if an individual who is added to a title applies for a homestead exemption on the property, the application is considered a change of ownership and reassessment is required.

The effect of this bill is that 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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill may have an indeterminate negative fiscal impact on individual local governments depending upon whether a county currently reassesses homestead property when a co-owner is added and the frequency with which co-owners are added to homestead property in the county. As a result, this bill falls under subsection (b) of s. 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate.

Until the Impact Conference has reviewed this bill, an estimate of its impact is not available. If the fiscal estimate is less than \$1.73 million, the bill will be exempt from constitutional restriction. Otherwise, the Legislature may only enact this bill by a two-thirds vote of the membership of each house.

⁶ See Attorney General Opinion 2001-31.

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:

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.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on individual local governments depending upon whether a county currently reassesses homestead property when a co-owner is added and the frequency with which co-owners are added to homestead property in the county. The actual fiscal impact on local governments is unknown at this time, but the bill has been referred to the Revenue Impact Conference for review.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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