

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates an alternative method for calculating just valuation of homesteads.

Ensure lower taxes – The bill will provide a lower assessed value for homesteads acquired on or after January 1, 1995.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Since 1965, it has been well settled that "just valuation" is synonymous with "fair market value" and is defined as what a willing buyer and willing seller would agree upon as a transaction price for the property.¹

The Florida Constitution includes certain limitations to the just value criteria. Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use.² Counties and municipalities also may provide for reduction in the assessed value of historic properties and improvements to homesteads that are made to accommodate parent or grandparents in an existing homestead.³

Article VII, section 4(c) of the Florida Constitution, popularly known as the "Save Our Homes Amendment," was adopted pursuant to a citizen's petition that was approved by the voters in 1992. It first effected valuations on the 1995 tax roll. The amendment limits the growth in the "assessed value" of a homestead to the lower of three percent of the assessed value for the prior year or the percentage change in the Consumer Price Index. After any change in ownership, homestead property must be assessed at just value as of January 1 of the following year. New homestead property must be assessed at just value as of January 1 of the year following establishment of the homestead.

Section 193.011, F.S., implements the just valuation requirement of the Florida Constitution. It requires property appraisers to take into consideration the following factors in arriving at just valuation:

- Present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;⁴
- Highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any executive order, ordinance, regulation, resolution or proclamation or judicial limitation when it prohibits or restricts the development or improvement of property;⁵
- Location of the property;⁶
- Quantity or size of the property;⁷

¹ *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

² Article VII, §4 (a), *Florida Constitution*.

³ Article VII, §4 (d) and (e), *Florida Constitution*.

⁴ Fla. Stat. §193.011(1).

⁵ Fla. Stat. §193.011(2).

⁶ Fla. Stat. §193.011(3).

- Cost of the property and the present replacement value of any improvements thereon;⁸
- Condition of the property;⁹
- Income from the property;¹⁰ and
- Net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of sale.¹¹

When a homestead is purchased, it is initially assessed at just valuation. Thereafter, the Save Our Homes Amendment limits the annual increase.

Extraordinary strength in the Florida real estate market has resulted in a rapid increase of assessed values for real property. In Florida, the median house price has soared 90 percent from July 2001 to July 2006.¹²

Individuals purchasing homes during this period of rapid increase have received initial just valuations much higher than the valuation of just a few years ago. There may be thousands of dollars of difference in the taxable value of two identical homes, one of which has been continuously assessed under the Save Our Homes Amendment and the second which was purchased just last year and then assessed at just value.

Effect of Bill

CS/HB 473 attempts to ameliorate the effect of initial rising assessments for those who purchased homes after January 1, 1995. The bill creates a new unnumbered section of statute which requires all homestead assessed valuations to be rolled back to the assessed value for a similar home in the same county in 1994. The assessment will then be adjusted for all subsequent years as if the Save-Our-Homes limitations contained within Article VII, s. 4 of the Florida Constitution had been continuously in effect since January 1, 1995 and had been applied in each subsequent year. The assessed value for 2009 and all subsequent years is to be similarly adjusted.

The change in assessment valuation will be computed and will be effective for all assessments made for tax years beginning January 1, 2009.

C. SECTION DIRECTORY:

Section 1. Creates a new section of statute to determine assessed value of homestead properties.

Section 2. Provides an effective date of upon becoming a law and is applicable to homestead valuations made on or after January 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not exempt school millage from the effects of the roll back and required local effort may be impacted.

2. Expenditures:

⁷ Fla. Stat. §193.011(4).

⁸ Fla. Stat. §193.011(5).

⁹ Fla. Stat. §193.011(6).

¹⁰ Fla. Stat. §193.011(7).

¹¹ Fla. Stat. §193.011(8).

¹² Property Tax Reform Efforts An Update Office. Office of Economic and Demographic Research, January 11, 2007.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Ad valorem tax revenues received from residential property acquired after January 1, 1995, will be reduced.

2. Expenditures:

Property appraisers will have to perform additional calculations for assessed value of residential property acquired after January 1, 1995.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a county or municipality to spend funds and does not reduce the percentage of a state tax shared with counties and municipalities. Therefore, the provisions of subsections 18 (a) and (c), Article VII of the Florida Constitution, do not apply.

Subsection 18(b), Article VII of the Florida Constitution, provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that municipalities and counties have to raise revenues in the aggregate. This bill only limits the just value of residential property acquired on or after January 1, 1995.

2. Other:

Article VII, section 4 of the Florida Constitution requires just valuation of all property for ad valorem taxation. Constitutional exceptions to the just valuation requirement are afforded to agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes.¹³ Counties and municipalities are also authorized to assess historic property on the basis of character of use.¹⁴ The Save-Our-Homes Amendment limits the growth in the "assessed value" of a homestead to the lower of three percent of the assessed value for the prior year or the percentage change in the Consumer Price Index.¹⁵ Reductions in assessed value for homesteads also is authorized for construction or reconstruction undertaken to provide living quarters for parents or grandparents of the home owner or home owner's spouse.¹⁶ There is no specific constitutional authorization for a reduction in the assessed valuation of residential property

¹³ Article VII, section 4(a), *Florida Constitution*.

¹⁴ Article VII, section 4(d), *Florida Constitution*.

¹⁵ Article VII, section 4(c), *Florida Constitution*

¹⁶ Article VII, section 4(e), *Florida Constitution*. Article VII, section 4 (c) (3) and (4) of the Florida Constitution, require new homesteads and homestead properties experiencing a change in ownership to be assessed at just value as of January 1 of the following year. There is no specific constitutional authorization for a reduction in the assessed valuation of residential property based upon the average of the purchase price, the assessed value of a comparable home in the same area which has been continuously assessed for at least five years, and the assessed value of a comparable home in the same area which has been continuously assessed for at least 10 years.

based upon a constructive, continuous application of the Save-Our-Homes limitations contained within Article VII, s. 4 of the Florida Constitution on each homestead throughout Florida.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 21, 2007, the Committee on State Affairs adopted one amendment which clarifies that the alternative computation of just value applies only to homes with a homestead exemption. It also supplied direction to the property appraisers as to what comparable assessments should be considered in the absence of certain valuations the general rule of the bill requires.

On April 18, 2007, the Government Efficiency & Accountability Council adopted a strike-all amendment which create an unnumbered section of statute which requires all homestead assessed valuations to be rolled back to the assessed value for a similar home in the same county in 1994. The change in assessment valuation will be computed and will be effective for all assessments made for tax years beginning January 1, 2008. The council reported HB 473 favorably with a council substitute.

This bill analysis has been modified to reflect the changes made by the council substitute.