

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 473 Residential Property Just Valuation
SPONSOR(S): Schenck
TIED BILLS: **IDEN./SIM. BILLS:** SB 852

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on State Affairs</u>	<u>7 Y, 0 N</u>	<u>Levin</u>	<u>Williamson</u>
2) <u>Government Efficiency & Accountability Council</u>	<u> </u>	<u> </u>	<u> </u>
3) <u>Policy & Budget Council</u>	<u> </u>	<u> </u>	<u> </u>
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SUMMARY ANALYSIS

Article VII, s. 4 of the Florida Constitution, requires just valuation of all property for ad valorem taxation. Subsections (c) (3) and (c) (4) 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.

Section 193.011, F.S., lists the factors to consider when deriving just valuation of property. The bill amends this section to permit an alternate initial just valuation of homestead property that consists of the average of the purchase price, the taxable value of a comparable home in the same area which has been continuously assessed under the Save Our Homes Amendment for at least five years, and the taxable value of a comparable home in the same area which has been continuously assessed under the Save Our Homes Amendment for at least 10 years. It does not require property appraisers to use the alternative value.

The bill will be applied retroactively to assessments made for tax years beginning January 1, 2002.

The bill has no fiscal impact on state revenues. The bill would lower the ad valorem tax assessment on residential property acquired on or after January 1, 2002.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill creates an additional method for calculating just valuation.

Ensure lower taxes – The bill will provide a lower assessed value for homesteads acquired on or after January 1, 2002.

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).

⁷ Fla. Stat. §193.011(4).

- 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

HB 473 attempts to ameliorate the effect of initial rising assessment for those who purchased homes during 2001 which had their assessed valuation determined on January 1, 2002, as well as for all homeowners purchasing homes since January 1, 2002.

HB 473 amends section 193.011, F.S., on just valuation of residential property to permit a property appraiser to use an alternate initial just valuation of homestead property that consists of the average of the purchase price, the assessed value of a comparable home in the same area which has been continuously assessed to only one homeowner as provided in Article VII, s. 4 (c)(1) of the Florida Constitution, for at least five years, and the assessed value of a comparable home in the same area which has been continuously assessed to only one homeowner as provided in Article VII, s. 4(c)(1), Florida Constitution, for at least 10 years. It does not require property appraisers to use the alternative value.

The bill will be applied retroactively to assessments made for tax years beginning January 1, 2002.

C. SECTION DIRECTORY:

Section 1 amends s. 193.011, F.S., which enumerates the factors to be considered in arriving at just valuation of property.

Section 2 provides an effective date of upon becoming a law and is retroactive to assessments beginning January 1, 2002.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Ad valorem tax revenues received from residential property acquired after January 1, 2002, will be reduced.

2. Expenditures:

Property appraisers will have to perform additional calculations for assessed value of residential property acquired after January 1, 2002.

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, 2002.

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

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.

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B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments – Intent

It appears that the sponsor of the bill intended the assessment limitation to apply only to homestead property, but the bill as drafted applies to all residential property. This analysis assumes the homestead limitation.

Other Comments – Assessing the Valuation

The language “for at least 5 years” and “for at least 10 years” will not provide uniformity in the application of the law. No provision is made for an instance in which five and ten year valuation of comparable properties does not exist.

The bill is not clear as to whether the “average” is used only in determining the initial assessed valuation of a residence.

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 supplies 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.