

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1279
SPONSOR(S): Thompson
TIED BILLS:

Homestead Property Assessments
IDEN./SIM. BILLS: SB 2506

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u>Levin/Dykes</u>	<u>Cooper</u>
2) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Article VII, Section 4(c) of the Florida Constitution is the annual assessment limitation for homesteads popularly known as the Save-Our-Homes (SOH) amendment. The amendment limits increases in assessment to the lower of three percent of the assessment for the prior year or the change in the Consumer Price Index.

Section 193.155, F.S., implements the constitutional provision, and states that annual increases in assessment may not exceed the lower of three percent of the assessment for the prior year or the change in the Consumer Price Index (CPI). The Department of Revenue (DOR) has interpreted the Constitution and s. 193.155, F.S., to provide that even in years in which the fair market value of homesteads declines, the assessed value of real property for ad valorem property taxes must be increased if the assessed value for SOH purposes is less than fair market value.

Rule 12D-8.0062, Florida Administrative Code, of the DOR states that the property appraiser is "required" to increase the assessed value, even when the fair market value declines. Although subsection (6) of the rule allows for a reduction in the assessed value if the CPI is negative, it does not necessarily allow for a reduction in assessed value if the fair market value declines.

HB 1279 clarifies s. 193.155(1), F.S., by adding language that requires: (a) if the just value has decreased from the prior year, the assessed value shall be decreased by the same percentage as the percentage decrease in just value; (b) if the just value of the homestead property remains the same from the prior year, the assessed value does not change; and (c) if the just value of the homestead increases from the prior year, the just value assessed shall not exceed the lower of three percent of the assessed value for the prior year or the percentage change in the CPI.

Although the bill has not been to a Revenue Estimating Impact Conference, it would appear that by reducing the assessed value of property subject to ad valorem taxation, the bill reduces the authority that cities and counties have to raise revenues. As such, the bill may be a mandate requiring a two-thirds vote of the membership of each house.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – If the just value of the homestead property decreases from the prior year, the change in the assessment shall decrease by the percentage decrease in just value.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Article VII, Section 4(c) of the Florida Constitution is the assessment limitation for homesteads popularly known as the Save-Our-Homes (SOH) amendment. It provides:

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index (CPI) for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

Section 193.155, F.S., implements the constitutional provision and states that annual increases in assessment may not exceed the lower of three percent of the assessment for the prior year or the change in the Consumer Price Index. The Department of Revenue (DOR) has interpreted the Constitution and s. 193.155, F.S., to provide that even in years in which the fair market value declines, the assessed value of real property for ad valorem property taxes must be increased if the assessed value for SOH purposes is less than fair market value.¹

The DORs rule states that the property appraiser is “required” to increase the assessed value, even when the fair market value declines. Although subsection (6) of the rule allows for a reduction in the assessed value if the CPI is negative, it does not necessarily allow for a reduction in assessed value if the fair market value declines.

¹ Department of Revenue Rule 12D-8.0062, Assessments; Homestead; Limitations. . . .

(5) Where the current year just value exceeds the prior year assessed value, the property appraiser is required to increase the prior year’s assessed value by the lower of:

(a) Three percent; or

(b) The percentage change in the Consumer Price Index (CPI) for all urban consumers, U.S. City Average, all items 1967 = 100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics

(6) If the percentage change in the Consumer Price Index (CPI) referenced in paragraph (5)(b) is negative, then the assessed value shall be the prior year’s assessed value decreased by that percentage.

Several property appraisers assert that DOR Rule 12D-8.0062, F.A.C., which requires an increase in assessed value, even in a declining real estate market, is not supported by the statute. Section 193.155(1) states only that any "change" resulting from a reassessment "shall not exceed" either three per cent of the assessed value or the CPI, whichever is less. The statute does not "require" an increase of 3 per cent in a declining market.

HB 1279 clarifies s. 193.155(1), F.S., by adding language after section (1) that requires:

- (a) if the just value has decreased from the prior year, the assessed value shall be decreased by the same percentage as the percentage decrease in just value;
- (b) if the just value of the homestead property remains the same from the prior year, the assessment does not change; and
- (c) if the just value of the homestead increases from the prior year, the change shall not exceed the lower of three percent of the assessed value of the homestead for the prior year of the percentage change in CPI.

C. SECTION DIRECTORY:

Section 1 amends s. 193.155, F.S., regarding homestead assessments.

Section 2 provides an effective date of January 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

It will be necessary for the DOR to repeal the existing rule and promulgate a new one.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments may experience a decrease in revenues as a result of reductions in the assessed value of homestead property subject to ad valorem taxation in years in which just value decreases.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Homeowners will experience a decrease in assessed valuation of their homestead in years in which just value decreases.

D. FISCAL COMMENTS:

Public school funding is statutorily tied to property taxes through the required local effort (RLE). The Legislature sets the RLE that must be raised by school districts from property taxes. The provisions of this bill that lead to lower assessed values may limit the amount of RLE the Legislature may set in the future.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities.

The bill does provide for reduced assessments for homesteads in years in which just value decreases; thus reducing the authority that cities and counties have to raise revenue. As such, the bill may be a mandate requiring a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The DOR will need to repeal an existing rule and promulgate a new rule implementing the statutory change.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable.