

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

**BILL:** CS/SB 2450

**INTRODUCER:** Community Affairs Committee and Senator Bennett

**SUBJECT:** Assessment of Property for Back Taxes

**DATE:** April 14, 2010                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Fav/CS
2.			FT	
3.			GA	
4.			WPSC	
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

This committee substitute (CS) creates an exception from the assessment of back taxes on property that was not assessed by a property appraiser. The CS also implements a “whistleblower” provision that would allow an individual who reports a possible homestead exemption violation to the property appraiser, to receive a reward of up to \$500, if the property appraiser thereafter verifies that the homestead exemption was illegally or improperly obtained.

This CS substantially amends section 193.092 of the Florida Statutes.

**II. Present Situation:**

**Property Tax Assessments**

Chapters 193-195, Florida Statutes, address property assessment procedures. On January 1 of each year, local property appraisers are required to assess all real and tangible personal property located within the county by determining the property’s just value.<sup>1</sup> Under Florida Statutes, “just value” is defined as what a willing buyer would pay a willing seller for the property in an arm’s

<sup>1</sup> FLA. CONST. art. VII, s. 4.

length transaction.<sup>2</sup> To determine the property's just valuation, property appraisers are required to utilize the factors outlined in s. 193.011, F.S.

Section 4, Article VII, of the State Constitution provides for certain classes of property to be assessed at less than just value, or limits the amount by which assessed value may increase in a given year.<sup>3</sup> These include but are not limited to, exemptions for homesteads and charitable, religious, or literary properties, as well as tax limitations under the Save Our Homes provisions.<sup>4</sup> After calculating the assessed value of the property, the appraiser subtracts the value of any property tax exemptions as provided by ch.196, F.S., to determine the taxable value.

The property appraiser's assessment roll must be completed and submitted to the executive director of the Department of Revenue for approval by July 1 of each year, unless the Department determines that there is good cause for extension.<sup>5</sup> Section 193.023, F.S., provides that in making the assessment of the value of real property, the property appraiser must physically inspect each property every five years to ensure that the tax roll meets all the requirements of law.<sup>6</sup> However, the property appraiser must also physically inspect any parcel of taxable real property upon the request of the taxpayer or owner.<sup>7</sup>

If a property appraiser discovers property that was mistakenly not assessed and levied upon for which ad valorem taxes are assessable by state or county authority, s. 193.092, F.S., requires the property appraiser to retroactively assess that property for each year in which it escaped taxation, for a period of up to three years.<sup>8</sup>

### **Homestead Exemption**

Section 6, Art. VII, State Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains the permanent residence of the owner is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts.<sup>9</sup> An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

### **III. Effect of Proposed Changes:**

This CS amends s. 193.092, F.S., to provide that the retroactive assessment and collection of ad valorem taxes is not applicable if:

- The owner of a building, structure, or improvement that was not previously assessed, complied with all necessary permitting requirements when the improvement was built; or

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<sup>2</sup> Section 193.011, F.S. *See also* *Walter v. Shuler*, 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).

<sup>3</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>4</sup> The Save Our Homes provision limits the amount a homestead's assessed value can increase annually to 3% or the consumer price index, whichever is less. *See* Art. VII, section 4(d) of the State Constitution.

<sup>5</sup> Section 193.023, F.S.

<sup>6</sup> Section 193.023(2), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 193.092(1), F.S.

<sup>9</sup> FLA. CONST. art. VII, s. 6.

- The owner of real property that was not previously assessed voluntarily disclosed the existence of the property to the property appraiser before January 1 of the year in which the property was first assessed, on a form provided by the property appraiser.

The CS also allows an individual, who reports a homestead exemption violation to a property appraiser to receive a reward of 25 percent of the penalties collected up to \$500, if the property appraiser determines that the homestead exemption was in fact illegally or improperly obtained. The CS directs the Department of Revenue to create a report form to be used for suspected homestead exemption violations.

The provisions of this CS shall take effect July 1, 2010.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Section 18(b), Article VII, of the Florida Constitution provides that, “except upon approval by a two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.”<sup>10</sup>

The provisions of this CS would reduce a county or municipality’s authority to collect certain back taxes. None of the exemptions, including insignificant fiscal impact, applies. Therefore, the CS will require a two-thirds vote of the membership of each house of the Legislature in order to pass.<sup>11</sup>

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The CS will reduce the tax burden for certain property owners that would have otherwise been subject to back taxes under s. 193.092, F.S.

<sup>10</sup> FLA. CONST. art. VII, s. 18(b).

<sup>11</sup> FLA. CONST. art. VII, s. 18(d). See below for estimated fiscal impact.

**C. Government Sector Impact:**

The Revenue Estimating Conference<sup>12</sup> has estimated that the provisions of this CS will have a negative indeterminate fiscal impact on local government revenues.<sup>13</sup>

Public school funding is tied to property taxes through the required local effort, which is the amount of taxes that must be levied by the district to participate in the Florida Education Finance Program (FEFP). The Revenue Estimating Conference has determined that the statewide impact on school taxes would be:

	FY 2010-11 Cash	FY 2010-11 Annualized	FY 2011-12 Cash	FY 2012-13 Cash	FY 2013-14 Cash
High	-\$10 million	-\$10 million	-\$10.4 million	-\$10.9 million	-\$11.5 million
Middle	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate
Low					

The Revenue Estimating Conference determined that the statewide impact on non-school taxes would be:

	FY 2010-11 Cash	FY 2010-11 Annualized	FY 2011-12 Cash	FY 2012-13 Cash	FY 2013-14 Cash
High	-\$13.8 million	-\$13.8 million	-\$14.2 million	-\$15.0 million	-\$15.8 million
Middle	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate
Low					

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**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

<sup>12</sup> Revenue Estimating Conference, *Fiscal Analysis on Senate Bill 2450* (March 26, 2010) (on file with the Senate Committee on Community Affairs) (These results were based on a survey of selected counties with 263,992 reported just value changes. Of this number only 77,563 showed a positive change in just value and approximately 18,000 of those were made by the property appraiser due to correction of a material mistake of fact relating to the physical characteristics of the property.)

<sup>13</sup> *Id.* at 314-15. The Revenue Estimating Conference stated that there was no information available to determine if the changes in just value resulted in the assessment of back taxes. But stated that based on conversations with property appraisers, the number of involving back taxes is estimated to be small. Additionally, the Conference stated that if the term “retroactive” is interpreted to mean changes made in the same year after the tax bill was sent out, then the provisions of this bill may have more of an impact.

<sup>14</sup> *Id.*

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on April 14, 2010:**

Authorizes an individual to report to the property appraiser a possible homestead exemption violation to his local property appraiser's office. If the property appraiser verifies that a homestead exemption was illegally or improperly obtained, the "whistleblower" is entitled to a reward of up to \$500.

- B. **Amendments:**

None.

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

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