

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7215 PCB FTC 10-08 Property Tax

SPONSOR(S): Finance & Tax Council and Bogdanoff

TIED BILLS: _____ **IDEN./SIM. BILLS:** _____

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Finance & Tax Council	11 Y, 0 N	Diez-Arguelles	Langston
1)	Economic Development & Community Affairs Policy Council		Noriega	Tinker
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill makes changes to four areas dealing with property taxation.

- Under current law, non-homestead property that has benefitted from the 10 percent annual assessment increase limitation must be reassessed when there is a change of ownership or control. One way in which a change of ownership or control occurs is when there is a cumulative transfer of more than 50 percent of the ownership of the legal entity that owns the property. The bill provides that, for a publicly traded company, a change of ownership or control does not occur when the cumulative transfer of 50 percent of the ownership of the entity occurs through the buying and selling of shares of the company on a public exchange. This exception does not apply to transfers made through a merger or acquisition. Owners of property to which the 10 percent limitation applies are required to notify the property appraiser when there is a change of ownership or control. The bill provides that if the change of ownership is recorded by a deed or other instrument in the public records of the county where the property is located, the recorded instrument serves as notice to the property appraiser;
- The bill directs the Department of Revenue (DOR) to produce a form that can be used by a property owner to provide notice to multiple property appraisers of all Florida property that the owner owns or controls for which a transfer of ownership or control has occurred;
- The bill adds structures or improvements used for horticulture production that improve water quality or water conservation, as designated by the Department of Agriculture and Consumer Services, to the list of items that must be assessed, under the income methodology, as if they were part of the land, as opposed to being assessed as a separate structure;
- Current law states that, after January 1 of any year, the rental of an entire homestead during two consecutive years constitutes the abandonment of the homestead, resulting in the loss of the homestead exemption and the Save Our Homes benefit. The bill replaces the words "an entire," with the phrase "all or substantially all of a"; and
- The bill clarifies that cities and counties can provide ad valorem tax exemptions to new or expanding businesses, with referendum approval, for more than two 10-year periods.

The provisions of this bill will have an overall indeterminate impact on local government revenues. The provisions dealing with change of ownership and with structures used in horticulture have a negative indeterminate impact. The provision dealing with rental of homesteads will have a positive indeterminate impact. DOR has indicated that the provision dealing with structures used in horticulture would have a statewide implementation cost of \$223,179 in fiscal year 2009-10.

This bill has an effective date of July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This bill makes changes to four areas dealing with property taxation. Each of these areas is discussed separately below.

Reassessment Due to Change of Ownership

For purposes of determining the value of property for ad valorem taxes, Florida law limits the amount by which assessments can increase from one year to the next for three classes of property. Homestead property annual assessment increases are limited to the lesser of 3 percent or the percentage change in the Consumer Price Index.¹ For residential property containing 9 or fewer units² and for other nonresidential property³ annual assessment increases are limited to 10 percent.

Upon the occurrence of certain events, however, properties whose assessments have been limited are reassessed at just value (fair market value). Homestead property is reassessed when it loses homestead status or when its ownership changes.⁴ Residential real property containing nine or fewer units is reassessed whenever there is a "change of ownership or control."⁵ Other nonresidential real property is reassessed whenever there is a qualifying improvement or a "change of ownership or control."⁶

The phrase "change of ownership or control" means "any sale, foreclosure, transfer of legal title or beneficial title in equity to any person, or the cumulative transfer of control or of more than 50 percent of the ownership of the legal entity that owned the property when it was most recently assessed at just value"⁷

¹ Article VII, section 4(d), Florida Constitution and s. 193.155, F.S.

² Article VII, section 4(g), Florida Constitution and s. 193.1554, F.S.

³ Article VII, section 4(h), Florida Constitution and s. 193.1555, F.S.

⁴ Section 193.155, F.S.

⁵ Section 193.1554(5), F.S.

⁶ Section 193.1555(5), F.S. A qualifying improvement is defined as one that increases the just value of the property by at least 25 percent.

⁷ Sections 193.1554(5) and 193.1555(5)(b), F.S.

This bill provides that there is no change of ownership for purposes of reassessing property at just value “if, for a publicly traded company, the cumulative transfer of more than 50 percent of the ownership of the entity occurs through the buying and selling of shares of the company on a public exchange. This exception does not include a transfer made through a merger with or acquisition by another company, including acquisition by acquiring outstanding shares of the company.”

Notice of Change of Ownership or Control

Owners of property subject to the 10 percent assessment limitation described above are required to notify the property appraiser of any change of ownership or control.⁸ Owners who fail to notify the property appraiser are subject to back taxes, interest of 15 percent per annum and a penalty of 50 percent of the taxes avoided.⁹

The bill provides that if the change of ownership is recorded by a deed or other instrument in the public records of the county where the property is located, the recorded deed or instrument serves as notice to the property appraiser.

Also, the bill requires the Department of Revenue (DOR) to provide a form that can be used by a property owner to provide notice to multiple property appraisers of all Florida property that the owner owns or controls for which a transfer of ownership or control has occurred.

Assessment of Certain Structures Used for Horticulture

Pursuant to Article VII, section 4 of the Florida Constitution, agricultural land may be assessed solely on the basis of its character or use. For property to be classified as agricultural land, it must be used “primarily for bona fide agricultural purposes.”¹⁰

Once property is qualified to receive agricultural classification, the property appraiser must assess the land based solely on its agricultural use, considering the following use factors only:

- the quantity and size of the property;
- the condition of the property;
- the present market value of the property as agricultural land;
- the income produced by the property;
- the productivity of land in its present use;
- the economic merchantability of the agricultural product; and
- such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.¹¹

For purposes of the income methodology approach to the assessment of property used for agricultural purposes, irrigation systems, pumps, or motors physically attached to the land are considered a part of the average yields per acre and have no separately assessable contributory value.¹² Litter containment

⁸ Section 193.1556, F.S.

⁹ Id.

¹⁰ Section 193.461(3)(b), F.S.

¹¹ Section 193.461(6)(a), F.S.

¹² Section 193.461(6)(c), F.S.

structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms are similarly treated.¹³

The bill provides that structures or improvements used for horticulture production that improve water quality or water conservation, as designated by the Department of Agriculture and Consumer Services' interim measures or best management practices adopted pursuant to s. 570.085 or s. 403.067(7)(c), F.S., must be assessed by the same methodology as irrigation systems described above.

Abandonment of Homestead Property

Section 196.061, F.S., provides that, after January 1 of any year, the rental of an entire dwelling unit previously claimed as a homestead constitutes abandonment of the dwelling as a homestead, and leads to the loss of the homestead exemption and the Save Our Homes assessment increase limitation. However, rental of the homestead property after January 1 of any year does not affect the homestead exemption so long as the property is not so rented during 2 consecutive years.

The bill deletes the phrase "an entire," and replaces it with the phrase "all or substantially all of a." After this change, s. 196.061, F.S., will state that "the rental of all or substantially all of a dwelling previously claimed to be a homestead for tax purposes shall constitute abandonment of the dwelling as a homestead, and such abandonment . . ."

The bill defines the term "rental," as used in s. 196.061, F.S., as any rental, lease, license, or other similar agreement by which the owner is compensated for use of the dwelling by tenants or guests.

Economic Development Ad Valorem Tax Exemption

Section 196.1995, F.S., allows a county or municipality to grant an ad valorem tax exemption to new or expanding businesses. The granting of the exemption may only be accomplished pursuant to a referendum and for 10-year periods. The current statute is unclear regarding whether a county or municipality may use the exemption for more than two consecutive 10-year periods.

The bill clarifies that the statute may be used multiple times, so long as each 10-year period is approved by referendum.

This bill has an effective date of July 1, 2010.

B. SECTION DIRECTORY:

- Section 1. Amends s. 193.1554, F.S., relating to assessment of nonhomestead residential property.
- Section 2. Amends s. 193.1555, F.S., relating to assessment of certain residential and nonresidential real property.
- Section 3. Amends s. 193.1556, F.S., relating to notice of change of ownership or control required.
- Section 4. Amends s. 193.461, F.S., relating to agricultural lands; classification and assessment.
- Section 5. Amends s. 196.061, F.S., relating to rental of homestead to constitute abandonment.
- Section 6. Amends s. 196.1995, F.S., relating to economic development ad valorem tax exemption.
- Section 7. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

¹³ Id.

1. Revenues:

None.

2. Expenditures:

DOR has indicated that the provision dealing with structures used in horticulture would have a statewide implementation cost of \$223,179 in fiscal year 2009-10. According to DOR, these expenses would be needed to hire 3 additional Senior Appraisers to conduct income appraisals on approximately 90 properties per year, and to provide \$2,500 for each of these appraisers as a recurring expense due to ongoing professional training and field-appraisal travel requirements. In addition, some costs may be associated with the creation of a new form for property owners to provide notice to the property appraisers and for rulemaking purposes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The provisions of this bill will have an overall indeterminate impact on local government revenues. The provisions dealing with change of ownership and with structures used in horticulture have a negative indeterminate impact. The provision dealing with rental of homesteads will have a positive indeterminate impact.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies that own properties in multiple counties in the state will experience some savings from using the form promulgated by DOR and by having recorded instruments serve as notice of change of ownership.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision may apply because this bill affects the authority that counties or municipalities have to raise revenues in the aggregate. However, at this time, whether the impact is positive or negative, and its magnitude, is unknown.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR has indicated that the provisions of this bill would require minor changes to Rule 12D-8.0061.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES