

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 251 Property Assessments
SPONSOR(S): Workman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 928

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Aldridge	Langston
2) Community & Military Affairs Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. "Just value" is synonymous with "fair market value" and is defined as what a willing buyer would pay a willing seller for the property in an arm's length transaction.

Section 193.011, F.S., requires property appraisers to take into consideration eight factors in arriving at just valuation. The first factor is the 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.

The bill amends s. 193.011(1), F.S., the first of eight factors property appraisers are required to take into account in arriving at just value. The bill specifies that the present cash value of the property, which is the amount a willing purchaser would pay a willing seller at arm's length, would include but not be limited to cash values from distress sales, short sales, bank sales, or sales at public auction. The property appraiser shall exercise discretion in using all open market transactions and shall use such transactions only if the transactions, in the opinion of the property appraiser, constitute a sufficient number as to affect market value within any specific geographical area.

The Revenue Estimating Conference estimated that the bill would have a recurring negative indeterminate impact on local government revenues of at least certain amounts. For school levies, the minimum estimated impacts are negative \$10.2 in FY 2012-13 with a recurring negative impact of \$20.8 million. For non-school levies, the minimum estimated impacts are negative \$14.3 million in FY 2012-13 with a recurring negative impact of \$29 million.

The bill is effective upon becoming law and shall apply retroactively to January 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Just Value

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. "Just value" is synonymous with "fair market value" and is defined as what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹

Factors Considered in Deriving Just Valuation

Section 193.011, F.S., 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;
- 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 the legally permissible use of the property, including any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and any zoning changes, concurrency requirements, and permits necessary to achieve the highest and best use, and considering any executive order, ordinance, regulation, resolution or proclamation or judicial limitation when it prohibits or restricts the development or improvement of property;
- Location of the property;
- Quantity or size of the property;
- Cost of the property and the present replacement value of any improvements thereon;
- Condition of the property;
- Income from the property; 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.

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.² Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.³ Land used for conservation purposes must be assessed solely on the basis of character or use.⁴ Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.⁵ Counties and

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

² The constitutional provisions in section 4, Art. VII, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

³ Art. VII, section 4(a) of the Florida Constitution.

⁴ Art. VII, section 4(b) of the Florida Constitution.

⁵ Art. VII, section 4(c) of the Florida Constitution.

municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁶ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.⁷ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.⁸ Certain working waterfront property is assessed based upon the property's current use.⁹

Assessment Limitations

Save Our Homes

The "Save Our Homes" provision in Article VII, section 4 of the Florida Constitution, limits the amount a homestead's assessed value can increase annually to the lesser of 3 percent or the inflation rate as measured by the consumer price index (CPI).¹⁰ Homestead property owners that establish a new homestead may transfer up to \$500,000 of their accrued "Save Our Homes" benefit to a new homestead.¹¹

Additional Assessment Limitations

Article VII, sections 4(g) and (h), of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law.

Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹²

Homestead Exemption

Article VII, section 6 of the Florida Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Other Exemptions

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is

⁶ Art. VII, section 4(e) of the Florida Constitution.

⁷ Art. VII, section 4(f) of the Florida Constitution.

⁸ Art. VII, section 4(i) of the Florida Constitution.

⁹ Art. VII, section 4(j) of the Florida Constitution.

¹⁰ Art. VII, section 4(d) of the Florida Constitution.

¹¹ Art. VII, section 4(d) of the Florida Constitution.

¹² See *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.¹³ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.¹⁴ A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.¹⁵ A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹⁶ Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁷ There is an exemption for real property dedicated in perpetuity for conservation purposes.¹⁸ There is an exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.¹⁹

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes.

Effect of Proposed Changes

The bill amends s. 193.011(1), F.S., the first of eight factors property appraisers are required to take into account in arriving at just value. The bill specifies that the present cash value of the property, which is the amount a willing purchaser would pay a willing seller at arm's length, would include but not be limited to cash values from distress sales, short sales, bank sales, or sales at public auction. The property appraiser shall exercise discretion in using all open market transactions and shall use such transactions only if the transactions, in the opinion of the property appraiser, constitute a sufficient number as to affect market value within any specific geographical area.

B. SECTION DIRECTORY:

Section 1: Amends s. 193.011(1), F.S., as described above.

Section 2: Provides that the bill is effective upon becoming law and shall apply retroactively to January 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated that the bill would have no impact on state government revenues.

2. Expenditures:

None.

¹³ Art. VII, section 3(a) of the Florida Constitution.

¹⁴ Art. VII, section 3(b) of the Florida Constitution.

¹⁵ Art. VII, section 3(c) of the Florida Constitution.

¹⁶ Art. VII, section 3(d) of the Florida Constitution.

¹⁷ Art. VII, section 3(e) of the Florida Constitution.

¹⁸ Art. VII, section 3(f) of the Florida Constitution.

¹⁹ Art. VII, section 3(g) of the Florida Constitution.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated that the bill would have a recurring negative indeterminate impact on local government revenues of at least certain amounts. For school levies, the minimum estimated impacts are negative \$10.2 in FY 2012-13 with a recurring negative impact of \$20.8 million. For non-school levies, the minimum estimated impacts are negative \$14.3 million in FY 2012-13 with a recurring negative impact of \$29 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue's analysis of the bill done October 20, 2011 identified the following concerns:

The proposed language creates an internal conflict in section 193.011, F.S., by including distress-type transfers as a component of open market, arm's length sales involving a willing seller. By definition, such distress-type transfers are not open market or arm's length sales involving a willing seller (market sales).

This bill language would change the meaning of market sales as provided in subsections 193.011(1) and 195.096(2)(c), F.S., leading to increased assessment variation and decreased assessment uniformity. This would create a different standard for "market sales" and would present substantial difficulty for the Department in performing its oversight duties under sections 193.1142, 195.0012, 195.096, 195.0995, and 195.097, F.S. Subsection 195.096(2)(d), F.S., states: "*In the conduct of these reviews, the department shall adhere to all standards to which the property appraisers are required to adhere.*"

Section 195.0012, F.S., states the following: "*It is declared to be the legislative purpose and intent in this entire chapter to recognize and fulfill the state's responsibility to secure a just valuation for ad valorem tax purposes of all property and to provide for a uniform assessment as between property within each county and property in every other county or taxing district.*"

Using distress-type transfers as “market sales” would increase assessment variation and impede the legislative intent for the Department to secure just valuations and assessment uniformity.

Section 195.096(5), F.S., states the following: *“It is the legislative intent that the department utilize to the fullest extent practicable objective measures of market value in the conduct of reviews pursuant to this section.”* The distress-type sales contemplated in this bill would not give objective measures of value as provided by statute.

The Department’s sale qualification reviews under section 195.0995, F.S., rely upon arm’s length, market sales as objective measures of whether particular sales should be qualified or disqualified consistent with the statutory scheme for just valuation. Including non-market, distress-type sales in the pool of market sales would impede the Department’s ability to objectively and reliability [sic] evaluate the decisions of the property appraiser in qualifying or disqualifying sales. this would lead to difficulty in the Department’s ability to perform its duties under section 195.097, F.S. (all emphasis contained in original)

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES