

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 Committee on Community Affairs

BILL: SB 948

INTRODUCER: Senator Stewart

SUBJECT: Assessment of Properties Affected by Imported or Domestic Drywall

DATE: March 13, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AFT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 948 extends the expiration date from July 1, 2017, to July 1, 2025, for a provision that requires property appraisers to take into account and accordingly adjust the assessed value of a single-family residential property that is affected by the presence of corrosive imported or domestic drywall.

II. Present Situation:

Imported Drywall

The United States imported drywall from China from 2006 to 2008 to address the shortage of construction materials created by the 2004 and 2005 hurricane seasons and the national demand for new home construction.¹ Beginning in 2008, people living in homes built between 2001 and 2008 began reporting health issues. Homeowners also reported corrosion of certain metal components in their homes. The U.S. Consumer Product Safety Commission (CPSC), the lead federal agency for problem drywall, began investigating the problem in 2009 with the Agency for Toxic Substances and Disease Registry (ATSDR) and other agencies.

According to the CPSC and ATSDR, people who were exposed to sulfur compounds emitted by some drywall manufactured in China may have experienced health effects including headaches; irritation of eyes, nose, and throat; feeling tired; and problems controlling respiratory conditions like asthma.² The estimated concentrations of sulfur compounds in indoor air emitted from drywall samples manufactured in China in 2005 and 2006 were a public health concern at the time of testing (2009 and 2010). Sulfur compound emission rates increased with both temperature and humidity. However, sulfur compound emissions from drywall samples

¹ U.S. Health and Human Services, ATSDR, *Public Health Implications of Chinese-manufactured Drywall*, available at: https://www.atsdr.cdc.gov/drywall/docs/Final%20drywall_factsheet_05-2-14.pdf (last visited March 9, 2017).

² *Id.*

decreased between the 2009 and 2010 testing. This suggests that emissions likely were higher when the drywall was originally manufactured in 2005 and 2006. The available data cannot be used to determine if people are being exposed to sulfur compounds at levels that could cause health effects today.³

If residents have a corrosive drywall, the CPSC and U.S. Department of Housing and Urban Development (HUD) have a recommended remediation process.⁴ The CPSC and HUD recommend replacing all problem drywall, smoke and carbon monoxide alarms, and most electrical distribution components and sprinkler heads.⁵

The CPSC has received 4,051 reports from residents in 44 states, the District of Columbia, American Samoa, and Puerto Rico, who believe their health symptoms or the corrosion of certain metal components in their homes are related to the presence of defective drywall.⁶

The majority of the complaints (56 percent) have been from homeowners in Florida. As of March 13, 2014, the CPSC has received 2,265 incident reports associated with Chinese drywall in Florida.⁷

Prior to the passage of ch. 2010-170, Laws of Fla., property appraisers in affected counties recognized that the presence of defective drywall reduced the value of these homes and lowered their assessments, as required under s. 193.011, F.S., which specifically cites the present cost value of property and its condition as factors to be considered in determining just value.⁸

In 2010, when the Legislature originally created s. 193.1552, F.S., the Florida Department of Health reported that they had received 678 complaints related to imported drywall in 30 counties. In recent years, the number of properties affected by toxic drywall appears to have reduced. According to the Department of Revenue, there were 211 properties in 12 counties affected by toxic drywall in 2016.⁹ The most heavily affected counties were Palm Beach with 57 such properties, Miami-Dade with 45 such properties, and Sarasota with 37 such properties.¹⁰

³ *Id.*

⁴ CPSC and HUD, *Remediation Guidance for Homes with Corrosion from Problem Drywall as of March 28, 2011*, available at <https://www.cpsc.gov/Global/Safety%20Education/Safety-Information-Centers/Drywall/Remediation031811.pdf> (last visited March 9, 2017).

⁵ U.S. Health and Human Services, ATSDR, *Public Health Implications of Chinese-manufactured Drywall*.

⁶ United States Consumer Product Safety Commission, *What Should I Do If My Home Has Problem Drywall?* available at <https://www.cpsc.gov/safety-education/safety-education-centers/drywall-information-center/where-has-problem-drywall-been-reported> (last visited March 9, 2017).

⁷ United States Consumer Public Safety Commission, *Where Has Problem Drywall Been Reported?* available at https://www.cpsc.gov/s3fs-public/pdfs/blk_media_CPSC%20Drywall%20State%20breakdowns%203%2013%2014.pdf (last visited March 9, 2017).

⁸ Florida Senate, 2010 Legislative Analysis for CS/SB 2160, (published April 15, 2010).

⁹ The 12 affected counties were Miami-Dade, Flagler, Indian River, Manatee, Martin, Okeechobee, Palm Beach, Pinellas, Polk, St. Lucie, Santa Rosa, and Sarasota.

¹⁰ *Id.*

Section 193.1552, Florida Statutes

In response to the issues experienced by Floridians due to imported drywall, the Legislature passed HB 965 in 2010.¹¹ The bill created s. 193.1552, F.S., to require property appraisers to adjust the assessed value of affected single-family residential property by taking into consideration the presence of imported or domestic drywall and the impact it has on the assessed value.¹² If the building cannot be used for its intended purpose without remediation or repair, the value of the building shall be \$0.

The term “imported or domestic drywall” is defined to mean drywall that contains elevated levels of elemental sulfur that results in corrosion of certain metals.¹³

To qualify, a home must have imported or domestic drywall that has a significant negative impact on the just value of the property and the purchaser must not have been aware of the presence of the tainted drywall at the time of purchase.

Section 193.1552(5), F.S. provides that homestead property to which the provisions of the section apply must be considered damaged by misfortune or calamity under the provisions of s. 193.155(4)(b), F.S., thereby resulting in the remediation and repairs not increasing the assessed value of the property, so long as the square footage limitations are followed. Moreover, the homestead property will not be considered abandoned if an owner vacates the property during repairs and does not establish a new homestead.

Once the remediation and repairs have been complete, affected properties will be assessed as if the imported or domestic drywall had not been present.

The provisions of s. 193.1552, F.S., will be repealed on July 1, 2017, unless reviewed and reenacted by the Legislature before that date.

III. Effect of Proposed Changes:

The bill extends the expiration date of s. 193.1552, F.S., from July 1, 2017, to July 1, 2025. As a result, property appraisers will continue to be required to take into account and accordingly adjust the assessed value of a single-family residential property that is affected by the presence of corrosive imported or domestic drywall.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Subsection (b) of section 18 of the State Constitution, provides that except upon the approval of each house of the Legislature 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

¹¹ Chapter 2010-170, Laws of Fla.

¹² *Id.*

¹³ Section 193.1552(1), F.S.

counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2016-2017 was \$2 million or less.^{14,15,16} The Revenue Estimating Conference has not examined the fiscal impact of this bill, but it is unlikely the bill will exceed the \$2 million threshold.¹⁷

The county/municipality mandates provision of Art. VII, S. 18 of the Florida Constitution may apply because this bill reduces local government authority to raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

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:

Property owners may receive tax relief if their property was built using defective building materials or construction techniques.

C. Government Sector Impact:

The bill may reduce the tax base upon which counties and municipalities raise ad valorem revenue.

VI. Technical Deficiencies:

None.

¹⁴ FLA. CONST. art. VII, s. 18(d).

¹⁵ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 9, 2017).

¹⁶ Based on the Demographic Estimating Conference's population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 9, 2017).

¹⁷ If the DOR's estimation of 211 affected properties is accurate, each property's taxes would need to be reduced by an average of \$9,479 to exceed the \$2 million threshold.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 193.1552 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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