

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 Finance and Tax

BILL: CS/SB 1254

INTRODUCER: Finance and Tax Committee and Senator Bean

SUBJECT: Ad Valorem Assessments

DATE: March 31, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1254 provides two situations when title to homestead property may change without the property being reassessed at just value:

- When the title change is only to remove an owner or owners who held title as joint tenants with rights of survivorship with the owner who remains on the title.
- When the title change is only to remove a deceased person.

The bill also clarifies that ancillary improvements that are destroyed by storms or other calamities may be replaced and retain the taxable value assigned to those improvements prior to being destroyed. This change treats ancillary improvements just as other property is treated under current law.

The Revenue Estimating Conference determined that the bill will reduce local government revenues by an indeterminate amount beginning in Fiscal Year 2021-2022.

The bill takes effect July 1, 2021.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing jurisdiction, applies the appropriate assessment limitation to determine the assessed value, and then applies relevant exclusions and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

Homestead Property Change of Ownership

Homestead property is assessed at just value as of January 1 of the year following a change of ownership. A change of ownership is any sale, foreclosure, or transfer of legal or beneficial title, except where:⁶

- After the change the same owner is still entitled to the homestead exemption and:
 - The transfer of title is to correct an error;
 - The transfer is between legal and equitable title or equitable and equitable title and no additional person applies for a homestead exemption;
 - The change is by means of an instrument in which the owner is listed as both grantee and grantor, and one or more other individuals who do not apply for a homestead exemption are named as grantee; or
 - The person is a lessee entitled to the homestead exemption.
- The change is between husband and wife, including a change or transfer to a surviving spouse or a transfer due to dissolution of marriage;
- The transfer occurs by intestate inheritance to a surviving spouse or minor children; or
- Upon the death of the owner, the transfer is between the owner and someone who is a permanent resident and who is legally or naturally dependent upon the owner.

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art. VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See 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).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.155(3)(a), F.S.

Changes, Additions, and Improvements to Real Property

In general, changes, additions, or improvements to real property are assessed at just value as of the first January 1 after they are substantially completed.⁷

However, when property is damaged or destroyed by calamity or misfortune, the property may be repaired or replaced without the change, addition, or improvement being assessed at just value; rather, the change, addition, or improvement is assigned the taxable value and other tax characteristics (i.e. assessment limitation) that the damaged or replaced property had before being damaged or destroyed. This treatment has certain limitations. For instance, the change, addition, or improvement may not exceed 110 percent of the square footage of the property before it was damaged or destroyed.⁸ Any square footage greater than 110 percent of the replaced property is assessed at just value. For residential property, the 110 percent limitation does not apply if the change, addition, or improvement is 1,500 square feet or less.⁹

While the treatment under current law is relatively clear regarding the main structures on property, such as residences and other buildings, the current statutes are less clear with regard to ancillary improvements.¹⁰

III. Effect of Proposed Changes:

With regard to changes of ownership, the bill adds two additional exclusions whereby a change in the ownership of homesteaded property would not result in the property being assessed at just value as of the January 1 following the change in ownership.

Specifically, a change of ownership would not occur when the owner entitled to the homestead exemption is both grantor and grantee, and one or more other individuals who held title as joint tenants with rights of survivorship with the owner are removed from the title.

Additionally, a change of ownership would not occur when:

- Multiple owners hold title as joint tenants with rights of survivorship;
- One or more owners were entitled to and received the homestead exemption on the property;
- The death of one or more owners occurs; and
- Following the transfer, the surviving owner or owners previously entitled to and receiving the homestead exemption continue to be entitled to and receive the homestead exemption.

With regard to property that is damaged or destroyed by calamity or misfortune, the bill clarifies that ancillary improvements¹¹ may also be repaired or replaced without the change, addition, or improvement being assessed at just value.

⁷ Sections 193.155(4)(a), 193.1554(6)(a), and 193.1555(6)(a), F.S.

⁸ Sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

⁹ Sections 193.155(4)(b), F.S.

¹⁰ See sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

¹¹ The term “ancillary improvement” is not defined in law, but might be generally understood to include extra features, such as boat docks, that are not attached to a house and not assessed on a square footage basis.

The bill clarifies that the assessment made for repaired or replaced property must be calculated based on the assessed value as of the January 1 immediately before the damage or destruction occurred.

The changes made by the bill regarding property damaged or destroyed by calamity or misfortune are remedial and clarifying and may not affect any assessment for tax rolls before 2021, unless the assessment is under review by a value adjustment board or a Florida court. For property repaired or replaced and not assessed as provided by the bill, a property appraiser must determine the assessment for the year the repaired or replaced property was substantially completed and recalculate the just and assessed value for each subsequent year so that the 2021 tax roll and subsequent rolls are assessed as provided by the bill.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida 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 cities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact,^{12, 13} which for Fiscal Year 2021-2022, is forecast at \$2.2 million.¹⁴

The Revenue Estimating Conference determined the bill will reduce local government property tax revenue by an indeterminate amount. If the reduction exceeds \$2.2 million in the aggregate, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² FLA. CONST. art. VII, s. 18(d).

¹³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 03, 2021).

¹⁴ Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce local government revenues by an indeterminate amount beginning in Fiscal Year 2021-2022.

B. Private Sector Impact:

The bill may positively impact property owners by allowing them to maintain their homestead exemption when making certain changes in ownership.

C. Government Sector Impact:

The bill may negatively impact local governments by excluding additional circumstances that would have resulted in a change of ownership subjecting the property to assessment at just value.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.155, 193.1554, and 193.1555.

This bill reenacts section 193.1557 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.)

CS by Finance and Tax on March 31, 2021:

The amendment makes technical changes to correct cross references and clarifies the application of certain provisions amended by the bill and the effective date.

B. Amendments:

None.

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