



# The Florida Senate

*Interim Project Summary 2004-136*

*November 2003*

Committee on Finance and Taxation

James E. "Jim" King, Jr., President

## ADMINISTRATION OF ART. VII, SEC. 4(E), FLORIDA CONSTITUTION: THE "GRANNY FLATS" AMENDMENT

### SUMMARY

The "Granny Flats" amendment, as Art. VII, Sec. 4(e) of the Florida Constitution is popularly known, was adopted by the voters in November 2002. It allows a county to provide a tax exemption for property constructed or reconstructed for the purpose of providing living quarters for grandparents or parents of the owner or the owner's spouse, if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. The amendment is implemented by s. 193.703, F.S., and three counties have adopted the exemption.

Several property appraisers have identified concerns about how this provision should be administered. Particular concerns are:

- the lack of timelines for adoption of an ordinance by the county commission and notification of the property appraiser;
- the lack of a requirement that the living quarters provide a permanent residence to the qualified parent or grandparent;
- the lack of authority for the property appraiser to require that the social security numbers of parents or grandparents be provided to ascertain that they are not receiving homestead exemptions somewhere else in Florida; and
- the weaker penalty provisions for fraudulently filing for this assessment reduction compared to other homestead exemption fraud.

Based on analysis of the current law implementing this constitutional provision and recommendations of the property appraisers, the Legislature should amend s. 193.703, F.S., to address these concerns and create a public records exemption for social security numbers required to be provided under this section.

### BACKGROUND

In 2002, the Florida Legislature proposed a constitutional amendment that allows a county to provide a tax exemption for property constructed or reconstructed for the purpose of providing living quarters for grandparents or parents of the owner or the owner's spouse, if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Section 193.703, F.S., was also enacted, contingent upon voter approval of the proposed amendment, to implement its provisions. The proposed amendment was approved by voters in November, 2002, and became effective, along with the implementing legislation, on January 7, 2003. This exemption will take effect for taxes levied against the 2004 tax roll in the counties that have adopted the exemption. (As of October 20, 2003, these counties are Leon, Duval, and Miami-Dade.)

Section 193.703, F.S., the statutory implementation of the amendment, does not answer all questions that have been raised by counties and property appraisers about how to implement this constitutional provision. Some of these questions and concerns can be addressed by an administrative rule, and the Department of Revenue has initiated development of a rule to implement the provisions of this statute. Other issues must be solved by legislation, since agency rules are limited by s. 120.536(1), F.S., to implementing or interpreting the specific powers and duties conferred by the enabling statute, the rule cannot require any action that is not specifically required by the statute.

### METHODOLOGY

This report reviews s. 193.703, F.S., and identifies issues that need to be addressed by rule or legislation to improve implementation of the constitutional provision. The department's proposed rule and suggestions that came out of a 2003 workshop will also be reviewed to see to what extent they satisfy the need for additional guidance and clarification. The property

appraisers were asked to provide comments on the current law and proposed rule and identify any potential problem in implementing this amendment that is not addressed in the Department of Revenue’s proposed rule.

**FINDINGS**

- The current statute provides no timelines for the adoption of the assessment reduction by the county commission or for notification of the property appraiser.
- There is no requirement in the statute that the parent or grandparent spend a minimum amount of time in the homestead. The primary residence condition could be met even if the parent or grandparent spends most of the year traveling or staying with other family members, as long as he or she does not claim a homestead exemption or tax credit on other property.
- The property appraisers have no authority to require that the social security numbers of parents or grandparents be provided to ascertain that they are not receiving homestead exemptions somewhere else in Florida. (A separate bill will be required to provide public records exemption for these social security numbers.)
- The penalty provisions for fraudulently filing for this assessment reduction are much weaker than other homestead exemption fraud, and are likely to be less than the tax savings from the exemption.

- Allow the Department of Revenue to prescribe an application form, and require the applications to include the social security numbers of the parents or grandparents for whom the living quarters were constructed;
- Provide the same penalties for fraudulently claiming the assessment reduction as are provided in the statute for other homestead exemption fraud; and
- Create a public records exemption for social security numbers required to be provided under this section.

**RECOMMENDATIONS**

Based on analysis of the current law implementing this constitutional provision and recommendations of the property appraisers, the Legislature should:

- Amend s. 193.703, F.S., to provide a timeline for a county to adopt the assessment reduction by ordinance and notify the property appraiser. The property appraiser should be notified by December 1 for an assessment reduction that will apply to the next year’s property tax assessments;
- State explicitly that the reduction in assessed value applies to the property tax levies of all taxing authorities in the county, who must be notified that the board of county commissioners will vote on adopting an ordinance providing for the reduction;
- Define the term “qualified parent or grandparent” to mean someone permanently residing in the living quarters qualifying for the assessment reduction and provide that the assessment reduction applies as long as a qualified parent or grandparent permanently resides in the homestead;