

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/CS/SB 478

SPONSOR: Finance and Taxation Committee, Comprehensive Planning Committee, Regulated Industries Committee and Senator Margolis

SUBJECT: Homestead Property/Sale

DATE: March 18, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
3.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute (CS) creates s. 689.261, F.S., to require that a prospective purchaser of residential property be notified that the property taxes may be in excess of the taxes levied in the current year.

This bill creates section 689.261, Florida Statutes.

II. Present Situation:

“Save Our Homes” Property Assessment Limitation

Section 4(c), Art. VII of the State Constitution limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index, not to exceed just value.¹ After any change in ownership,² the property is to

¹ “Just value” has been interpreted to mean “fair market value.” *Walter v. Schuler*, 176 So.2d 81

² s. 193.155(3) defines a “change of ownership” as any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person, except as provided in this subsection. There is no change of ownership if:

(a) Subsequent to the change or transfer, the same person is entitled to the homestead exemption as was previously entitled and:

1. The transfer of title is to correct an error; or
2. The transfer is between legal and equitable title;

(b) The transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage;

(c) The transfer occurs by operation of law under s. 732.4015; or

(d) Upon the death of the owner, the transfer is between the owner and another who is a permanent resident and is legally or naturally dependent upon the owner.

be assessed at just value as of January 1 of the following year. Section 193.155, F.S., implements this assessment limitation.

Buyers of homestead property may be unaware that the taxable value of the property (assessment) will be based on the just value of the property when property changes ownership, not the “limited” assessment enjoyed under “Save Our Homes.”

Disclosures at Sale

Prospective property purchasers are required by a variety of state and federal laws to be provided proper notice, prior to a sale, of potential conditions affecting the property or obligations that attach to the property. These disclosures include:

- Notice of Homeowner’s Association, etc. - If the buyer is purchasing a residence in a community, before executing the sale of the property, the seller must disclose whether the buyer is
 - obligated to be a member of the community homeowners’ association,
 - that there are restrictive covenants governing the use and occupancy of the property, and
 - whether or not the property is subject to special assessments to the respective municipality, county, or special district.³
- Condominium Resale – If the property is a condominium that is being resold, the buyer must receive specified condominium documents and other disclosures relating to rental fee obligations, failing which the buyer may cancel the contract.⁴
- Community Development District (CDD)- A prospective purchaser of a residential property in a CDD must be provided, immediately prior to the space reserved in the contract for the signature of the purchaser, a full disclosure of information concerning the public financing and maintenance of improvements to real property within the district.⁵
- Coastal Construction Zone – When property to be sold is partially or totally seaward of the coastal construction control line, the seller must provide the buyer an affidavit, or a survey, delineating the location of the line unless the buyer waives this requirement.⁶
- Radon Gas - Prospective property buyers or renters must be provided information on the potential existence and health risks related to radon gas.⁷
- Energy-Efficiency Rating - A prospective purchaser of property with a building must be provided with an informational brochure, at the time of or prior to the execution of the contract for sale, notifying the purchases of the option for an energy-efficiency rating on the building.⁸
- Lead-Based Paint Hazard - On houses build before 1978, the sale contract or a separate disclosure form must contain a Lead Warning Statement and must identify the presence of any known lead-based paint or lead-based paint hazard.⁹

³ s. 689.26, F.S.

⁴ s. 718.503(2)(c), F.S.

⁵ s. 190.009, F.S.

⁶ s. 161.57(2), F.S.

⁷ s. 404.056(5), F.S.

⁸ s. 553.996, F.S.

⁹ The Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. section 4852b)

III. Effect of Proposed Changes:

Section 1 creates s. 689.261, F.S., to require that a prospective purchaser of residential property be notified that the property will be re-assessed following the sale, which may result in the taxes being in excess of the taxes levied in the current year. This disclosure summary must be attached to the contract for sale at or before executing the contract for sale, unless a substantially similar disclosure is included in the contract for sale.

The CS provides the form with which the disclosure summary must substantially comply. The disclosure summary must state that:

Buyer should not rely on the seller's current property taxes as the amount of property taxes that the buyer may be obligated to pay in the year subsequent to purchase. A change of ownership or property improvements triggers reassessments of the property that could result in higher property taxes. If you have any questions concerning valuation, contact the county property appraiser's office for information.

If the disclosure summary is not included in the contract for sale, the contract must refer to and incorporate by reference the disclosure summary and all contracts for sale must include, in prominent language, a statement that the potential purchaser should not execute the contract until he or she has read the required disclosure summary.

Section 2 provides that the CS will take effect October 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sellers of homestead property would have to make the disclosure required by this CS.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
