

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Finance and Tax Committee

BILL: CS/SB 158

INTRODUCER: Finance and Tax Committee, Senators Geller and Haridopolos

SUBJECT: Homestead/Disaster Preparedness

DATE: April 19, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Favorable
2.	Pardue	Skelton	MS	Favorable
3.	Keating	Johansen	FT	Fav/CS
4.			GA	
5.				
6.				

I. Summary:

The bill provides that the addition of storm shutters, impact-resistant glazing, hurricane clips and straps, or generators for the purpose of disaster preparedness, shall not increase the assessed value of homestead property and may not be considered as changes, additions, or improvements when assessing just value.

The bill provides for a partial refund of property taxes upon destruction or damage of a house or other residential building between January 1, 2007, and February 15, 2007, due to a tornado. The bill provides an application process and requires the property appraiser upon receipt of the application, to investigate the claim for refund.

The bill changes the requirement that homestead property rendered uninhabitable by a named storm of 2004, is limited to homestead properties in which repairs are completed by January 1, 2008, to repairs commenced by January 1, 2008.

This bill substantially amends s. 193.155, Florida Statutes.

II. Present Situation:

Section 4, Article VII, State Constitution

Section 4, Article VII, of the State Constitution provides that by general law, regulations must be prescribed to secure a just value of all property for ad valorem taxation. The Save Our Homes (SOH) limitation, amended into the Constitution by popular vote in 1992, provides that for all homestead properties, the just value assessment is adjusted by either 3 percent of the prior year's

assessment, or the percentage change in the Consumer Price Index (CPI)¹ for all urban consumers, whichever amount is the lower, and that no assessment will exceed just value.² After a change in ownership, as provided by general law, the homestead property must be assessed at just value as of January 1 of the year following the change in ownership, and thereafter, assessed as provided under SOH. New homestead property must be assessed at just value of the year following the establishment of homestead and thereafter is subject to the SOH limitation. Also, changes, additions, reductions, or improvements to homestead property must be assessed as provided by general law except that after the adjustment for changes, reductions or improvements, the property must be assessed at just value subject to the SOH limitation.

Section 193.155, F.S.

The 1994 Legislature enacted chapter 94-353, Laws of Florida, creating section 193.155, F.S., to provide by general law for the implementation of the SOH constitutional amendment by requiring that all homestead property be assessed at just value as of January 1, 1994. The legislation also required that changes, additions, or improvement to the property be assessed at just value upon substantial completion, and made an exception for replacement of real property damaged or destroyed by misfortune or calamity. When the just value of the replaced real property was not more than 125 percent of the value of the damaged or destroyed property, the replaced real property was not deemed to be a change, addition, or improvement.

During the 2005 Legislative Session, the Legislature enacted ch. 2005-268, L.O.F., which created s. 193.1551, to provide that the assessment at just value for changes, additions, or improvements to homestead property rendered uninhabitable in one of the named storms of 2004 shall be limited to the square footage exceeding 110 percent of the property's pre-storm square footage. In addition, eligible homes having square footage less than 1,350 square feet may rebuild up to 1,500 square feet without incurring additional assessment. Repairs to homestead properties must be completed by January 1, 2008, in order to qualify for these assessment limitation provisions.

During the 2006 Regular Session, the Legislature enacted ch. 2006-311, L.O.F., and amended s. 193.155, F.S., to provide that changes, additions, or improvements that replace all or a portion of homestead property damaged or destroyed by misfortune or calamity shall not increase the assessed value when the square footage of the property, as replaced, is not more than 110 percent of the total square footage of the homestead property prior to damage or destruction, or not more than 1,500 square feet when changes or improvements are made. Changes, additions, or improvements made to homestead property due to damage or destruction caused by misfortune or calamity must begin within 3 years of the event which caused the damage or destruction.

¹ According to statistics provided by the U.S. Department of Labor, Bureau of Labor Statistics, the percent change in the CPI has been below 3 percent for 9 of the 16 years since the adoption of the SOH limitation.

² "Just value" and "fair market value" are legally synonymous, and "fair market value" may be established as the amount a purchaser, willing but not obliged to buy, would pay one willing but not obliged to sell. See "*Schuler v Walter*, 176 So.2d 81, (Fla. 1965).

The Florida Comprehensive Hurricane Damage Mitigation Program

The 2004 and 2005 hurricane seasons were particularly destructive to Florida, with four hurricanes hitting Florida in each year. Insurers have reported the following:

- Adjusted gross losses of \$39 billion,
- Claims payments of \$31.4 billion, and
- Resident deductible payments of \$3.82 billion.³

During the 2006 Regular Session, the Legislature enacted chapter 2006-12, Laws of Florida, to, among other issues, fund the 2005 deficit of the Citizens Property Insurance Corporation, provide residents with relief from high insurance premiums, and create the Florida Comprehensive Hurricane Damage Mitigation Program (program). The program was created in the Department of Financial Services as a matching grant program to encourage single-family, site-built, owner-occupied residential property owners to retrofit their properties to make them less vulnerable to hurricane damage. Grants can be used to retrofit for roof deck attachments, secondary water barriers, roof coverings, bracing gable ends, reinforcing roof-to-wall connectors, opening protection, and exterior doors. The state's matching grant contribution may not exceed \$5,000.

On December 25, 2006, tornados damaged property in several of Florida's counties. As a result, the Federal Emergency Management Agency (FEMA) declared a disaster in Volusia County, enabling affected resident to qualify for individual assistance from FEMA. On February 2, 2007, six counties were impacted by devastating tornados, resulting in extensive damage to property in those counties.⁴ As a result, FEMA declared a disaster in Sumter, Seminole, Lake and Volusia counties, enabling the affected county residence to qualify for both individual and public assistance.

2007 Windstorm Mitigation Study Committee

The Windstorm Mitigation Study Committee (Committee) was created in the 2007 Special Session and was charged with analyzing short and long-term solutions and programs to address the important issue of strengthening Florida's homes against hurricane damage. The Committee is comprised of eight members. The Governor, the Chief Financial Officer, the Senate President and the Speaker of the House each make two appointments. The Committee met from February 8, 2007 through March 5, 2007, and issued a report to the Legislature on March 6, 2007, which contained a recommendation that the Legislature and local governments consider an ad valorem tax credit or exemption and impact fee reductions for mitigation of residential and commercial structures, and construction exceeding Florida Building Code requirements.

³ See Senate Staff Analysis and Economic Impact Statement for CS/CS/SB 1980, April 17, 2006, prepared by the Ways and Means Committee.

⁴ The affected counties are Lake, Volusia, Sumter, Seminole, Orange and Marion.

III. Effect of Proposed Changes:

Section 1 of the bill, effective January 1, 2008, amends s. 193.155, F.S., to provide the following:

- That when changes, additions or improvements to homestead property are assessed for purposes of determining just value, the addition of storm shutters, impact-resistant glazing, hurricane clips and straps, or generators for purposes of disaster preparedness, cannot be considered changes, additions, or improvements.
- The addition of storm shutters, impact-resistant glazing, hurricane clips and strips, or generators to prepare for disasters, cannot increase the assessed value of homestead property.

Section 2 of the bill provides for a partial refund of property taxes upon destruction or damage of a house or other residential building between January 1, 2007, and February 15, 2007, due to a tornado. The bill provides an application process that the home owner must adhere to in order to qualify for the property tax refund, which application must be filed with the property appraiser before June 1, 2008. The bill requires the property appraiser upon receipt of the application, to investigate the claim for refund. Upon receipt of the written statement from the property appraiser that the home owner is entitled to a refund, the tax collector must issue a refund. By September 1, 2008, the tax collector shall notify the board of county commissioners and the Department of Revenue of the total reduction in taxes for all property that received a partial refund of taxes under the provisions of this bill for the preceding tax year. The provisions of section 2 expire October 1, 2008.

Section 3 amends s. 193.1551, F.S., to change the requirement that homestead property rendered uninhabitable by a named storm of 2004, is limited to homestead properties in which repairs are completed by January 1, 2008, to repairs commenced by January 1, 2008.

Section 4 of the bill provides that except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that, except upon approval of each house of the Legislature by 2/3 vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists on February 1, 1989.

The bill appears to reduce the revenue-raising authority of cities and counties in excess of the significant impact threshold (\$1.9 million annually in the aggregate). To be enacted, the bill may require a 2/3 vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates that the addition of storm shutters, impact-resistant glazing, hurricane clips and straps, or generators for the purpose of disaster preparedness, shall not increase the assessed value of homestead property and may not be considered as changes, additions, or improvements when assessing just value will result in a recurring, statewide loss of ad valorem revenues to local governments of \$2.5 million.

The Revenue Estimating Conference estimated that the partial refund of property taxes upon destruction or damage of a house or other residential building between January 1, 2007, and February 15, 2007, due to a tornado, will result in a non-recurring loss to local governments of \$1.0 million in property tax revenues.

The change to the requirement that the provisions of s. 193.1551, F.S., related to homestead property rendered uninhabitable by a named storm of 2004, are limited to homestead properties in which repairs are completed by January 1, 2008, to commenced by January 1, 2008, will have an indeterminate negative impact on property taxes. The Revenue Estimating Conference has not reviewed the fiscal impact of this provision.

B. Private Sector Impact:

Homeowners whose property was damaged by a tornado between January 1, 2007, and February 15, 2007, will be entitled to a partial refund of 2007 property taxes.

Homeowners whose homestead property was rendered uninhabitable by a named storm of 2004 will have additional time to qualify for the provisions of s.193.1551, F.S.

C. Government Sector Impact:

The property appraiser will have to investigate all applications for refund under the provisions of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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