

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 965

Real Property Assessment

SPONSOR(S): McKeel

TIED BILLS:

IDEN./SIM. BILLS: SB 2160

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	13 Y, 0 N, As CS	Fudge	Hoagland
2)	Finance & Tax Council			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Between 2004 and 2007, numerous homes were built with drywall imported from China. This imported drywall is now under investigation for causing harm to homes, personal possessions, and human health. The defective drywall, coupled with depreciating home values, has rendered some homes valueless and exacerbates the current housing crisis. Homes with defective drywall may even depress the property values of adjacent homes. The estimated cost of remediation is \$100,000. The extent of the defective drywall problem is unknown.

The bill requires property appraisers to adjust the assessed value of affected property by taking into consideration the presence of tainted imported drywall and the impact it has on the assessed value. If the building is not marketable without remediation or repair, the value of the building shall be \$0.

Remediation or repair shall not be considered a change or improvement to the property. Moreover, the homestead property shall not be considered abandoned if an owner vacates the property during repairs and does not establish a new homestead. The bill contains a provision that the law will be repealed on July 1, 2017, unless reviewed and reenacted by the Legislature before that date.

The Revenue Estimating Conference Impact Conference has not reviewed this bill at this time. Therefore, the scope of impact on local governments is indeterminate at this time. Affected taxpayers are likely to receive a lower assessment value on their property.

This bill may be a mandate requiring a two-thirds vote of the membership to be enacted.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Between 2004 and 2007, numerous homes were built with drywall imported from China. This imported drywall is now under investigation for causing harm to homes, personal possessions, and human health. The defective drywall is associated with a sulfurous odor (the smell of rotten eggs or fireworks), corrosion of household metals such as copper, and health complaints such as asthma, nosebleeds, coughing, headaches and insomnia. Homeowners with Chinese drywall have reported that they have had to replace their air conditioners and other appliances more frequently than would be necessary under normal conditions.

The defective drywall, coupled with depreciating home values, has rendered some homes valueless and exacerbates the current housing crisis.¹ Homes with defective drywall may even depress the property values of adjacent homes. The estimated cost of remediation is \$100,000. The extent of the defective drywall problem is unknown.

¹ Florida Senate Committee on Community Affairs Issue Brief 2010-311 issued September 2009, available at http://www.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-311ca.pdf, last visited March 11, 2010.

replacement value of the improvements on the property;⁷ (6) the condition of the property;⁸ (7) the income from the property;⁹ and (8) the net proceeds from the sale of the property.¹⁰

In determining fair market value, the assessor must consider, but not necessarily use, each of the enumerated factors. The method of valuation, and the weight assigned to each factor, is at the assessor's discretion, and his determination will not be disturbed on review as long as each factor has been lawfully considered and the assessed value is within the range of reasonable appraisals.¹¹

Property appraisers have examined the "condition of the property" when determining the effects of fire, flood, and hurricanes. For example, assessments on homes damaged by hurricanes were reduced by the cost to repair the home, called the "cost to cure".

Based on the documentation submitted and the extent of the damage, some property appraisers have made adjustments for defective drywall. Some property appraisers begin with a 50% reduction on homes affected with defective drywall and increase that amount based on estimated remediation costs. Other property appraisers grant reductions of up to 70%.

Effect of Proposed Changes

The bill provides relief to homeowners affected by tainted imported drywall that have a significant negative impact on the just value of their property. Property appraisers are required to adjust the assessed value of the property by taking into consideration the presence of the tainted imported drywall and the impact it has on the assessed value. If the building is not marketable without remediation or repair, the value of the building shall be \$0. To qualify, a home must have tainted imported drywall that has a significant impact on the just value of the property and the purchaser was not aware of the tainted imported drywall at the time of purchase.

Remediation or repair shall not be considered a change or improvement to the property. Moreover, the homestead property shall not be considered abandoned if an owner vacates the property during repairs and does not establish a new homestead. The bill contains a provision that the law will be repealed on July 1, 2017, unless reviewed and reenacted by the Legislature before that date

B. SECTION DIRECTORY:

Section 1: Prescribes method for assessing homes affected by tainted imported drywall and provides for repeal on July 1, 2017, unless reviewed and reenacted by the Legislature before that date.

Section 2: Provides an effective date of upon becoming law and applies to the 2010 and subsequent assessment rolls.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁷ § 193.011(5), F.S.

⁸ § 193.011(6), F.S.

⁹ § 193.011(7), F.S.

¹⁰ § 193.011(8), F.S.

¹¹ See *Blake v. Xerox Corp.*, 447 So.2d 1348 (Fla. 1984).

1. Revenues:

The Revenue Estimating Conference Impact Conference has not reviewed this bill at this time. Therefore, the scope of impact on local governments is indeterminate at this time.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Affected taxpayers are likely to receive a lower assessed value on their property.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces the authority that municipalities and counties have to raise revenue as that authority existed on February 1, 1989. The reduction in authority comes from the decline in the tax base caused by a reduction in just value. The bill does not appear to qualify for an exception or exemption.

If the mandates provision applies, and in the absence of an applicable exemption or exception, Article VII, section 18(b), of the Florida Constitution provides that, "except upon approval 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 counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989."

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES