

**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.)

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Prepared By: The Professional Staff of the Community Affairs Committee

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BILL: SB 2160  
 INTRODUCER: Senator Storms  
 SUBJECT: Real Property Assessment  
 DATE: March 23, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	<b>Favorable</b>
2.			FT	
3.			WPSC	
4.				
5.				
6.				

**I. Summary:**

This bill requires property appraisers to adjust the assessed value of certain properties affected by defective materials or construction techniques under certain circumstances.

This bill creates s. 193.1552 of the Florida Statutes.

**II. Present Situation:**

**Just Value**

Section 4, Art. VII, of the State Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Under Florida law, “just valuation” is synonymous with “fair market value”, and is defined as what a willing buyer would pay a willing seller for the property in an arm’s length transaction.<sup>1</sup>

**Assessed Value**

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>2</sup> Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.<sup>3</sup> Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from

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<sup>1</sup> Section 193.011, F.S. *See also Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

<sup>2</sup> The constitutional provisions in section 4, Art. VII, of the State Constitution, were implemented in Part II of ch. 193, F.S.

<sup>3</sup> Art. VII, section 4(a) of the Florida Constitution.

taxation.<sup>4</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.<sup>5</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.<sup>6</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>7</sup> Certain working waterfront property is assessed based upon the property's current use.<sup>8</sup>

### ***Save Our Homes***

The "Save Our Homes" provision in section 4, Art. VII, of the State Constitution, as amended in January 2008, limits the amount a homestead's assessed value can increase annually to the lesser of 3 percent or the consumer price index (CPI).<sup>9</sup> In 2008, Florida voters approved an amendment to section 4(d), Art. VII, State Constitution, to provide for the portability of the accrued "Save Our Homes" benefit. This amendment allows homestead property owners that relocate to a new homestead to transfer up to \$500,000 of the "Save Our Homes" accrued benefit to the new homestead.

### ***Additional Assessment Limitations***

Sections 4(g) and (h), Art. VII, State Constitution, were created in January 2008, when Florida electors voted to provide an assessment limitation for residential real property containing nine or fewer units, and for all real property not subject to other specified classes or uses. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units **must** be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature **may** provide that such property shall be assessed at just value after a change of ownership or control. Section 27, Art. XII, State Constitution, provides that the amendments creating a limitation on annual assessment increases in subsections (f) and (g) are repealed effective January 1, 2019, and that the Legislature must propose an amendment abrogating the repeal, which shall be submitted to the voters for approval or rejection on the general election ballot for 2018.

### ***Homestead Exemption***

Section 6, Art. VII, State Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains the permanent residence of the owner is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

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<sup>4</sup> Art. VII, section 4(c) of the Florida Constitution.

<sup>5</sup> Art. VII, section 4(e) of the Florida Constitution.

<sup>6</sup> Art. VII, section 4(f) of the Florida Constitution.

<sup>7</sup> Art. VII, section 4(i) of the Florida Constitution.

<sup>8</sup> Art. VII, section 4(j) of the Florida Constitution.

<sup>9</sup> Art. VII, section 4(d) of the Florida Constitution.

***Other Exemptions***

Section 3, Art. VII, State Constitution, as amended in November 2008, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.<sup>10</sup> Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.<sup>11</sup> A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.<sup>12</sup> A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.<sup>13</sup> Tangible personal property is exempt up to \$25,000 of its assessed value.<sup>14</sup> The Legislature must grant an exemption for real property dedicated in perpetuity for conservation purposes.<sup>15</sup>

**Taxable Value**

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.<sup>16</sup>

**Imported Drywall**

Between 2004 and 2007, an estimated 30,000 homes were built in Florida with defective drywall. The drywall is being blamed for making newer homes smell, causing metal to deteriorate, and potentially even threatening the health of the residents. With their money tied up in homes that are valueless and even potentially dangerous to live in, homeowners are turning to their government officials to help them with this defective drywall crisis.

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<sup>10</sup> Art. VII, section 3(a) of the Florida Constitution.

<sup>11</sup> Art. VII, section 3(b) of the Florida Constitution.

<sup>12</sup> Art. VII, section 3(c) of the Florida Constitution.

<sup>13</sup> Art. VII, section 3(d) of the Florida Constitution.

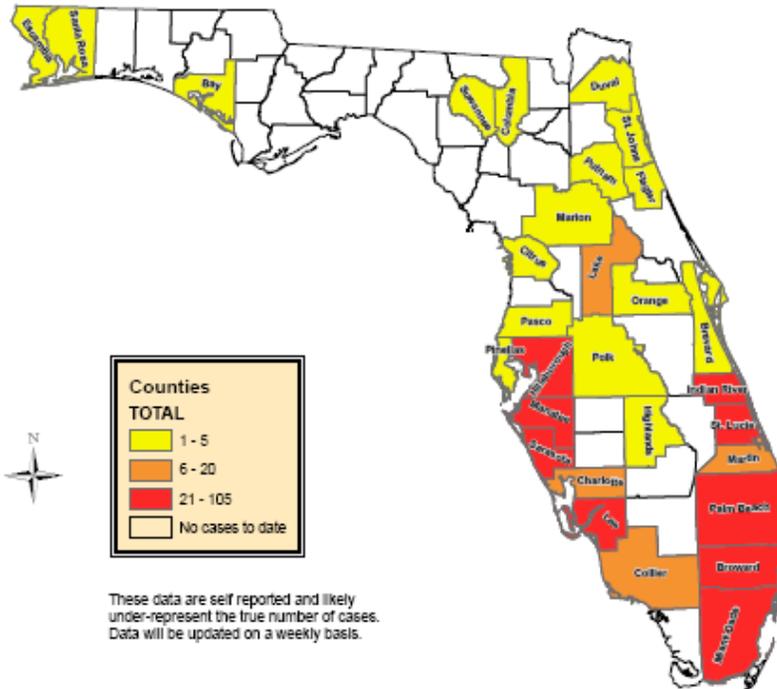
<sup>14</sup> Art. VII, section 3(e) of the Florida Constitution.

<sup>15</sup> Art. VII, section 3(f) of the Florida Constitution.

<sup>16</sup> Art. VII, sections 3 and 6 of the Florida Constitution. *See also* ch. 196, F.S.

### Reports of Drywall "Cases" to DOH County Health Departments

September 8, 2009  
(N = 549 in 30 counties)



Most of the drywall was imported from China through companies such as Knauf Plasterboard Tianjin, Beijing New Building Materials (BNBM), and Taian Taishan Plasterboard.<sup>17</sup> As of September 4, 2009, the U.S. Consumer Product Safety Commission (CPSC), received 1,192 reports from residents in 23 states and the District of Columbia who believe their health symptoms or the corrosion of certain metal components in their homes are related to the presence of defective drywall. The majority of the complaints (75 percent), have been from homeowners in Florida. State and local authorities have also received more than 549 reports of problems associated with Chinese drywall.<sup>18</sup>

### III. Effect of Proposed Changes:

**Section 1** creates 193.1552, F.S., to provide property tax relief to owners of property built using defective building materials or construction techniques. A property appraiser that determines that a property is affected by defective building materials or construction is required to adjust the value of those properties by considering the impact of the defect on assessed value. If the property is not marketable without remediation or repair, the value of such remediation or repair shall be assessed at the nominal just value of \$0.

<sup>17</sup> See *Origins of Chinese Drywall*, SARASOTA HERALD-TRIBUNE, available at [www.heraldtribune.com/assets/swf/SH16188424.swf](http://www.heraldtribune.com/assets/swf/SH16188424.swf) (last visited August 10, 2009).

<sup>18</sup> See Florida Department of Health, Reports of Drywall "Cases" to DOH County Health Departments, Sept. 8, 2009, available at <http://www.doh.state.fl.us/ENVIRONMENT/community/indoor-air/images/FLCountiesDryStats.pdf>.

The bill only applies when a defective product or technique was used in constructing or improving the property, the defective product or technique has a negative impact on the just value, and the purchaser was unaware of the defective product or technique at the time of purchase. For purposes of assessment limitations, remediation or repair shall not be considered a change or improvement to the property. Homestead property will not be considered abandoned when a homeowner vacates the property for repair, provided the homeowner does not establish a new homestead.

The bill provides that after the completion or remediation and repairs, the property shall be assessed as if such defective materials or techniques had not been present.

**Section 2** provides that this act shall take effect upon becoming a law and shall apply to the 2010 and subsequent assessment rolls.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Section 18(b), Article VII, of the State Constitution requires any general law that would reduce a local government's authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature. By reducing the tax base upon which counties and municipalities raise ad valorem revenue, this bill reduces their revenue-raising authority.

Subsection (d) of section 18 of Article VII, Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. An insignificant fiscal impact means an amount not greater than the average statewide population for the applicable fiscal year times ten cents (FY 2009-2010 \$1.88 million). A fiscal estimate is currently not available. If it is determined that this bill has more than an insignificant fiscal impact, the bill would require a two-thirds vote of the membership of each house of the Legislature.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Property owners will receive tax relief if their property was built using defective building materials or construction techniques.

**C. Government Sector Impact:**

Since the Revenue Estimating Conference Impact Conference has not reviewed this bill; this fiscal impact on local governments is indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Revenue has made the following suggestions for SB 2160:

- The language on page 2, lines 37-40 of the bill stating that “If the building is not marketable without remediation or repair, the value of such remediation or repair shall be assessed at the nominal just value of \$0” should be amended since the property appraiser assesses the value of the property, not the remediation or repairs made to the property.
  - The department therefore suggests that the phrase “remediation or repair” on line 39 of the bill be replaced with “building”.<sup>19</sup>

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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

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<sup>19</sup> Department of Revenue, *Senate Bill 2160 Analysis* at 2-3 (March 5, 2010) (on file with the Senate Committee on Community Affairs).