

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 18, 1998 Revised: 3/31/98 _____

Subject: Homestead Property

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Schmith</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>JU</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

Senate Bill 686 provides that the owner of homestead property who wishes to declare the property exempt from forced sale must file a written statement in person with the clerk of the circuit court.

This bill amends section 222.01 of the Florida Statutes.

II. Present Situation:

Article X, s. 4, State Constitution, provides an exemption from forced sale under the process of any court of a homestead, which is limited to 160 contiguous acres and improvements thereon if located in an unincorporated area, or one-half acre and the owner’s residence located thereon if located in a municipality.

Chapter 222, F.S., implements portions of Art. X, s. 4, State Constitution, and provides methods for setting apart homestead property and exemptions. Section 222.01, F.S., is titled “Designation of homestead by owner before levy” and provides the method by which an owner of homestead property may designate that property as exempt from forced sale prior to a levy being made upon that property. This section authorizes the owner to make a written statement describing the real property, mobile home or modular home which he or she claims is exempt and declaring it to be exempt. The statement must be signed by the person making it and recorded in the circuit court.

Thousands of Florida consumers have been mailed an advertisement by a company doing business as “State Recording Service,” offering to prepare and file the owner’s “homestead designation” for a fee of \$25. Believing that in responding to this solicitation they would be filing for their homestead tax exemption, many Floridians responded. Rather than filing these owners’ homestead

tax exemption application, the company apparently filed the designation of homestead authorized by s. 222.01, F.S. The Florida Attorney General successfully prosecuted State Recording Service which has been ordered to pay \$592,989.00 to consumers for lost homestead exemption savings and lost "Save Our Homes" amendment savings; \$491,000.00 for actual damages to consumers; and \$250,000.00 in civil penalties. *State of Florida v. State Recording Service, Inc., et al.*, Case No. 94-1567 (Fla. 2nd Cir. Ct.).

III. Effect of Proposed Changes:

The bill amends s. 222.01, F.S., to require that the written statement declaring homestead property exempt from forced sale be filed *in person with the clerk of the circuit court*. The requirement to file in person is intended to prevent the type of fraud which has happened to many homestead owners across the state.

The bill provides an effective date of July 1, 1998.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The Florida Association of Court Clerks report that the term “filed” will create confusion and should be replaced with a duty to record such written statements.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Community Affairs:

Addresses the technical deficiency cited above by clarifying that the statement must be signed in person and *recorded* with the clerk of circuit court. The amendment further provides that a homestead exemption granted under s. 196.031, F.S., is deemed a designation of homestead.

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