

STORAGE NAME: s0830z.rpp
DATE: May 27, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REAL PROPERTY & PROBATE
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3547 (Analysis is written to SB 830)

RELATING TO: Homestead tax exemptions

SPONSOR(S): Representatives Littlefield, Morrioni, Byrd and Hafner (Senators Cowin, Brown-Waite and Grant)

COMPANION BILL(S): SB 830

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE (House Bill):

- (1) REAL PROPERTY & PROBATE 3 YEAS 3 NAYS
- (2) REAL PROPERTY & PROBATE 4 YEAS 3 NAYS
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

On April 15, 1998, SB 830 passed the Senate, YEAS 31 NAYS 7, and was immediately certified to the House. On April 16, 1998 the House substituted SB 830 for HB 3547, and passed the Senate bill; YEAS 95 NAYS 16. The bill was presented to the Governor on April 30, 1998. On May 15, 1998, the Governor vetoed the bill. The veto message is as follows:

By the authority vested in me as Governor of Florida, under the provision of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval and transmit to you with my objections, Senate Bill 830, enacted during the 100th Session of the Legislature of Florida since statehood in 1845, convened under the Constitution of 1968, during the Regular Session of 1998, and entitled:

An act relating to homestead tax exemptions;...

Senate Bill 830 repeals the requirement that social security numbers be included on applications for homestead exemption. This requirement was adopted into law in 1994. In 1995, property appraisers began requiring social security numbers for all new applications for homestead exemption. The law requires property appraisers to obtain social security numbers by 2000 for all homestead exemptions. The Department of Revenue, with the concurrence of the property appraisers, sought the 1994 legislation as a way to reduce erroneous and fraudulent homestead exemptions and to determine residency for compliance with the intangible personal property tax.

The 1994 law provides that, in accordance with Federal law, social security numbers are not subject to disclosure by the county tax collectors, or property appraisers, or by the Department of Revenue. Failure by a taxpayer to provide social security numbers is deemed a waiver of the homestead exemption privilege for that year.

Approximately 3.5 million properties in Florida are granted a homestead exemption. To date, at the mid-point in the phase-in of current law, social security numbers have been collected for over one million of these property owners. The department has found several thousand instances where multiple properties have the same social security number on the homestead

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exemption application. Citizens claiming more than one homestead exemption unlawfully reduce the amount of tax revenue available to local governments and schools, and they unfairly shift the tax burden to law-abiding citizens and businesses.

By filing an application for homestead exemption in Florida, citizens also affirm that they are Florida residents and subject to our tax laws. Determining residency is necessary in determining potential liability for the intangibles tax. The use of social security numbers for this purpose is a straightforward and simple tool for enforcing the intangibles tax law.

The proponents of Senate Bill 830 argued that using social security numbers in this manner is violative of federal law. In fact, the federal law was amended in 1976 to specifically allow for the use of social security numbers for tax administration purposes.

As part of my initiatives to improve the efficiency of government agencies, I have encouraged innovative efforts such as the Department of Revenue's business-like approach to their operations. Removing the requirement for social security numbers without a compelling reason to do so would be a step toward inefficient and ineffective tax administration.

I am sensitive to the privacy rights of our citizens. There are safeguards in the law that prohibit the property appraisers, tax collectors, and the Department of Revenue from releasing social security numbers. Florida law is clear and in accordance with federal law that each agency must keep social security numbers confidential and restrict their use to official purposes only. Just as we should be diligent in guarding the privacy of Floridians, we should be just as diligent in ensuring that the tax burden is fair for our citizens.

Florida is a state that relies on the voluntary tax compliance by its citizens to minimize the intrusion of government in their lives. The degree to which citizens adhere to the principle of voluntary compliance is in part determined by their perceptions of equity and fairness in the government's administration of tax policy. Any policy that reduces taxpayers' expectation of fairness and equity erodes their willingness to comply with the tax laws, thus making the role of government more burdensome and punitive.

In deciding whether or not to veto legislation, I have the responsibility to consider whether the legislation is more detrimental than the problem it seeks to resolve. In my opinion, adequate safeguards are already in place to insure that social security numbers provided to obtain a homestead exemption remain confidential. On the other hand, repealing this requirement will almost assuredly lead to more fraudulent homestead exemptions and reduced compliance with state and local tax laws. Thus, I believe that, on balance, Senate Bill 830 does more harm than good for Florida's citizens.

It is for these reasons, I am withholding my approval of Senate Bill 830 and do hereby veto the same.

II. SUMMARY:

House Bill 3547 deletes a requirement that an applicant for homestead tax exemption must provide his or her social security number as a condition of receiving the exemption. The bill also deletes a provision which requires county property appraisers to submit social security

numbers from homestead exemption applications, for the 2000 tax year and thereafter, to the Department of Revenue.

This bill may have a fiscal impact.

NOTE: This bill failed due to a tied vote on March 17, 1998. There was a motion to reconsider and leave the bill pending. The bill passed upon reconsideration on March 25, 1998.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Florida Law

Section 6, Article VII of the Florida Constitution grants a homestead exemption to every person who has legal or equitable title to real estate and maintains his or her permanent residence thereon. The exemption is also granted to the owner if a legal or natural dependent is a permanent resident of the property. Section 196.031, Florida Statutes, provides the statutory authority for the exemption.

Section 3, Article VII of the Florida Constitution permits exemptions, pursuant to general law, to widows and widowers, to the blind, and to those totally and permanently disabled. Florida Statutes grant an exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans, s. 196.081, F.S.; an exemption for disabled veterans confined to wheelchairs, s. 196.091, F.S.; an exemption for totally and permanently disabled persons, s. 196.101, F.S.; and an exemption for widows, widowers, blind persons, and persons totally and permanently disabled, s. 196.202, F.S.

Section 196.011, Florida Statutes, requires an annual application by March 1 to obtain any real or personal property tax exemption but authorizes counties to waive the annual application or to require only short form applications.

Section 196.011(1)(b), Florida Statutes, requires the annual application form for homestead exemptions granted pursuant to ss. 196.031, 196.081, 196.091, 196.101, and 196.202, F.S., to include a space for the applicant to list the social security number of the applicant and the applicant's spouse. These numbers were intended to be used to reduce erroneous and fraudulent ad valorem exemptions. The exemptions for which social security numbers are required include the \$25,000 Homestead Exemption (s. 196.031, F.S.), the Disabled Veteran's Homestead Exemptions (ss. 196.081 and 196.091, F.S.), the exemption for totally permanently disabled persons (s. 196.101, F.S.), and the \$500 exemption for widows, widowers, blind persons, and totally and permanently disabled persons (s. 196.202, F.S.). If the applicant fails to include the required social security numbers, the property appraiser must contact the applicant who will have until April 1 to complete the application. Failure to provide the social security numbers constitutes a waiver of the exemption for the year, except as otherwise provided in s. 196.011, F.S.

Section 196.011(11), Florida Statutes, requires property appraisers to obtain the social security numbers for all persons currently receiving homestead exemptions and to submit them to the Department of Revenue for exemptions granted in the year 2000. It

grants property appraisers the authority to require short form applications to include the social security numbers and requires such short forms include social security numbers after the year 2000. This provision also authorizes the property appraiser to require refiling of applications in counties where the annual application requirement has been waived.

Other Florida Statutes requiring or permitting disclosure of social security numbers

There are many other statutes in Florida that require or permit collecting social security numbers. Some examples are:

Required:

1. Section 61.052, Florida Statutes, provides that in a dissolution of marriage, each party must provide his or her social security number, as a separate attachment to the initial pleadings. This information can only be used for public assistance child support enforcement purposes.
2. Section 205.0535, Florida Statutes provides that applicants for local occupational licenses must provide either a social security number or federal employee identification number.
3. Section 414.095, Florida Statutes, provides that when applying for the WAGES Program each member of a family must provide the Department of Children and Family Services with the member's social security number or proof of application for a social security number.
4. Section 455.213, Florida Statutes, requires any person desiring to be licensed by the Department of Business & Professional Regulation must submit an application for licensure including the applicant's social security number.
5. Section 455.564, Florida Statutes, requires any person desiring to be licensed in a profession within the jurisdiction of the Department of Health must apply to take the licensure examination. The application must include the social security number of the applicant.
6. Section 626.171, Florida Statutes, requires a written application including the applicants social security number for persons wishing to apply to the Department of Insurance for a license as agent, customer representative, solicitor, adjuster, insurance agency, service representative, managing general agent, reinsurance intermediary, or claims investigator.
7. Section 741.04, Florida Statutes, requires in the affidavit to apply for a marriage license, both parties to provide their social security numbers in addition to other requirements in law. This information is limited to public assistance child support enforcement purposes.

Permitted:

1. Section 55.01, Florida Statutes, provides for the address and social security number, if known to the prevailing party, on each person against whom a judgment is rendered.
2. Section 97.052, Florida Statutes, provides that social security numbers may be elicited for voter registration purposes. This is optional to the voter.
3. Section 229.559, Florida Statutes, requires school districts to request social security numbers from each public school student, however, the student is not required to provide the social security number as a condition of enrollment or graduation.

Federal Law

The Tax Reform Act of 1976 amended the Social Security Act to specify that any state in the administration of any tax, among other purposes, may use the social security account numbers to establish the identification of individuals affected by such law, and may require an individual to furnish to such state their social security account number [42 U.S.C. 405(c)(2)(C)(I)]. The act also provided that to the extent that any provision of federal law is inconsistent with this policy, such provision is "null, void, and of no effect" [Section 1211, Public Law 94-455]. This last provision was important because the Federal Privacy Act of 1974 prohibited states from denying to individuals any right, benefit, or privilege, with some exceptions, because the individual refuses to provide a social security number. In addition to permitting states to utilize social security numbers for the purpose of establishing identification of individuals affected by laws relating to taxation, the Tax Reform Act of 1976 also permits the utilization of social security numbers for identification purposes relating to child support enforcement, general public assistance/welfare, and motor vehicle or driver license registration.

Federal law requires that social security numbers be confidential. Section 193.114(6), Florida Statutes, provides that social security numbers submitted on homestead exemption applications, pursuant to s. 196.011(1), F.S., are confidential and exempt from the public access provisions of the Public Records Law and section 24(a), Article 1, of the State Constitution. Copies of documents containing the numbers furnished or sold by the property appraiser, or copies of documents containing social security numbers provided by the department or any state or local agency for inspection or examination by the public, must exclude those social security numbers. However, copies provided to the Department of Revenue may include those social security numbers.

B. EFFECT OF PROPOSED CHANGES:

This bill deletes s. 196.011(1)(b), F.S., which requires that an applicant for any of the homestead tax exemptions must provide his or her social security number as a condition of receiving the exemption. In addition, the bill deletes s. 196.011(11), F.S., which requires county property appraisers to submit social security numbers of any homestead exemption application, for the 2000 tax year and thereafter, to the Department of Revenue.

The bill would take effect July 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill removes the current requirement that individuals claiming a homestead exemption provide the social security number. According to the Department of Revenue, the social security numbers are used in order to identify violators of the homestead exemption law.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill removes the current requirement for individuals seeking a homestead exemption to provide their social security number.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 196.011, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

See Effect of Proposed Changes section.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

When enacted in 1994, this provision was anticipated to increase tax compliance, with a resulting increase in tax revenues for both the state and local governments. The deletion of this provision may result in an increase in homestead exemption fraud, and local government revenues may decrease, or millage rates may increase to compensate for the lost revenue. To the extent that the Department of Revenue will not be able to use the submitted social security numbers to cross-check against intangible personal property records, anticipated state and county government revenues may also decrease.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

See FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS above.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The deletion of these provisions may result in the increase of homestead exemption tax fraud.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VIII. SIGNATURES:

COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Legislative Research Director:

P.K. Jameson

P.K. Jameson

FINAL RESEARCH PREPARED BY COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Legislative Research Director:

P.K. Jameson

P.K. Jameson