

STORAGE NAME: h0293s1.ca

DATE: December 8, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: CS/HB 293

RELATING TO: Ad Valorem Tax Exemptions/Social Security Numbers

SPONSOR(S): Committee on Community Affairs and Representative K. Smith

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0
 - (2) FINANCE & TAXATION (FRC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill delays from the 2000 tax year until the 2001 tax year the requirement that property appraisers obtain the social security number of every person receiving a homestead exemption and submit them to the Department of Revenue (DOR). The requirement that short form applications include social security numbers also is delayed until the 2001 tax year.

To the extent this bill limits DOR's ability to use submitted social security numbers to cross-check against intangible personal property records, anticipated revenues from the intangible property tax will decrease. As discussed in the Fiscal Comments section, DOR believes this bill will result in a one-year loss of ad valorem revenue to some counties. DOR is preparing an estimate of the fiscal impact on local governments and this estimate will be considered by the Revenue Estimating Conference.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Florida Law

Assessments for Homesteads

Section 4, Article VII, of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value. Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use. Also, tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.

In addition, effective January 1, 1994, subsection (c) of Section 4, Article VII, of the Florida Constitution provides a limitation to the extent that assessments for homesteads may be changed annually on January 1 of each year. Changes in assessment may not exceed the lower of 3 percent of the assessment for the prior year or the percent change in the Consumer Price Index.

Homestead & Other Exemptions

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, upon establishment of right thereto in the manner prescribed by law. The exemption is also granted to the owner if a legal or natural dependent is a permanent resident of the property. Section 196.031, F.S., 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.

Homestead Exemption/Social Security Numbers

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.

Chapter 94-353, L.O.F., amended section 196.011, F.S., to require the annual application for homestead exemptions to contain the social security number of the applicant and the applicant's spouse. The statute also was amended to require property appraisers to obtain the social security numbers for all persons currently receiving homestead exemptions and to submit them to the department for exemptions granted in the year 2000. In addition, section 193.1142, F.S., was amended by chapter 94-353, L.O.F., to require property appraisers to include social security numbers on the assessment roll. According to the House of Representatives, Committee on Finance & Taxation, 1994 Final Bill Analysis and Economic Impact Statement, the "purpose of obtaining the numbers is to increase compliance with the intangibles tax and to reduce erroneous and fraudulent ad valorem exemptions."

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. 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.

For exemptions enumerated in section 196.011(1)(b), F.S., granted for the 2000 tax year and thereafter, section 196.011(11), F.S., provides that the social security numbers of the applicant and the applicant's spouse, if any, are required and must be submitted to DOR. The subsection also 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.

The Florida Attorney General recently issued an advisory legal opinion (AGO 99-59) addressing the question: "Does section 196.11(11), Florida Statutes, require that social security numbers be provided for the tax year 2000 on homestead exemption renewals that have been automatically renewed for up to ten years and for which no social security numbers previously have been provided?" In summary, the Attorney General responded in the affirmative.

The Attorney General notes that the first sentence of section 196.11(11), F.S., expressly states that social security numbers are required for the exemptions enumerated in section 196.011(1)(b), F.S., granted for the 2000 tax year and thereafter. Further, the opinion states that it "does not refer to, and is therefore not limited to, only those applications that are filed pursuant to section 196.011(1)(b); rather, the requirement applies to all exemptions enumerated in that section granted for the 2000 tax year and thereafter.

Regarding the provision in section 196.011(11), F.S., providing that in those counties where the annual application requirements have been waived the property appraiser "may require" refiling of an application to obtain such information, the opinion states that this language "merely provides a method by which the property appraiser may accomplish the mandate established in the first sentence of section 196.011(11), Florida Statutes." It does not, according to the opinion, "remove or alter the requirement that social security numbers are required for all exemptions enumerated in section 196.011(1)(b), Florida Statutes, granted for the 2000 tax year and thereafter."

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 provisions 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.

C. EFFECT OF PROPOSED CHANGES:

This bill delays until the 2001 tax year the requirement that property appraisers obtain the social security number of every person receiving a homestead exemption and submit them to the Department of Revenue (DOR) for exemptions granted in the year 2000 and thereafter. The requirement that short form applications include social security numbers also is delayed until the 2001 tax year.

The bill provides property owners who have not submitted their social security numbers to the property appraiser -- primarily individuals with homestead exemption renewals that have been automatically renewed for up to ten years -- an extension of one year to comply with the social security number requirement. Similarly, the bill grants a one-year extension for property appraisers to provide social security numbers to DOR.

As noted in the Fiscal Comments section of the analysis, DOR believes passage of the bill will limit the ability of counties to use DOR's linked data base to prevent fraud and loss of revenue. According to DOR, counties which would normally rely on this tool to assure the

homestead property exemption is fairly and equitably granted will be put at a disadvantage by those counties which have failed to acquire social security numbers.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsection (11) of section 196.011, F.S., is amended to delay from the 2000 tax year until the 2001 tax year the requirement that property appraisers obtain the social security number of every person currently receiving a homestead exemption and submit them to DOR. The requirement that short form applications include social security numbers also is delayed until the 2001 tax year.

Section 2. An effective date of upon becoming a law is provided. The section states that the act shall apply to the year 2000 assessment rolls.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent the DOR will not be able to use submitted social security numbers to cross-check against intangible personal property records, anticipated revenues from the intangible property tax will decrease during fiscal year 2000-2001.

2. Expenditures:

No effect on state expenditures is anticipated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

As discussed in the Fiscal Comments section, the DOR believes this bill will result in a one-year loss of revenue to some counties. DOR is preparing an estimate of the fiscal impact on local governments, and this estimate will be considered by the Revenue Estimating Conference.

2. Expenditures:

The bill may delay property appraiser expenditures necessary to collect the required social security numbers. To the extent the delay allows property appraisers to obtain social security numbers without requiring refiling of applications, the bill may reduce property appraiser expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

As noted in the Effect of Proposed Changes, this bill provides property owners who have not submitted their social security numbers to the property appraiser -- primarily individuals with homestead exemption renewals that have been automatically renewed for up to ten years -- an extension of one year to comply with the social security number requirement. While this delay will financially benefit individuals who would otherwise lose their homestead exemptions due to noncompliance, the delay will also result in increased homestead exemption tax fraud, which could lead to tax increases in some areas.

D. FISCAL COMMENTS:

The DOR analysis of HB 293 states DOR requested the 1994 legislation (chapter 94-353, L.O.F.) requiring social security numbers to be obtained by January 1, 2000, after passage of the "Save Our Homes" amendment to the Florida Constitution to ensure that only one homestead exemption was granted to a citizen or couple to prevent fraud and loss of revenues to Florida's 67 counties. The DOR analysis further states:

"Complying counties, many of them with parcels which adapt themselves to secondary or vacation homes and who have substantially completed acquisition of social security numbers for homestead properties, will be unable to rely on the Department to do data matches with all other counties in the state. These counties stand to lose the most in ad valorem tax revenues should appreciating properties continue to benefit from erroneously or fraudulently claimed homestead exemption. Should the delay of the requirement become law, counties wishing to use this tool will be unable to receive the aid and assistance they require of the Department in providing complete data analysis with all other counties in the state resulting in a substantial loss of revenue to these counties."

Although DOR has not prepared a formal analysis of CS/HB 293, DOR staff indicate the reduction in the delay from five years to one year will limit the fiscal impact to a one year impact rather than a 5 year recurring impact. DOR is preparing an estimate of the fiscal impact on local governments, and this estimate will be considered by the Revenue Estimating Conference.

IV. 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 expend funds or to take 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 state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

STORAGE NAME: h0293s1.ca

DATE: December 8, 1999

PAGE 7

B. RULE-MAKING AUTHORITY:

The bill does not necessitate additional rule-making authority.

C. OTHER COMMENTS:

A representative of the Property Appraisers Association of Florida indicates the organization supports HB 293.

The Florida Association of Property Appraisers has not adopted a formal position on the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 293 delays from the 2000 tax year until the 2005 tax year the requirement that property appraisers obtain the social security number of every person receiving a homestead exemption and submit them to the Department of Revenue (DOR). The requirement that short form applications include social security numbers also is delayed until the 2005 tax year. CS/HB 293 delays these requirements until the 2001 tax year rather than the 2005 tax year. As a result, the fiscal impact of CS/HB on intangible tax and ad valorem tax revenues is reduced from a five-year recurring impact to a one-year impact. In addition, the effective date in CS/HB 293 includes language clarifying that the act applies to the 2000 assessment rolls. This language was not included in HB 293.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Thomas L. Hamby

Joan Highsmith-Smith