

STORAGE NAME: h4015.rpp

DATE: January 7, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REAL PROPERTY AND PROBATE
ANALYSIS**

BILL #: HB 4015 (PCB RC 00-08)

RELATING TO: Florida Statutes/Repeals

SPONSOR(S): Committee on Rules & Calendar and Representative Byrd

TIED BILL(S): none

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

- (1) RULES AND CALENDAR YEAS 17 NAYS 0
 - (2) REAL PROPERTY AND PROBATE
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill repeals statutes that have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded. This bill also amends s. 193.155, F.S., regarding homestead assessments, to remove the dates and clarify the language.

This bill does not appear to have a fiscal impact on state or local governments.

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:

The Committee on Real Property and Probate was asked to review a number of sections of the Florida Statutes to determine if those sections have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded. The committee identified a number of such sections and referred that information to the House Committee on Rules and Calendar, which resulted in the drafting and passage of Proposed Committee Bill RC 00-08 by that committee. That Proposed Committee Bill is now before the Committee on Real Property and Probate as House Bill 4015. See "Section-by-Section Analysis" for present situation on each of the sections of the bill.

C. EFFECT OF PROPOSED CHANGES:

See "Section-by-Section Analysis".

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Repeals s. 28.15, F.S.

Chapter 28, F.S., relates to clerks of the circuit courts. Section 28.15, F.S., enacted in 1853, states that certain records of the clerks of court of the Superior Courts are to be placed in the custody and control of the Circuit Court Clerks. The Superior Courts were the United States territorial courts created by Congress, and the Circuit Courts were the courts created by the first state legislature. Carter v. Bennett, 4 Fla. 283 (1852), error dismissed 56 U.S. 354, held that the Circuit Court clerks had no right to demand the records of the Superior Court clerks absent legislative action. By now, the Circuit Court clerks should have taken possession of all of the books and records previously held by the Superior Court clerks that the Circuit Court clerks are entitled to; accordingly, the statute is obsolete.

Section 2: Repeals ss. 55.08, 55.09, and 55.101, F.S.

Chapter 55, F.S., relates to judgments. Section 55.08, F.S., relating to "Judgments entered prior to June 5, 1939", states that a circuit court judgment shall be a lien on property of the defendant for twenty years. Judgments in effect prior to June 5, 1939, have since expired. The statute is obsolete.

Section 55.09, F.S., relating to “Judgments of inferior courts entered prior to June 5, 1939, states that a court judgment entered by a court other than a circuit court shall be a lien on property of the defendant for twenty years. Judgments in effect prior to June 5, 1939, have since expired. The statute is obsolete.

Section 55.101, F.S., enacted in 1971, provides that judgments recorded pursuant to the provisions of former s. 28.21(1), F.S., or former s. 28.221, F.S., are validated, that the judgments and decrees are declared to be liens on real property in the counties where certified copies thereof are recorded from the date of recordation, and that any judgment or decree recorded subsequent to June 26, 1967, shall not be a lien on property unless recorded according to s. 55.10, F.S. (which section was also amended by the same act in 1971). Any affected judgments have since expired. The statute is obsolete.

Section 3: Repeals s. 74.121, F.S.

Chapter 74, F.S., relates to proceedings supplemental to eminent domain. The chapter was enacted in 1965,¹ and subsequently amended. Section 74.121, F.S., provides an initial effective date of October 1, 1965, for the original enactment of the chapter. The effective date has passed and thus it is no longer necessary to state the effective date. Section 74.121, F.S., is obsolete.

Section 4: Repeals s. 95.022, F.S.

Chapter 95, F.S., relates to limitations of actions and actions for adverse possession. The chapter was substantially re-written in 1974.² Section 95.022, F.S., a part of that 1974 enactment, states an effective date of January 1, 1975, for those re-written sections, which effective date has passed. The section also contains a savings clause, which expired January 1, 1976. The provisions at s. 95.022, F.S., are obsolete.

Section 5: Repeals s. 117.05(3)(b), F.S.

Chapter 117, F.S., relates to notary publics. In 1991,³ a number of changes were made to that chapter, one of which was to phase out impression seals in favor of rubber-stamp type seals, starting with notary publics appointed or reappointed on or after January 1, 1992. Section 117.05(3)(b), F.S., allows notary publics to continue to use existing impression seals until their next renewal. As notary commissions expire every four years, this statute is now obsolete.

Section 6: Amends s. 193.155, F.S.

Chapter 193, F.S., relates to property tax assessments. Section 193.155, F.S., is the statutory enactment of the Save Our Homes Amendment at Article VII, Section 4(c) of the Florida Constitution. The section was identified for review because it contains dates related to the initial enactment. This bill removes the dates, revises the mathematical formulas to account for the removed dates, and makes grammatical changes to the section.

¹Chapter 65-369, L.O.F.

²Chapter 74-382, L.O.F.

³Chapter 91-291, L.O.F.

Section 7: Repeals s. 196.011(13), F.S.

Chapter 196, F.S., relates to exemption from ad valorem taxation. Section 196.011, F.S., relates to the annual application required to renew an exemption from ad valorem taxation. Section 196.011(13), F.S., states that particular charitable organizations that failed to timely file an application for exemption for the 1994 tax year may file an untimely application. The statute specified that it would expire one year after enactment.⁴ The statute is now obsolete.

Section 8: Repeals s. 198.331, F.S.

Chapter 198, F.S., relates to the estate tax. Section 198.331, F.S., enacted in 1957,⁵ makes certain provisions of Chapter 198, F.S., regarding estate taxes, retroactive to October 1, 1933. Because the statute of limitation on collection of the estate tax is 12 years,⁶ the statute has expired on its terms and is obsolete.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

none

2. Expenditures:

none

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

none

2. Expenditures:

none

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

none

⁴That time period expired May 28, 1999.

⁵Chapter 57-108, L.O.F.

⁶Section 198.22, F.S.

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D. FISCAL COMMENTS:

none

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 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.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

none

B. RULE-MAKING AUTHORITY:

none

C. OTHER COMMENTS:

There is a concern that the dates eliminated by Section 6 of this bill need to remain in order to retain needed clarity. Accordingly, Representative Bilirakis has filed an amendment that removes Section 6 from this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON REAL PROPERTY AND PROBATE:

Prepared by:

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