



**FLORIDA'S OPTIONS FOR PROPERTY TAX RELIEF
MARCH 21, 2007**

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The Governor and legislative leadership have consistently expressed the view that homeowners and businesses in Florida need relief from the higher insurance premiums charged following Florida's 1994 and 1995 hurricane seasons and also from the higher property taxes that surged during the past three years. The property insurance issue was addressed in a Special Session in January 2007 and many proposals for property tax relief have been offered during the 2007 Regular Session that began in March and ends in early May.

Florida's ad valorem (property) tax is reserved constitutionally to local government (Article VII, Sections 1 & 9 of the Florida Constitution). The Florida Constitution also requires a uniform rate of ad valorem taxation and assessment at "just value" unless otherwise specified in the Constitution (Article VII, Sections 2, 3, 4 and 7). The "just value" (or full value) of all property in Florida approached \$2.5 trillion dollars in 2006 and local property taxes will exceed \$30.5 billion dollars for fiscal year 2006-07. This makes the local property tax the largest state and local revenue source in Florida. The property tax dollars were allocated among school districts (40.4%), counties and their dependent special districts (34.3%), municipalities (16.8%) and independent special districts (8.5%).

Florida's property taxes have grown at a double-digit rate over the past four years with the highest growth rate (18.4%) in the current fiscal year. During this time, the property tax has increased from a little over \$20 billion in FY2003-04 to the current \$30 billion plus in FY2006-07. See Table A for the history of the local property taxes levied by the various local governmental entities since 1984. Although the property tax has increased by an average of 50% over the past four years, not all property owners have had their taxes increase by that amount. Many homestead property owners have had their assessments limited by the Save Our Homes and have avoided the substantial increases in the local property tax. Their burden has been increasingly shifted to non-homestead residential property (renters and second homes) and to the business (non-residential) sectors.

A major contributor to the recent growth in property tax has been the state's diminishing role in financing public school education, which has resulted in a greater reliance on the use of the local property tax and local impact fees. It is interesting to note that, if the state had chosen to continue at to provide 55% of funding for public schools, it would not have been able to impose tax cuts or credits on select state taxes, such as the intangibles and corporate income taxes, or take action to offset losses of the estate tax and corporate income tax resulting from federal action.

FLORIDA'S EXPERIENCE UNDER ITS CURRENT CONSTITUTIONAL REVENUE CAPS

Florida has had two constitutional revenue caps in place for over a decade. A state revenue cap contained in Article VII, Section 1 of the Florida Constitution was proposed by the 1994 Legislature and adopted by the voters in November 1994. The amended section limits state revenues to a specific dollar amount which is increased

annually by the growth rate in the Florida economy as represented by the average annual growth of state personal income over the previous 20 quarters. If more revenue is collected than is permitted by this limit, it may not be spent; excess revenues first go to the Budget Stabilization Fund (mandated at 5% of the previous year's revenues) and then refunded to the taxpayers unless, by two-thirds vote of both houses, the Legislature decides to do otherwise.

The revenue of cities, counties, school districts and other special districts are not subject to the state revenue limitation; however, in 1992, the voters adopted by an initiative petition, an amendment to Article VII, Section 4 relating to ad valorem tax assessments. This initiative, popularly called "Save Our Homes," restricts the annual growth in assessments for existing homestead property to the "percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics" or "three percent," whichever is lower. Any change in property ownership, or for new homesteads, the initial assessed value shall be its "just value as of January 1 of the following year."

I. STATE REVENUE LIMIT (Article VII, Section 1, Florida Constitution, 1994)

The first few years after the adoption of the revenue limitation saw actual revenues close to the constitutional cap; but, gradually growing at a slower rate than personal income (the nature of the Florida State Tax structure). (See Table B) However, since 1999, Florida has enacted several measures to reduce state revenue. (See Table C) Florida has repealed its intangible personal property tax on stocks, bonds and other financial instruments, as well as not "decoupling its Estate Tax" from the elimination by federal law of the federal tax credit for state taxes. This would require an amendment to the state constitution. It has also reduced sales and use, beverage, corporate income, unemployment and pari-mutuel taxes, along with health care assessments and eliminating vehicle emissions testing and a host of revenues that the former Governor characterized in 1999 as "taxpayer fairness and burdensome taxes." The combined annual effect of these tax eliminations and reductions reached over \$3 Billion by FY 2006-07 and will be over \$3.75 Billion a year by FY 2010-11.

These reductions in tax revenues approximate the "savings" the state received from lowering its share of public school education state-local funding from 55% to 44% during the same period, which placed an additional burden on the local property tax payers. Assuming that the public school funding will return to a growth rate of 6% (instead of the 10% seen over past 4 years) over the next four years, the amount needed to bring the state back to its 55% share will again approximate the amounts lost in the tax cuts.

In all, the state has been shifting the responsibility for funding public education and other services to local communities while, at the same time, giving tax cuts that have limited the amount of money collected by the state to fund education and services such as health care, care for the elderly and the disabled, enforcement of environmental laws and

regulations. This has caused local communities to have to pay for many of those services by increasing local taxes and fees.

The amount that state revenues are now under the cap is estimated to be 12.5% of current state revenues (FY 2007) and will grow to 25% by fiscal year 2009-10 (FY 2010). Clearly, the recent tax eliminations and reductions, and the failure to address corporate tax “avoidance” problems, dramatically weakens the state’s ability to provide adequate revenues to meet the demands for basic services or even keep pace with prior state commitments. A 2003 report also places Florida as the state with the second most “regressive tax structure;” that is, the percentage of income paid by citizens of low, moderate and middle means is significantly higher than persons in higher income brackets.¹ In fact, the report would seem to suggest that Florida’s image as a “low tax state” holds only true for the rich and large corporate interests.

There are many ways that a revenue cap can be avoided. (See Table B) In Florida’s case, the Governor and legislature choose to reduce the state’s commitment to funding public schools and provided tax cuts for the rich (See Table C). Not only has Florida state share of the state-local funding for public schools been reduced from 55% during the 1990s (in earlier years it was up to 60%) to a new low of 44% this fiscal year; but also, that the state has reduced its actual spending in each of the last three fiscal years to its basic Florida Education Financing Program (FEFP) and has increased the required local property tax share by an annual average of over 14% (17.75% in this fiscal year alone). (See Table D)

II. “SAVE OUR HOMES” (Article VII, Section 4, Florida Constitution, 1992)

An extensive study of Florida’s Property Tax was mandated by the 2006 Legislature (Chapter 2006-311, Laws of Florida) with an interim report prior to the 2007 Session and a final report by September 2007. The interim report² for this study was released in February 2007 along with an early release of data from the Florida Department of Revenue in November 2006.

The difference between a homestead’s just value and its assessed value is commonly referred to as the “Save Our Homes” differential. Since implementation of the amendment in 1995, 1,320,400 (or 39%) of the original 3,348,848 homestead parcels in existence at that time are still in their original homes and receive the maximum protection available under Save Our Homes (“SOH”). Currently, the average annual growth rate of this differential has been 54.4% and reached \$404.4 billion in 2006 or almost 25% of the total taxable value in Florida. This has resulted in a dramatic shift in taxes paid by homesteads, to non-homestead residential and non-residential (commercial) property.³ The Department of Revenue reports that, as a percent of taxable value, homestead property now accounts for 32.1% with non-homestead residential at 34.5% and non-

¹ “Who Pays,” Institute on Taxation and Economic Policy, January 2003 at <http://www.itepnet.org>

² Florida’s Property Tax Study Interim Report, Legislative Office of Economic and Demographic Research, February 15, 2007 available at <http://edr.state.fl.us/index.html> click on Property Tax Study

³ *Ibid.*, see discussion on pages 28-30

residential at 32.5%. Without the Save Our Homes differential, the percentages would be 45.5% for homestead, 28.4% non-homestead residential and 26.1% non-residential. This means that, in order to raise the same amount of revenue in 2006, homestead property owners as a group has had their taxes reduced by approximately 40%, while non-homestead (renters and second-homeowners) and commercial (non-residential) property owners have had their taxes increased by approximately 20%.

Another way of viewing the impact of the Save Our Homes amendment is to look at the SOH effect on affordable housing and the impact on neighbors of similar means and family characteristics.⁴ The Department of Revenue estimated the property taxes that would be paid by a homeowner of a state-wide median valued residential homestead in 2006 (\$150,000) based on when it was purchased. Obviously, the department used state-wide average rates and the state-wide median value which are significantly different in the various counties, even neighborhoods, of the state. However, use of state-wide data confirms the direction and extent of the horizontal inequities created by SOH. The Department found that a purchaser of a \$150,000 homestead in 1999 would pay 59% less in property taxes than a purchaser of a \$150,000 homestead in 2005; that is, the family owning the home since 1999 would pay \$947 in 2006 taxes while the same family purchasing the same value home in 2005 would pay \$2,309 in 2006 taxes. This would increase the monthly tax bill from \$79 to \$192 and significantly affect the affordability of the home to a first-time purchaser.

Table F shows the distribution of the Save Our Homes benefit to various levels of home values. The 14,527 owners of homes over \$2,000,000 received an average SOH benefit of \$1,280,948 or, at 18.5 mills (state-wide average for 2006), a tax reduction of \$23,698. Or, the top 1.5% homeowners (64,083) with million dollar homes received an average SOH benefit of over \$800,000 or, at 18.5 mills, a tax reduction of \$12,929 on average. The large majority of homeowners owned homes valued at less than \$250,000 and received an average SOH benefit of \$53,472 or, at 18.5 mills, a tax reduction of \$989 on average.

The Department also identified wide variations between counties created by the Save Our Homes amendment and reported on its overall impact on state financing programs and economic development within the various counties and regions of the state.⁵ The Save Our Homes amendment:

- Creates inequities among taxpayers with similar homes and similar incomes
- Creates inequities among local jurisdictions
- Reduces homeowner involvement in local fiscal decisions and local government debates over local services
- Disadvantages young people buying a first home and newcomers to the state
- Encourages over-housing and impedes free movement around the state
- Evidence from other states suggests problems just grow over time

⁴ *Ibid.*, see discussion on pages 34-36

⁵ *Ibid.*, pages 31-33 and 37-40

III. Current proposals before the 2007 Session of the Florida Legislature

The Governor's Proposal includes authorizing counties to double the homestead exemption (to \$50,000) and to make the Save Our Homes assessment limitation portable.

The House Leadership Proposal initially modified the current state limit by changing the growth rate to a combined rate of population and CPI growth, instead of the state personal income growth, and applies it to the base fiscal year of 2001. Table C-1 shows the impact of the change which would basically remove any opportunity to restore tax equity at the state level, to restore the state to its traditional commitment to fund public schools, to fund any commitment to assure all children adequate health care and to even maintain the current levels of service in many functions.

The tables (and footnoted reports) also show the significant variations that can be obtained by adopting various published indices. We have chosen to use as our base case the published major economic and demographic assumptions used in trend forecasts by the statutorily-required Florida consensus estimating process and have lagged them one year to approximate the timing of actual figures ultimately used to calculate a final limit on July 1 of each year.⁶ The House staff used a different Census population count that resulted in an abnormally high growth rate for the year 2002 and a significantly different timing for the projected impact of their proposed change.

The House Leadership Proposal also requires local governments to roll-back their property taxes to their 2001 level with an adjustment for new construction and Consumer Price Index increases for each subsequent year. It would limit future increases to the same limit of new construction plus CPI.

The only other state to experience a similar limitation on state and local revenues proposed by the House Leadership is Colorado in its Tax Payer Bill of Rights (TABOR) amendment adopted in 1992. An excellent article⁷ on the impact of that amendment and its lessons for Florida can be found in the CBPP website listed below.

In addition to revenue limits, the House Leadership Proposal calls for an abolition of all property taxes on homestead property and substitutes an increase of 2.5 cents in its sales tax rate to be allocated among the local governments for their lost property tax revenues.

The House Democratic Response focuses on providing relief to all property owners by granting additional exemptions to homesteads (one-half of the median home value within a county if their total exemption exceeds their Save Our Homes value); to residential non-homestead property (one-fourth of the median value within the county for

⁶"Long Term Revenue Analysis Book 2; Appendices A&B," Florida Economic & Demographic Research Unit found at <http://edr.state.fl.us/reports/book2>

⁷"A Frigid Forecast for the Sunshine State: Proposed Revenue Cap as Damaging as Colorado's TABOR," Center for Budget and Policy Priorities, March 20, 2007 www.cbpp.org

like property) with a county option to provide direct relief to permanent resident renters; and to businesses (one-fourth of their property value up to \$250,000). They would also cap local property tax increases to CPI plus 3% and allow for new construction to be placed on roll at full (just) value. There is no modification to the cap on state revenues in the existing constitution and no suggested modification to the Save Our Homes amendment. The proposal calls for a one-cent increase in the state sales tax to be allocated among the local governments to pay for the additional exemptions granted.

IV. Concerns about the present proposals before the Legislature

A) Save Our Homes must be repealed and replaced with a more equitable, just method of dealing with homestead relief.

Although the House Leadership Proposal does, in essence, repeal the Save Our Homes limitation by abolishing all homestead property taxes, it fails to provide any direct relief to permanent residential renters and imposes extraordinary reductions in property tax levies and limits future levies placing tremendous pressure on providing local public services and on adopting more regressive revenue sources, such as user fees.

The Save Our Homes inequities are somewhat offset by the House Democratic Response to limit the additional exemptions for homesteads only for those who fail to qualify for a greater amount under SOH. However, unless SOH is limited only to those currently under it and means are developed to substitute the additional exemptions for it, the plan will not remove the basic inequities that will continue to result from the SOH limitation.

If the Save Our Homes limitation was either restricted to the first \$500,000 or 3 times the median value in a county, between \$16 and \$21 billion dollars could be returned to the taxable roll resulting in approximately \$300 to \$380 million dollars in taxes that could be shifted back to the wealthiest homeowners; thereby making the property tax more proportional and less regressive and providing relief to businesses and non-homestead residences. (See Table G)

Repealing or capping SOH and providing a more equitable solution will also give businesses and non-homestead residences relief through reducing the significant shift of property taxes upon them away from homesteads. In addition, a more equitable, restructured system of property taxation will continue to assure full participation by all residents in local governmental decisions and strengthen the Florida tradition of “home-rule.”

Adopting “portability” for existing SOH or expanding to business or other classes of property will only exacerbate the current inequities.

B) The use of more stringent constitutional revenue caps (and roll-backs) to provide relief causes major problems for Florida to fund its state and local services, primarily in education, health care, care for the elderly and the disabled,

transportation and other necessary infrastructure, and enforcement of environmental laws and regulations. It also denies the local governments, the “government closest to the people,” the ability to respond to citizen demand for services.

See discussion contained in “A frigid forecast for the Sunshine State: Proposed Revenue Cap as damaging as Colorado’s TABOR,” Center on Budget and Policy Priorities, March 20, 2007, and found at www.cbpp.org

C) The use of the current general sales tax to fund property tax relief fails to respond to the need for a fair and equitable tax structure in Florida and places an overwhelming burden of the current general sales tax, especially in times of economic downturn.

The current general sales tax has significant exemptions and “loopholes” that have been established over time. Adopting an increase in the general sales tax without review of those exemptions, exclusions and subsidies would further increase the unfairness of the state tax structure. In addition, the sales tax is a volatile source of revenue and would not provide the stability to the tax structure that the property tax gives in times of recession when demands for government services are often at their highest. It is also more regressive than the property tax which is often considered “proportional or fairer.”

Use of the state general sales taxes to provide property tax relief also raises the questions as to how it will best be apportioned or redistributed back to local governments. It also places the state increasingly in local decisions as to the proper level of services and what is necessary to meet local desires.

Additionally, Florida has repealed taxes on individual and corporate wealth over the past few years and has made its tax structure more regressive over time. There are many major tax options⁸ other than a raise in the general sales tax rate which should be considered, among those are:

- 1) **\$1+ billion--Corporate Tax – closing “loopholes” and expanding base**
 - Combined reporting (+\$494 M)
 - Tax S-Corps under CIT* (\$960 M)
 - Tax LLCs under CIT* (\$250 M)
 - Of six states with Corporate Income Taxes but no Personal Income Taxes, only AK and FL exempt S-Corps and LLCs from the regular corporate income tax
 - Decouple from new federal Domestic Production Deduction (\$139 M)
 - Enact Throwback rule to assure that corporations are paying their full share of state taxes (\$29 M)

⁸ All estimates except energy tax are taken from the 2006 Florida Tax Handbook that may be found at <http://edr.state.fl.us/reports/taxhandbooks/taxhandbooks.htm>

- 2) **\$1 billion** from decoupling federal estate tax changes with a large exemption - \$2 million per couple; \$1 million for individual
 - o Requires a Constitutional amendment to allow the state to enact its own estate and inheritance tax if the federal law doesn't allow a state tax credit
- 3) **\$1+ billion** from re-imposing intangibles tax on a broader base with \$1 million (individual) \$2 million (couple) exemption and exempt qualified pension plans
- 4) **\$1+ billion** from imposing a 1 cent per kilowatt hour (or equivalent) on electricity and competing fuels with an exemption for the 1st 500 kWh used by a permanent resident and require 25% be dedicated to improving the energy efficiency of new and existing residences and businesses in order to lower energy bills through the use of less electricity and other fuels and avoid building expensive new power plants and transmission facilities
- 5) **\$1+billion** by expanding sales tax to selected services; limit unwarranted exemptions, exclusions and subsidies; constitutionally protect the exemptions for food, drugs and permanent residential rentals

D) Permanent residents who are renters must be treated fairly.

The House Democratic Response addressed this issue and granted counties an option to build their own system. I would, however, recommend consideration of a “circuit breaker” option which would assure that property taxes paid by either renters or homeowners would not exceed a certain portion of their income. See a recent report on “The Property Tax Circuit Breaker: An Introduction and Survey of Current Programs” found at <http://www.cbpp.org/3-21-07sfp.htm>.

A “circuit breaker approach:

- Prevents taxpayers from being “overloaded” by their property tax bill
- Protects taxpayers from property tax increases they cannot afford – once property tax reaches designated proportion of income, all additional property taxes are rebated
- Is well-targeted to those who need the relief
- Is “Portable” if resident moves
- Is used in 18 states and requires simple administration

Example of Possible Florida Circuit Breaker

- Rebate property taxes that exceed 3 percent [or, if preferred, 4%] of income for people whose income is below \$75,000 and rebate property taxes that exceed 5 percent of income for people whose income is between \$75,000 and \$200,000
- Deem 20 percent of rent to be property tax that landlords pass through to tenants Make available to homestead property owners and full-time rental residents who qualify for sales tax exemption
- Cost can be limited by the way it is tailored but would cost between \$600-750 million to provide appropriate relief to all permanent residents.
- Determine level at which to set max benefit

Examples of how such a circuit breaker would work:

Income	\$ 60,000	\$125,000
Just Value	200,000	400,000
Less Homestead	175,000	375,000
Millage (2006 state-wide average)	18.5	18.5
Tax	\$3,238	\$6,938
Limit: Percent of Income (3%/5%)	\$1,800	\$6,250
Potential rebate (depending on max)	\$1,438	\$ 687

V. Special Note on Constitutional Action

Although the Legislature has a significant responsibility to propose amendments to the Constitution, the Constitution requires the periodic appointment of a Constitutional Tax and Budget Reform Commission to review the existing structure and make recommendations. A Commission was appointed in February 2007 and will be able to place their suggested amendments on the 2008 ballot. The Legislature should dedicate itself in the interim between the 2007 and 2008 Sessions to review the work of this Commission and hold its own legislative committee meetings in the interim with the focus of providing the public a full opportunity to speak to the Constitutional issues at the general election to be held in 2008. In the 2007 Session the Legislature can develop property tax relief packages statutorily until such time as the people vote on a more permanent solution. It certainly can reverse its trend of mandating higher local property school taxes and create a ‘circuit breaker’ system to assure that no Floridian would pay more than a fair share of their income in property taxes.

APPENDICES ATTACHED (11 pages)