



## TAXATION AND BUDGET REFORM COMMISSION

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### Staff Analysis and Economic Impact Statement

Measure: CP 4

REFERENCE:

ACTION:

Sponsor: Commissioner Margolis

1. GPSC

Pre-meeting

2. FTC

Subject: Residential property  
assessment/storm hardening  
or renewable energy devices

3.

Date: November 30, 2007

Revised: December 14, 2007

#### I. Summary:

This proposed constitutional amendment provides that the Legislature may prohibit the consideration of storm-hardening improvements and the installation of renewable energy source devices in the determination of the assessed value of residential real property.

#### II. Present Situation:

##### *Just Valuation of Property*

Article VII, s. 4 of the Florida Constitution requires all property, with some exceptions, to be assessed at a just valuation for the purposes of ad valorem taxation.<sup>1</sup> "The term 'just valuation' means 'fair market value.'"<sup>2</sup>

<sup>1</sup> Article VII, s. 4, Fla. Const., states:

Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. 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.

(2) No assessment shall exceed just value.

To determine the just value or fair market value of a property, property appraisers must consider the eight factors set forth in s. 193.011, F.S. That statute states:

Factors to consider in deriving just valuation.—In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

(1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise

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(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the homestead shall be assessed as provided herein.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead. That assessment shall only change as provided herein.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided herein.

(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(d) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

(e) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

<sup>2</sup> *Gilreath v. Westgate Datona, Ltd.*, 871 So. 2d 96, 967 (Fla. 5th DCA 2004) (quoting *Mazourek v. Wal-Mart Stores, Inc.*, 831 So. 2d 85, 88 (Fla. 2002)).

authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

- (3) The location of said property;
- (4) The quantity or size of said property;
- (5) The cost of said property and the present replacement value of any improvements thereon;
- (6) The condition of said property;
- (7) The income from said property; and
- (8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

The installation of a renewable energy device or improvements for the purpose of improving a property's resistance to wind damage may increase a property's market value. By operation of Art. VII, s. 4, Fla. Const., and s. 193.011, F.S., assessed values generally should increase due to increased market values.

#### *Assessment of Renewable Energy Source Devices*

Article VII, s. 3(d), Fla. Const., authorizes a limited exemption from ad valorem taxation for renewable energy source devices. That constitutional provision states:

By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

The Legislature implemented the exemption for renewable energy source devices through s. 196.175, F.S., which states:

#### Renewable energy source exemption.—

(1) Improved real property upon which a renewable energy source device is installed and operated shall be entitled to an exemption not greater than the lesser of:

- (a) The assessed value of such real property less any other exemptions applicable under this chapter;

(b) The original cost of the device, including the installation cost thereof, but excluding the cost of replacing previously existing property removed or improved in the course of such installation; or

(c) Eight percent of the assessed value of such property immediately following installation.

(2) The exempt amount authorized under subsection (1) shall apply in full if the device was installed and operative throughout the 12-month period preceding January 1 of the year of application for this exemption. If the device was operative for a portion of that period, the exempt amount authorized under this section shall be reduced proportionally.

(3) It shall be the responsibility of the applicant for an exemption pursuant to this section to demonstrate affirmatively to the satisfaction of the property appraiser that he or she meets the requirements for exemption under this section and that the original cost pursuant to paragraph (1)(b) and the period for which the device was operative, as indicated on the exemption application, are correct.

(4) No exemption authorized pursuant to this section shall be granted for a period of more than 10 years. *No exemption shall be granted with respect to renewable energy source devices installed before January 1, 1980, or after December 31, 1990.* (Emphasis added).

As a result of s. 196.175(4), F.S., the renewable energy source property tax exemption authorized by Art. VII, s. 3(d), F.S., is no longer operative.

### ***Florida's Property Tax***

In 2006, Florida's local property tax system assessed:

more than 9 million parcels of real property [with] a just value of \$2.4 trillion. Due to various statutory exemptions and exclusions, such as Save Our Homes, property tax relief for low-income seniors and disabled veterans, and the exclusion of government property, the taxable value of Florida's real property in 2006 was \$1.79 trillion, resulting in more than \$30.4 billion in property taxes levied by local governments and taxing authorities.<sup>3</sup>

### **III. Effect of Proposed Changes:**

This proposed amendment to the Florida Constitution creates an exception to Art. VII, s. 4, which requires all property to be assessed for ad valorem taxation at fair market value.

Under the amendment, the Legislature may prohibit the consideration of storm-hardening improvements and the installation of renewable energy source devices in the determination of the assessed value of residential real property.

<sup>3</sup> Florida Department of Revenue, *Property Tax Oversight Program's Role*, [http://dor.myflorida.com/dor/property/about\\_us.html](http://dor.myflorida.com/dor/property/about_us.html) (last visited Nov. 27, 2007).

The amount of the benefit under the amendment may equal the increased market value resulting from storm-hardening improvements or the installation of a renewable energy source device. Qualifying storm-hardening improvements include “any change, addition, or improvement made for the purpose of improving [a residential] property’s resistance to wind damage.”

The benefits available under the amendment do not appear to be limited to homestead property. Instead, the benefit appears to apply more broadly to all “property used for residential purposes.” As such, the benefit appears to apply to rental apartments, second or vacation homes, as well as homesteads.

The amendment appears to apply to residential properties that are retrofitted with improvements, rather than new construction.

The existing authority for a property tax exemption for renewable energy source devices in Art. VII, s. 3(d), Fla. Const., is not operative. However, if the exemption becomes operative, it may conflict with the benefits under this measure or create a double benefit. Moreover, if the installation of a renewable energy source device increases the value of the real property more than the cost of the device, the benefit of this measure is likely greater than the potential benefit under Art. VII, s. 3(d), Fla. Const. To avoid confusion the Commission may wish to repeal Art. VII, s. 3(d), Fla. Const.

#### IV. Constitutional Issues:

None.

#### V. Economic Impact and Fiscal Note:

##### A. Tax/Fee Issues:

This proposed constitutional amendment provides that the Legislature may prohibit the consideration of storm-hardening improvements and the installation of renewable energy source devices in the determination of the assessed value of residential real property.

The Legislature’s Office of Economic and Demographic Research has estimated that this measure, if implemented, will have the following fiscal impact:

	YR 1	YR 2	YR 3
<b><i>Storm-Hardening Improvements</i></b>			
Number of Homeowners	225,370	229,384	233,808
Ad Valorem Tax Loss (millions)	\$ (3.39)	\$ (3.45)	\$ (3.52)
<b><i>Renewable Energy Devices</i></b>			
Ad Valorem Tax Loss (millions)	\$ (0.05)	\$ (0.35)	\$ (0.70)
<b><u>Total Tax Impact (millions)</u></b>	<b><u>\$ (3.44)</u></b>	<b><u>\$ (3.80)</u></b>	<b><u>\$ (4.22)</u></b>

**B. Private Sector Impact:**

This measure may create an incentive for an owner of residential property to strengthen the property to resist wind damage or to install a renewable energy source device. Storm-hardening improvements may result in lower insurance rates. The installation of renewable energy source devices may result in lower energy costs.

**C. Government Sector Impact:**

This measure will prohibit increased assessed values of residential property for ad valorem taxation as the result of storm-hardening improvements or the installation of a renewable energy source device. Without changes in millage rates, the amendment likely will reduce ad valorem revenues that would have otherwise been due.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Commission may wish to consider whether to amend the measure to give the Legislature more legislative flexibility to implement the measure. Perhaps, the substantive language of the amendment on line 87 could begin as follows: "By general law and subject to conditions specified therein . . ."

The existing authority for a property tax exemption for renewable energy source devices in Art. VII, s. 3(d), Fla. Const., is not operative. However, if the exemption becomes operative, it may conflict with the benefits under this measure or create a double benefit. Moreover, if the installation of a renewable energy source device increases the value of the real property more than the cost of the device, the benefit of this measure is likely greater than the potential benefit under Art. VII, s. 3(d), Fla. Const. To avoid confusion the Commission may wish to repeal Art. VII, s. 3(d), Fla. Const.

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Commissioners(s) \_\_\_\_\_ offered the following:

**Amendment (with ballot statement and title amendments)**

Remove line(s) 11-101 and insert:

That the following amendment to Sections 3 and 4 of Article VII and the creation of a new section in Article XII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.--

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled,

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property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which

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54 such device is installed and operated, to the value fixed by  
55 general law not to exceed the original cost of the device, and  
56 for the period of time fixed by general law not to exceed ten  
57 years.

58 (d)(e) Any county or municipality may, for the purpose of  
59 its respective tax levy and subject to the provisions of this  
60 subsection and general law, grant historic preservation ad  
61 valorem tax exemptions to owners of historic properties. This  
62 exemption may be granted only by ordinance of the county or  
63 municipality. The amount or limits of the amount of this  
64 exemption and the requirements for eligible properties must be  
65 specified by general law. The period of time for which this  
66 exemption may be granted to a property owner shall be determined  
67 by general law.

68 SECTION 4. Taxation; assessments.—By general law  
69 regulations shall be prescribed which shall secure a just  
70 valuation of all property for ad valorem taxation, provided:

71 (a) Agricultural land, land producing high water recharge  
72 to Florida's aquifers, or land used exclusively for  
73 noncommercial recreational purposes may be classified by general  
74 law and assessed solely on the basis of character or use.

75 (b) Pursuant to general law tangible personal property  
76 held for sale as stock in trade and livestock may be valued for  
77 taxation at a specified percentage of its value, may be  
78 classified for tax purposes, or may be exempted from taxation.

79 (c) All persons entitled to a homestead exemption under  
80 Section 6 of this Article shall have their homestead assessed at

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81 just value as of January 1 of the year following the effective  
82 date of this amendment. This assessment shall change only as  
83 provided herein.

84 (1) Assessments subject to this provision shall be changed  
85 annually on January 1st of each year; but those changes in  
86 assessments shall not exceed the lower of the following:

87 a. Three percent (3%) of the assessment for the prior  
88 year.

89 b. The percent change in the Consumer Price Index for all  
90 urban consumers, U.S. City Average, all items 1967=100, or  
91 successor reports for the preceding calendar year as initially  
92 reported by the United States Department of Labor, Bureau of  
93 Labor Statistics.

94 (2) No assessment shall exceed just value.

95 (3) After any change of ownership, as provided by general  
96 law, homestead property shall be assessed at just value as of  
97 January 1 of the following year. Thereafter, the homestead shall  
98 be assessed as provided herein.

99 (4) New homestead property shall be assessed at just value  
100 as of January 1st of the year following the establishment of the  
101 homestead. That assessment shall only change as provided herein.

102 (5) Changes, additions, reductions, or improvements to  
103 homestead property shall be assessed as provided for by general  
104 law; provided, however, after the adjustment for any change,  
105 addition, reduction, or improvement, the property shall be  
106 assessed as provided in this section herein.

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107       (6) In the event of a termination of homestead status, the  
108 property shall be assessed as provided by general law.

109       (7) The provisions of this amendment are severable. If any  
110 of the provisions of this amendment shall be held  
111 unconstitutional by any court of competent jurisdiction, the  
112 decision of such court shall not affect or impair any remaining  
113 provisions of this amendment.

114       (d) The legislature may, by general law, for assessment  
115 purposes and subject to the provisions of this subsection, allow  
116 counties and municipalities to authorize by ordinance that  
117 historic property may be assessed solely on the basis of  
118 character or use. Such character or use assessment shall apply  
119 only to the jurisdiction adopting the ordinance. The  
120 requirements for eligible properties must be specified by  
121 general law.

122       (e) A county may, in the manner prescribed by general law,  
123 provide for a reduction in the assessed value of homestead  
124 property to the extent of any increase in the assessed value of  
125 that property which results from the construction or  
126 reconstruction of the property for the purpose of providing  
127 living quarters for one or more natural or adoptive grandparents  
128 or parents of the owner of the property or of the owner's spouse  
129 if at least one of the grandparents or parents for whom the  
130 living quarters are provided is 62 years of age or older. Such a  
131 reduction may not exceed the lesser of the following:

132       (1) The increase in assessed value resulting from  
133 construction or reconstruction of the property.

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(2) Twenty percent of the total assessed value of the property as improved.

(f) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

(1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.

(2) The installation of a renewable energy source device.

## ARTICLE XII

## SCHEDULE

Limitation on the assessed value of real property used for residential purposes.--

(a) The amendment to Section 4 of Article VII, prohibiting an increase in the assessed value of real property used for residential purposes as the result of improving the property's resistance to wind damage or installing a renewable energy source device, shall take effect January 1, 2009.

(b) The repeal of the renewable energy source property tax exemption in Section 3 of Article VII shall take effect upon approval by the voters.

== B A L L O T S T A T E M E N T A M E N D M E N T ==

Remove line(s) 107-115 and insert:

IMPROVEMENTS NOT AFFECTING THE ASSESSED VALUE OF  
RESIDENTIAL REAL PROPERTY.--Under this proposed amendment to the  
State Constitution, the Legislature may prohibit the

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161 consideration of storm-hardening improvements and the  
162 installation of renewable energy source devices to determine  
163 assessed value of residential real property for the purposes of  
164 ad valorem taxation. The amendment also repeals a property tax  
165 exemption relating to renewable energy source devices that is  
166 not in effect.

## ===== T I T L E A M E N D M E N T =====

169 Remove line(s) 2-7 and insert:

170 A resolution proposing an amendment to Sections 3 and 4 of  
171 Article VII and the creation of a new section in Article  
172 XII of the State Constitution, to prohibit the  
173 consideration of storm-hardening improvements and the  
174 installation of renewable energy source devices in the  
175 determination of the assessed value of residential real  
176 property and to provide an effective date if such  
177 amendment is adopted.

