Finance and Tax Committee

Thursday, February 19, 2015

10:30 a.m. – 1:00 p.m.

Morris Hall

MEETING PACKET

Steve Crisafulli
Speaker

Matt Gaetz
Chair

The Florida House of Representatives

Finance and Tax Committee

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Matt Gaetz
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AGENDA

February 19, 2015
10:30 a.m. – 1:00 p.m.
Morris Hall

I. Call to Order/Roll Call

II. Chair's Opening Remarks

III. Consideration of the following proposed committee bill:
PCB FTC 15-01 - Corporate Income Tax

IV. Consideration of the following bill:
HB 189 Insurance Guaranty Associations by Cummings

V. Workshop on the following:
Capital Recovery Concepts

VI. Workshop on the following:
Corporate Income Tax Credits for Employee Profit Sharing and Stock Ownership

VII. Workshop on the following:
Draft Concept to Ad Valorem Tax Save-Our-Homes "Recapture"

VIII. Closing Remarks and Adjournment

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 15-01 Corporate Income Tax
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 7014

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee		Dugan RD	Langston

SUMMARY ANALYSIS

Florida imposes a 5.5 percent tax on the taxable income of corporations doing business in Florida. The starting point for calculating taxable income for Florida tax purposes is taxable income used for federal income tax purposes. This linkage to the federal Internal Revenue Code requires annual updates to Florida's tax code if the administrative and bookkeeping benefits of "piggybacking" on the federal system are to be retained.

In December 2014, the federal government passed an act that affected the Internal Revenue Code - the Tax Increase Prevention Act of 2014. This act grants accelerated deductions for expensing and depreciation of capital assets put into service during 2014. Because of the linkage between Florida's income tax code and the federal code, adoption of these changes by Florida would result in an estimated $180 million reduction in General Revenue in Fiscal Year 2015-2016.

The bill updates Florida's corporate Income Tax Code by adopting the Internal Revenue Code as in effect on January 1, 2015. However, similar to acts in 2009, 2011, and 2013, the bill does not allow taxpayers, for Florida tax purposes only, to utilize the accelerated deductions allowed for federal tax purposes. Instead, the bill requires taxpayers to spread over a seven year period the amount of the accelerated deductions provided by the federal law changes.

The bill authorizes the Department of Revenue to adopt emergency rules to implement the bill.

On January 28, 2015, the Revenue Estimating Conference established that the bill has an indeterminate General Revenue impact because of uncertainty as to the mix of affected assets owned by Florida taxpayers.

The bill is effective upon becoming law and applies retroactively to January 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income determined for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains its relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

On December 19, 2014, the federal government passed the Tax Increase Prevention Act of 2014,[1] which contains several significant amendments to the Internal Revenue Code.

Generally, the Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).[2] Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing);[3] prior to the Tax Increase Prevention Act of 2014, the amount that could be expensed was limited to $25,000.

Similar to other federal legislation during the past several years,[4] the Tax Increase Prevention Act of 2014 grants an accelerated depreciation deduction (bonus depreciation) and increases the expensing limitation. The Tax Prevention Act of 2014 grants a first-year bonus depreciation amount of 50 percent of the cost of the property placed in service during 2014 and increases the expensing limitation from $25,000 to $500,000 for taxable years beginning in 2014.

Effect of Proposed Changes

The bill updates the Florida corporate Income Tax Code to reflect changes in the federal Internal Revenue Code enacted by Congress. However, in order to mitigate the Fiscal Year 2015-2016 impact of the accelerated federal deductions on Florida, the bill requires taxpayers to spread the effect of these deductions over seven taxable years. The bill accomplishes this by requiring taxpayers to "add-back" the bonus depreciation deduction and the amount of the increased expensing deduction above $128,000. The taxpayer is then permitted to subtract from income one-seventh (1/7) of these deductions for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, and 2013.[5]

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill.

B. SECTION DIRECTORY:

Section 1. Amends s. 220.03(1)(n) and (2)(c), F.S., to adopt the 2015 version of the Internal Revenue Code.

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[1] Pub. Law No. 113-295, H.R. 5771, 113th Cong. (December 19, 2014).
[2] *See generally* ss. 167 and 168, Internal Revenue Code.
[3] *See generally* s. 179, Internal Revenue Code.
[4] The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.
[5] Ch. 2009-132, 2011-229 and 2013-40, Laws of Fla.

Section 2. Amends s. 220.13(1)(e), F.S., to incorporate references to the federal Tax Increase Prevention Act of 2014.

Section 3. Provides emergency rulemaking authority to the Department of Revenue to implement the provisions of this bill.

Section 4. Reenacts s. 1009.97(3)(l), F.S., to incorporate the amendment made by this act to s. 220.03, F.S.

Section 5. Provides an effective date of upon becoming law and provides retroactive applicability to January 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   On January 28, 2015, the Revenue Estimating Conference established that the bill has an annual impact on General Revenue that is indeterminate in direction and magnitude because of uncertainty as to the mix of affected assets owned by Florida taxpayers.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers. The bill allows a taxpayer to take advantage of the deductions for federal tax purposes, but places the taxpayer in a similar position for Florida tax purposes as the taxpayer would have been had it not taken advantage of the federal provisions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the corporate income tax; amending s. 220.03, F.S.; adopting the 2015 version of the Internal Revenue Code; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation and expensing of assets that are allowed for federal income tax purposes; authorizing the Department of Revenue to adopt emergency rules; reenacting s. 1009.97(3)(l), F.S., relating to the definition of "Internal Revenue Code" used with respect to prepaid college programs, to incorporate the amendment made by the act to s. 220.03, F.S., in a reference thereto; providing for retroactive application; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following

meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2015 ~~2014~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2015 ~~2014~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 2. Paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) Adjustments related to federal acts.—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits

received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, ~~and~~ the American Taxpayer Relief Act of 2012, and the Tax Increase Prevention Act of 2014.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, ~~and~~ s. 331 of Pub. L. No. 112-240, and s. 125 of Pub. L. No. 113-295, for property placed in service after December 31, 2007, and before January 1, 2015~~2014~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as

amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, ~~and~~ s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015~~2014~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax

purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

Section 3. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing this act.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2018.

Section 4. For the purpose of incorporating the amendment made by this act to section 220.03, Florida Statutes, in a reference thereto, paragraph (l) of subsection (3) of section 1009.97, Florida Statutes, is reenacted to read:

1009.97 General provisions.—

(3) DEFINITIONS.—As used in ss. 1009.97-1009.984, the term:

(l) "Internal Revenue Code" means the Internal Revenue Code of 1986, as defined in s. 220.03(1), and regulations adopted pursuant thereto.

Section 5. This act shall take effect upon becoming law and shall operate retroactively to January 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 189 Insurance Guaranty Associations
SPONSOR(S): Cummings
TIED BILLS: **IDEN./SIM. BILLS:** SB 600

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N	Bauer	Cooper
2) Finance & Tax Committee		Pewitt	Langston
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Florida operates five insurance guaranty funds to ensure policyholders of liquidated insurers are protected with respect to insurance premiums paid and settlement of outstanding claims, up to limits provided by law. A guaranty association generally is a not-for-profit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company. A guaranty association accomplishes its mission by assuming responsibility for settling claims and refunding unearned premiums to policyholders. Insurers are required by law to participate in guaranty associations as a condition of transacting business in Florida.

The bill makes changes to two of the five guaranty funds – the Florida Insurance Guaranty Association (FIGA), which is the guaranty association for property and casualty insurance, and the Florida Life and Health Insurance Guaranty Fund (FLAHIGA), which is the guaranty association for most health and life insurers.

The bill clarifies the accounting treatment of regular assessments levied by FIGA and mitigates the negative impact to insurers' net worth due to a 2011 change to statutory accounting principles relating to the treatment of assessments. The bill also clarifies FLAHIGA's statutory duty to review policies, contracts, and claims of insolvent life and health insurers following *either* domestic or foreign liquidations or rehabilitations.

The bill has no fiscal impact on state or local government. The bill should have a positive private sector impact due to the bill's clarifications of FLAHIGA's obligations and the statutory accounting treatment of FIGA regular assessments.

The bill is effective July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Insurance Guaranty Associations – Background

Chapter 631, F.S., relating to insurer insolvency and guaranty payments, governs the receivership process for insurance companies in Florida.[1] Federal law specifies that insurance companies cannot file for bankruptcy. Instead, they are either "rehabilitated" or "liquidated" by the state. In Florida, the Division of Rehabilitation and Liquidation of the Department of Financial Services (DFS) is responsible for rehabilitating or liquidating insurance companies.[2]

Florida operates five insurance guaranty funds to ensure policyholders of liquidated insurers are protected with respect to insurance premiums paid and settlement of outstanding claims, up to limits provided by law.[3] A guaranty association generally is a not-for-profit corporation created by law directed to protect policyholders from financial losses and delays in claim payment and settlement due to the insolvency of an insurance company. A guaranty association accomplishes its mission by assuming responsibility for settling claims and refunding unearned premiums[4] to policyholders. Insurers are required by law to participate in guaranty associations as a condition of transacting business in Florida.

The bill makes changes to two of the five guaranty funds – the Florida Insurance Guaranty Association (FIGA), which is the guaranty association for property and casualty insurance, and the Florida Life and Health Insurance Guaranty Fund (FLAHIGA), which is the guaranty association for most health and life insurers.

Florida Insurance Guaranty Association (FIGA)

Statutory provisions relating to FIGA, which was created in 1970, are contained in part II of chapter 631, F.S. FIGA operates under a board of directors and is a nonprofit corporation. FIGA is composed of all insurers licensed to sell property and casualty insurance in the state. By law, FIGA is divided into two accounts:

- the auto liability and auto physical damage account; and
- the account for all other included insurance lines (the all other account).[5]

When a property and casualty insurance company becomes insolvent, FIGA is required by law to take over the claims of the insurer and pay the claims of the company's policyholders. This ensures

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[1] The Bankruptcy Code expressly provides that "a domestic insurance company" may not be the subject of a federal bankruptcy proceeding. 11 U.S.C. § 109(b)(2). The exclusion of insurers from the federal bankruptcy court process is consistent with federal policy generally allowing states to regulate the business of insurance. *See* 15 U.S.C. §§ 1011- 1012 (McCarran-Ferguson Act).

[2] Typically, insurers are put into liquidation when the company is insolvent whereas insurers are put into rehabilitation for numerous reasons, one of which is an unsound financial condition. The goal of rehabilitation is to return the insurer to a sound financial condition. The goal of liquidation, however, is to dissolve the insurer. *See* s. 631.051, F.S., for the grounds for rehabilitation and s. 631.061, F.S., for the grounds for liquidation.

[3] The Florida Life and Health Insurance Guaranty Association generally is responsible for claims settlement and premium refunds for health and life insurers who are insolvent. The Florida Health Maintenance Organization Consumer Assistance Plan offers assistance to members of insolvent health maintenance organizations, and the Florida Workers' Compensation Insurance Guaranty Association is directed by law to protect policyholders of insolvent workers' compensation insurers. The Florida Self-Insurers Guaranty Association protects policyholders of insolvent individual self-insured employers for workers' compensation claims. The Florida Insurance Guaranty Association is responsible for paying claims for insolvent insurers for most remaining lines of insurance, including residential and commercial property, automobile insurance, and liability insurance, among others.

[4] The term "unearned premium" refers to that portion of a premium that is paid in advance, typically for six months or one year, and which is still owed on the unexpired portion of the policy.

[5] s. 631.55(2), F.S.

policyholders who have paid premiums for insurance are not left with valid yet unpaid claims. FIGA is responsible for claims on residential and commercial property insurance, automobile insurance, and liability insurance, among others. Claims for property insurance are paid out of the all other account in FIGA.

In order to pay claims and to maintain the operations of an insolvent insurer, FIGA has several potential funding sources. FIGA's primary funding source is from the liquidation of assets of insolvent insurance companies domiciled in Florida. FIGA also obtains funds from the liquidation of assets of insolvent insurers domiciled in other states, but having claims in Florida.

In the event the insolvent insurer's assets are insufficient to pay all claims, FIGA can issue two types of post-insolvency assessments against property and casualty insurance companies to raise funds to pay claims. FIGA's assessments are computed and billed based on FIGA's immediate needs to pay claims. Currently, the assessment cap is 2% of net direct-written premium for regular assessments, and an additional 2% for emergency assessments for hurricane-related insolvencies.[6] FIGA has not levied an emergency assessment since 2006. FIGA last levied a regular assessment in November 2012 which was paid by insurers by December 31, 2012. This assessment amount was 0.9% of an insurer's net direct written premiums for 2011, which was levied only on the all other account.[7]

FIGA Assessment Procedure

The specific procedure used by FIGA to levy both types of assessments against member insurance companies and the procedure used by member insurance companies to recoup the assessment paid from their policyholders are found in s. 631.57(3), F.S. The procedure is generally the same for both regular and emergency assessments and is as follows:

1. FIGA's board determines an assessment is needed.
2. The board certifies the need for an assessment levy to the Office of Insurance Regulation (OIR).
3. If the certification is sufficient, the OIR issues an order to all insurance companies subject to the assessment instructing the companies to pay their share of the assessment to FIGA, based on each company's market share (direct written premium) for the previous calendar year.
4. Regular assessments must be paid by the insurance company within 30 days of the levy. Emergency assessments can be paid either in one payment at the end of the month after the assessment is levied or in 12 monthly installments, at the option of FIGA.
5. For both types of assessments, once an insurance company pays the assessment to FIGA, it may begin to recoup the assessment from its policyholders at the policy issuance or renewal. Insurers make a rate filing with the OIR to recoup the FIGA assessments from policyholders, based on expected future premiums to indicate the assessment percentage that will be added to each policy over the next 12 months.[8]

Current law requires insurers to remit excess assessment amounts collected from policyholders to FIGA if the excess amount is 15 percent or less than the total assessment paid by the insurer. Excess amounts over 15 percent of the total assessment paid are refunded by the insurer to the policyholders who paid the assessment.

Accounting for FIGA Assessments

Most insurers authorized to do business in the U.S. and its territories are required to prepare statutory financial statements to their state insurance regulators in accordance with statutory accounting

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[6] s. 631.57(3), F.S.

[7] FLORIDA INSURANCE GUARANTY ASSOCIATION, *Assessments*, http://www.figafacts.com/assessments (last visited January 26, 2015).

[8] *See also* Office of Insurance Regulation, *Frequently Asked Questions for FIGA Recoupment Filings*, available at http://www.figafacts.com/media/files/FAQs%20OIR-FIGA%20Assessment.pdf

principles (SAP),[9] which differs from generally acceptable accounting principles (GAAP) in a number of ways. While GAAP provides information useful to investors and other users of financial reporting (such as banks, credit rating agencies, and the U.S. Securities & Exchange Commission), SAP is developed in accordance with the concepts of consistency, recognition and conservatism, and assists state insurance departments with the regulation of the solvency of insurance companies. The ultimate objective of solvency regulation is to ensure that policyholder, contract holder and other legal obligations are met when they come due and that companies maintain capital and surplus at all times and in such forms as required by statute to provide a margin of safety. With the objective of solvency regulation, SAP focuses on the balance sheet, rather than the income statement, and emphasizes insurers' liquidity.[10]

Under both GAAP and SAP, an insurer recognizes a liability when a FIGA assessment is imposed (which reduces the insurer's surplus and net worth). However, a timing difference exists between the two principles for the recognition of an asset relating to the future recoveries of policy surcharges:

- GAAP does not treat the assessments recoverable from future premium writings as an asset, and thus results in an immediate reduction in equity and earnings in the period a FIGA assessment is billed. However, the equity reduction is eliminated the following year as the assessments are recouped from policyholders.
- On the other hand, SAP allows insurers to recognize the assessment amount likely to be recovered from future premium surcharges as an asset, which in turn offsets or eliminates the negative effect on statutory surplus, subject to certain conditions. SAP does not permit an asset to be recognized if the assessment is to be recovered from future rate structures, and limits asset recognition for accrued assessment liabilities to the extent that amount to be recovered is from in-force premiums only.[11]

Effect of the Bill on FIGA

The bill provides that the definition of "asset" for the purposes of determining an insurer's financial condition includes regular FIGA assessments that are levied *before* policy surcharges are collected result in a receivable, which is recognized as an admissible asset[12] under statutory accounting principles, to the extent the receivable is likely to be realized. This reflects and clarifies a practice of the OIR,[13] and eliminates the negative effect on statutory surplus of guaranty fund assessments. The asset must be established and recorded separately from the liability. The insurer must reduce the amount recorded as an asset if it cannot fully recoup the assessment amount because of a reduction in writings or withdrawal from the market.

For assessments that are paid *after* policy surcharges are collected pursuant to the monthly installment option, the recognition of assets is based on actual premium written offset by the obligation to FIGA.

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[9] The OIR requires insurers to file annual SAP statements and independently audited financial reports. Section 624.424, F.S.

[10] NAIC & CENTER FOR INSURANCE POLICY AND RESEARCH , *Statutory Accounting Principles*, http://www.naic.org/cipr_topics/topic_statutory_accounting_principles.htm (last visited on January 12, 2015). Section 625.01115, F.S., provides that "statutory accounting principles" means "accounting principles as defined in the National Association of Insurance Commissioners Accounting Practices and Procedures Manual as of March 2002 and subsequent amendments thereto if the amendments remains substantially consistent."

[11] Statements of Statutory Accounting Principles, No. 35R, Guaranty Fund and Other Assessments (SSAP 35R); *see also* Thomas Howell Ferguson, P.A., *Accounting for Guaranty Fund Assessments Memorandum*, Dec. 3, 2013.

[12] NAIC Statement of Statutory Accounting Principles No. 4.

[13] OFFICE OF INSURANCE REGULATION, Supplemental Memorandum to Information Memorandum OIR-06-023M (Dec. 1, 2006). http://www.floir.com/siteDocuments/SupplementalMemo.pdf.

Florida Life and Health Insurance Guaranty Association (FLAHIGA)

Statutory provisions relating to Florida Life and Health Insurance Guaranty Association (FLAHIGA), which was created in 1979, are contained in part III of chapter 631, F.S. FLAHIGA is governed by a board of directors composed of nine insurance companies and is a nonprofit corporation. All insurance companies (with limited exceptions) licensed to write life and health insurance or annuities in Florida are required, as a condition of doing business in Florida, to be a member of FLAHIGA. By law, FLAHIGA is divided into three accounts:

- the health insurance account;
- the life insurance account; and
- the annuity account.[14]

In the event a member insurer is found to be insolvent and is ordered to be liquidated by a court, a receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. Upon liquidation, FLAHIGA automatically becomes liable for the policy obligations that the liquidated insurer owed to its Florida policyholders.[15] FLAHIGA services the policies, collects premiums and pays valid claims under the policies. FLAHIGA's rights under the policies are those that applied to the insurer prior to liquidation. FLAHIGA may cancel the policy if the insurer could have done so, but normally FLAHIGA continues the policies until the association can transfer or substitute the policies to a new, stable insurer with approval of the OIR.

Generally, direct individual or direct group life and health insurance policies, as well as individual and allocated annuity contracts issued by FLAHIGA's member insurers, are covered by FLAHIGA.[16] Current law specifies life and health policies and annuity contracts from non-licensed insurers are not covered by FLAHIGA.[17] In addition, s. 631.713(3), F.S., excludes all of the following from coverage by FLAHIGA:

- any portion or part of a variable life insurance contract or a variable annuity contract that is not guaranteed by a licensed insurer;
- any portion or part of any policy or contract under which the risk is borne by the policyholder;
- any policy or contract or part thereof assumed by the failed insurer under a contract of reinsurance, unless assumption certificates were issued;
- fraternal benefit society products;
- health maintenance insurance;
- dental service plan insurance;
- pharmaceutical service plan insurance;
- optometric service plan insurance;
- ambulance service association insurance;
- preneed funeral merchandise or service contract insurance;
- prepaid health clinic insurance;
- certain federal employees group policies;
- any annuity contract or group annuity contract that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed directly and not through an intermediary to an individual by an insurer under such contract or certificate.

In 2011, legislation[18] was enacted specifying that FLAHIGA's immunity from bad faith lawsuits did not affect the FLAHIGA's obligation to pay valid insurance policy or contract claims if warranted after its

[14] s. 631.715(2)(a), F.S.
[15] Generally, FLAHIGA covers only policyholders and certificate holders that were valid Florida residents on the date that a member insurer is declared insolvent and liquidated. However, non-residents of Florida and beneficiaries of covered persons are covered by FLAHIGA under limited circumstances (s. 631.713(2), F.S.).
[16] Allocated annuity contracts are directly issued to and owned by individuals or annuities that directly guarantee benefits to individuals by the insurer.
[17] s. 631.713, F.S.
[18] Ch. 2011-226, Laws of Fla.

independent de novo review of the policies, contracts, and claims presented to it, whether domestic or foreign, after a Florida *domestic* rehabilitation or liquidation. However, the statute is silent as to FLAHIGA's obligations to pay after a *foreign* rehabilitation or liquidation.

Effect of the Bill on FLAHIGA

The bill transfers the 2011 exception from immunity from FLAHIGA's powers and duties statute, s. 631.717, F.S., to s. 631.737, F.S., which pertains to FLAHIGA's duty to review claims involving covered policies, and clarifies that this duty is not limited solely to policies, contracts, and claims following domestic rehabilitations and liquidations.

B. SECTION DIRECTORY:

Section 1: Amends s. 625.012, F.S., relating to the definition of "assets."

Section 2: Amends s. 631.717, F.S., relating to the powers and duties of the association.

Section 3: Amends s. 631.737, F.S., relating to rescission and review generally.

Section 4: Provides an effective date of July 1, 2015.

II. 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:

The bill's clarification of statutory accounting for FIGA assessments should mitigate the impact of assessments on an insurer's financial statement.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to insurance guaranty associations; amending s. 625.012, F.S.; revising the definition of the term "asset" to include Florida Insurance Guaranty Association assessments, under certain conditions, for purposes of determining the financial condition of an insurer; amending ss. 631.717 and 631.737, F.S.; transferring a provision relating to the obligation of the Florida Life and Health Insurance Guaranty Association to pay valid claims under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (15) and (16) of section 625.012, Florida Statutes, are renumbered as subsections (16) and (17), respectively, and a new subsection (15) is added to that section, to read:

625.012 "Assets" defined.—In any determination of the financial condition of an insurer, there shall be allowed as "assets" only such assets as are owned by the insurer and which consist of:

(15)(a) Assessments levied under s. 631.57(3)(a) and (c) that are paid before policy surcharges are collected and result in a receivable for policy surcharges to be collected in the future. This amount, to the extent it is likely that it will be

realized, meets the definition of an admissible asset as specified in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4. The asset shall be established and recorded separately from the liability regardless of whether it is based on a retrospective or prospective premium-based assessment. If an insurer is unable to fully recoup the amount of the assessment because of a reduction in writings or withdrawal from the market, the amount recorded as an asset shall be reduced to the amount reasonably expected to be recouped.

(b) Assessments levied under s. 631.57(3)(c) that are paid after policy surcharges are collected so that the recognition of assets is based on actual premium written offset by the obligation to the Florida Insurance Guaranty Association.

Section 2. Subsection (11) of section 631.717, Florida Statutes, is amended to read:

631.717 Powers and duties of the association.—

(11) The association is ~~shall~~ not ~~be~~ liable for any civil action under s. 624.155 arising from any acts alleged to have been committed by a member insurer before ~~prior to~~ its liquidation. ~~This subsection does not affect the association's obligation to pay valid insurance policy or contract claims if warranted after its independent de novo review of the policies, contracts, and claims presented to it, whether domestic or foreign, after a Florida domestic rehabilitation or a liquidation.~~

Section 3. Section 631.737, Florida Statutes, is amended to read:

631.737 Rescission and review generally.—The association shall review claims and matters regarding covered policies based upon the record available to it on and after the date of liquidation. Notwithstanding any other provision of this part, in order to allow for orderly claims administration by the association, entry of a liquidation order by a court of competent jurisdiction tolls ~~shall be deemed to toll~~ for 1 year any rescission or noncontestable period allowed by the contract, the policy, or by law. The association's obligation is to pay any valid insurance policy or contract claims, if warranted, after its independent de novo review of the policies, contracts, and claims presented to it, whether domestic or foreign, following a rehabilitation or a liquidation.

Section 4. This act shall take effect July 1, 2015.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 189 (2015)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Finance & Tax Committee

Representative Cummings offered the following:

Amendment

Remove lines 23-37 and insert:

(15)(a) Assessments levied under s. 631.57(3)(a) and (e) that are paid before policy surcharges are collected and result in a receivable for policy surcharges to be collected in the future. This amount, to the extent it is likely that it will be realized, meets the definition of an admissible asset as specified in the National Association of Insurance Commissioners' Statement of Statutory Accounting Principles No. 4. The asset shall be established and recorded separately from the liability regardless of whether it is based on a retrospective or prospective premium-based assessment. If an insurer is unable to fully recoup the amount of the assessment because of a reduction in writings or withdrawal from the

market, the amount recorded as an asset shall be reduced to the amount reasonably expected to be recouped.

(b) Assessments levied as monthly installments pursuant to s. 631.57(3)(e)1.c. that are paid

Capital Recovery Concepts

Summary of Capital Recovery Language

Current Situation

Special Districts

A "special district" is "a local unit of special purpose…government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet."[1] Special districts are created to provide a variety of services, such as mosquito control, beach facilities, children's services,[2] fire control and rescue,[3] drainage control,[4] or hospital services.

A "dependent special district" is a special district meeting at least one of the following criteria:

- The members of the district governing body are identical to those on the governing body of a county or municipality;
- The members of the governing body are appointed by the governing body of a single county or municipality;
- The members of the district's governing body may be removed at will by the governing body of a single county or municipality; or
- The district budget is subject to approval or veto by the governing body of a single county or municipality.[5]

An "independent special district" is a special district meeting none of the above four criteria.[6]

Hospital Districts

Florida has 31 active hospital and healthcare taxing districts, of which 5 are dependent districts and 26 are independent. Nineteen of those districts have the authority to levy ad valorem taxes, including 1 dependent district and 18 independent districts. Hospital districts may consist of one hospital or several hospitals and medical facilities. Additionally, counties have the authority to have their own public hospitals and levy ad valorem taxes to support building and operating those hospitals.

The millage rate adopted by hospital districts in 2014 varies from 0 mills (Citrus County, Gadsden County, Madison County, and Lower Florida Keys) to 3.2908 mills (Hendry County). The total ad valorem taxes levied varies from $0 (same list as 0 mill levy) to $155,674,416 (North Broward).

A substantial portion of the revenues generated by a hospital or medical facility are from charges for patient care that are reimbursed by Medicare, Medicaid, or an insurance company. Hospitals submit claims to these third party providers, which are either reimbursed at some contracted rate or denied. Denial can be caused by a wide variety of factors, many of which are due to clerical

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[1] Section 189.403(1), F.S.
[2] Section 125.901, F.S.
[3] Section 191.002, F.S.
[4] Section 298.01, F.S.
[5] Section 189.403(2), F.S.
[6] Section 189.403(3), F.S.

errors on the part of the hospital submitting the claim. Denials can result in millions of dollars per month in lost revenue.

The South Broward Hospital District, as one example, has a managed care collections capital recovery approach that has helped its hospitals increase profitability and decrease reliance on ad valorem tax revenues. The district hired a third party to assist in revising their processes in order to reduce the number of denials.[7]

Annual Financial Reporting

All special districts are required to file annual financial reports.[8] Each independent special district must file a copy of its annual financial report with the Department of Financial Services (DFS).[9] A dependent special district qualifying as a "component unit" of a local government must provide that entity with financial information necessary to comply with the statutory reporting requirement.[10] A dependent special district that is neither a component unit nor required to file an audit under s. 218.39, F.S., must submit a financial report directly to DFS.[11]

Special districts with revenues or total expenditures and expenses exceeding $100,000 (or between $50,000 and $100,000 if the district has not been audited for the prior two fiscal years) must have a financial audit of accounts and records prepared by an independent certified public accountant.[12] A dependent special district may satisfy this requirement by providing sufficient information for the local government on which the district is dependent to include the district in its own annual audit, but an independent district must provide for its own audited report.[13] Audit reports must be filed both with DFS14 and the Auditor General.[15]

Effect of Proposed Changes

The bill requires that each hospital district or county hospital submit a capital recovery report to the Department of Financial Services (department) within 60 business days of the end of the fiscal year, which is defined as the period between October 1 and September 30. The report must contain data on all claims submitted electronically by a county hospital or all medical facilities in a hospital district to a government entity or insurance company for payment during the fiscal year, along with data on the response/payment status of all such claims. A certified public accountant must attest that the report is accurate, complete, and consistent with generally accepted accounting principles.

Each hospital district or county hospital may prepare the report itself, or it may hire an approved provider to prepare the report on its behalf. An approved provider is a business that obtains at least 85% of its revenues from denied claims management practices, has been in existence for at

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[7] Presentation to the House Finance & Tax Committee, 1/22/2015
[8] Section 189.418(9), F.S.
[9] Section 218.32(1)(a), F.S.
[10] Section 218.32(1)(b), F.S.
[11] Section 218.32(1)(e), F.S.
[12] Section 218.39(1)(c), (1)(h), F.S.
[13] Section 218.39(3)(a), F.S.
[14] Section 218.32(1)(d), F.S.
[15] Section 218.39(7), F.S.

least 5 years, and employs at least 30 certified claims specialists. A certified claims specialist is an individual who is certified by an entity that uses nationally recognized claims management principles to establish baseline competence for claims specialists. The department must maintain a list of approved certification providers.

Within 90 calendar days of receiving the capital recovery report, the department must evaluate the data contained in each report to determine the denial rate of each hospital district or county hospital. The denial rate is defined as the dollar value of all unpaid electronically submitted claims (based on the contracted or published rate for such claims) as a percentage of the total claims submitted electronically during the same time period. If a report is deemed incomplete because it does not contain enough data to calculate a denial rate, the department must notify the district or county hospital, which then has 15 business days to provide further data.

Beginning in the 2017-2018 fiscal year, a hospital district or county hospital may only levy or receive increased tax revenues from ad valorem taxes in the year following submission of a capital recovery report if one of the following criteria are met:

- The denial rate for the hospital district or county hospital was less than or equal to 10 percent for the reports submitted in fiscal years 2015-2016 through 2018-2019, or less than or equal to 7 percent in fiscal years thereafter; or
- The hospital district or county hospital has reduced its denial rate by 33 percent within the previous 3 fiscal years and by 66 percent within the 5 previous fiscal years.

This restriction on levying or receiving increased ad valorem revenues also applies to hospital districts and county hospitals which fail to submit a timely completed report.

The department may adopt emergency rules to implement this section and clarify what data must be submitted as part of the capital recovery report.

Fiscal & Operational Impact

The Revenue Estimating Conference has not adopted an estimate on the impact this bill will have on state or local tax revenues. The Department of Financial Services has not provided an estimate of the increase in expenditures or FTEs, if any, necessary to implement this legislation.

A bill to be entitled

An act relating to hospital capital recovery; creating s. 155.50, F.S.; providing definitions; requiring the Department of Financial Services to maintain a list of claims specialist certification providers on its website; specifying the information to be included in a capital recovery report; defining the method used to calculate a denial rate; requiring hospital districts and county hospitals to comply with capital recovery reporting requirements; requiring the Department of Financial Services to calculate denial rates for certain hospital districts and county hospitals; prohibiting hospital districts and county hospitals from increasing ad valorem tax revenues if they fail to timely submit a complete report; requiring the department to maintain a list of approved providers; requiring hospital districts and county hospitals to meet specified requirements prior to levying or receiving increased ad valorem tax revenues; clarifying that the section does not provide additional authority to increase the maximum authorized millage rates; clarifying that this section supersedes special acts; providing the Department of Financial Services with regular and emergency rulemaking authority to specify the type and form of data necessary to calculate a denial rate; providing a

statement of important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 155.50, Florida Statutes, is created to read:

155.50 Capital recovery requirements for tax supported hospitals .—

(1) Definitions - As used in this section, the term:

(a) "Approved provider" means a business that generates at least eighty-five percent of its revenues from denied claims management, that has been in existence for at least five years, and that employs at least thirty certified claims specialists.

(b) "Certified claims specialist" means an individual who is certified by an entity that uses nationally recognized claims management principles to establish a baseline competency for claims specialists. The department shall maintain a list of recognized certification providers on its website.

(c) "Claim" means an itemized statement of healthcare services and costs from a health care provider or facility submitted to a governmental entity or a third party for payment.

(d) "Denial value" means the gross amount of all zero paid line items on billed claims submitted in a given fiscal year for which specific payment is expected but for which no payment has been received within 30 days, as indicated in remittance advice

electronically transmitted by insurers or governmental entities.

(e) "Denial rate" means the denial value divided by the total gross value of claims electronically billed during the fiscal year reflected on the hospital district or county hospital's claims submissions. The fiscal year for the denial value and the fiscal year for the gross value of claims must be the same year.

(f) "Department" means the Department of Financial Services.

(g) "Hospital district" means any dependent or independent special district that levies ad valorem taxes to support the operations of one or more hospitals or other medical facilities.

(h) "County hospital" means any hospital receiving ad valorem revenue levied by a county.

(i) "Increased tax revenues" means an increase in ad valorem tax revenues levied by a hospital district or on behalf of a county hospital for a fiscal year in comparison to the levying entity's immediately prior fiscal year.

(j) "Capital recovery report" means a report developed based on claims denials for all of the claims of hospitals and other medical facility operations of a hospital district or a county hospital that shall:

1. Include all claims data electronically submitted by all hospitals and other medical facilities and operations of the hospital district or county hospitals to a governmental entity or insurer and remittance advice or responses electronically

transmitted by insurers or governmental entities in an electronic format that the department can use to calculate denial rates; and

2. Include an attestation by a certified public accountant that the billing information reflected in the report is accurate, complete, and consistent with generally accepted accounting principles.

(k) "Fiscal year" means the period commencing on October 1 and ending on September 30 of each year.

(l) "Specific payment" means the reimbursement amount expected based on the Centers for Medicare and Medicaid Services' fee schedule or the contracted rates specific to each insurer.

(2) Every hospital district or county hospital must complete and submit to the department a capital recovery report within 60 business days following the end of the fiscal year. The hospital district or county hospital may develop its own capital recovery report according to the requirements of this section or it may hire an approved provider to develop the capital recovery report. The first capital recovery report shall be due following the 2015-2016 fiscal year.

(3) Within 90 calendar days of receiving the complete capital recovery report, the department or an approved provider hired by the department shall calculate the denial rate for the hospital district or county hospital based on the data submitted in the qualifying report and notify the board of the hospital

district or county hospital of the denial rate. Any approved provider hired by the department may not also work in any capacity for any hospital district or county hospital that is required to submit a capital recovery report pursuant to this section. The report will be deemed incomplete until the department has sufficient data in the proper format to allow it to accurately calculate a denial rate for the hospital district or county hospital. If the department receives an incomplete report, the department shall notify the governing board of the hospital district or county hospital. The hospital district or county hospital shall have fifteen business days from the date the department issues the notification to provide the complete report to the department. If the hospital district or county hospital fails to provide the complete report within fifteen business days, the hospital district or county hospital may not levy or receive increased tax revenues for the fiscal year following the year in which the capital recovery report was due.

(4) The department shall establish a list of at least five approved providers that meet the requirements of this section.

(5) A hospital district or county hospital may levy or receive increased tax revenues for the fiscal years 2017-2018, 2018-2019, and 2019-2020 only if the denial rate calculated from the capital recovery report submitted to the department in the immediately preceding fiscal year is ten percent or less. A hospital district or county hospital may levy or receive increased tax revenues for each fiscal year after 2019-2020 only

if the denial rate calculated from the capital recovery report submitted to the department in the immediately preceding fiscal year is seven percent or less. If the hospital district or county hospital fails to meet the denial rates described in this subsection, it may increase tax revenues if it can demonstrate that within the prior three years it has reduced its claim denial rate by thirty three percent and reduced its claim denial rate by sixty-six percent in the prior five years.

(6) Nothing in this section authorizes a hospital district to increase its millage beyond the millage specified in its authorizing act or beyond 10 mills if the tax revenues are received from the county. The provisions of this section are in addition to any other special act. To the extent that this section conflicts with any special act, this section supersedes the special act.

(7) The department may promulgate rules to clarify the records to be submitted as part of the capital recovery report that will be necessary to calculate a denial rate for each hospital district or county hospital. The department is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), for the purpose of implementing this section.

Section 2. The Legislature finds that this act fulfills an important state interest.

Section 3. This act shall take effect July 1, 2015.

Corporate Income Tax Credits
For Employee Profit Sharing &
Stock Ownership

Summary of Corporate Income Tax Credit for Profit Sharing

Current Situation

Corporate Income Tax

Florida imposes a 5.5% tax on the taxable income of corporations doing business in Florida.[1] The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes.[2] This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed in determining its federal taxable income. With federal taxable income as a starting point, Florida law then requires a variety of additions and subtractions to reflect Florida-specific policies to determine Florida taxable income. The first $50,000 of income is exempt from tax.[3] Any income above this threshold is taxed at a rate of 5.5%.

Corporations may qualify for a variety of corporate income tax credits which are used to reduce their tax liability. These credits include:

- Credit for assessments paid by an HMO to an insurance guarantee association (631.828, F.S.)
- New markets tax credit (288.9916, F.S)
- Enterprise zone jobs credit (220.181, F.S.)
- Enterprise zone property tax credit (220.182, F.S.)
- Community contribution tax credit (220.183, F.S.)
- Hazardous waste facility tax credit (220.184, F.S.)
- Contaminated site rehabilitation tax credit (220.1845, F.S.)
- State housing tax credit (220.185, F.S.)
- Credit for Florida alternative minimum tax (220.186, F.S.)
- Credit for contributions to eligible nonprofit scholarship-funding organizations (220.1875, F.S.)
- Rural job tax credit (220.1895, F.S.)
- Urban high-crime area job tax credit (220.1895, F.S.)
- Entertainment industry tax credit (220.1899, F.S.)
- Child care tax credit (220.19, F.S.)
- Capital investment tax credit (220.191, F.S.)
- Renewable energy technologies investment tax credit (220.192, F.S.)
- Florida renewable energy production credit (220.193, F.S.)
- Spaceflight project tax credit (220.194, F.S.)
- Emergency excise tax credit (220.195, F.S.)
- Research and development tax credit (220.196, F.S.)

Profit Sharing

Profit sharing consists of an arrangement where a company agrees to distribute some portion of its profits to employees on a regular basis. It can also take the form of contributions to employee stock ownership plans, which provide employees with some ownership of the company, and therefore proceeds from any dividends issued by the company. Under current law, there is no

[1] 220.11, F.S.
[2] 220.12, F.S.
[3] 220.14, F.S.

tax credit for profit sharing by corporations. Compensation in the form of profit sharing and contributions to employee stock ownership plans are both deductible from income for federal and state tax purposes.[4]

Effect of Proposed Changes

The proposed language creates a new corporate income tax credit for profit sharing. The credit is equal to 10% of qualifying compensation paid to eligible employees by an eligible employer during the employer's taxable year.

Eligible employers are corporations which are incorporated pursuant to chapter 607, Florida Statutes, or foreign corporations which are authorized to transact business in Florida pursuant to chapter 607. Eligible corporations must also employee at least 2 eligible employees.

To be eligible, an employee must meet a variety of criteria, including:

- Being employed on the final day of the employer's taxable year,
- Being a resident of the state for at least a year,
- Working an average of at least 30 hours per week,
- Being employed by the employer for at least a year,
- Not being an owner or officer of the employers, or related by blood or marriage to an owner or officer, and
- Being paid no more than 4.2 times the federal poverty guideline for a household of 1 (currently $11,770 x 4.2 = $49,434).

For compensation to qualify, it must be paid pursuant to a revenue sharing arrangement or be a contribution to an employee stock ownership program. Revenue sharing arrangements must be written plans adopted by the employer, and must call for payments to be made to all employees employed at the time of the payment on a non-discriminatory basis. Non-discriminatory means that the payments were distributed equally on a per capita basis or were distributed proportionally based on the employee's share of total compensation paid by the employer.

In order to qualify for a credit, eligible employers must submit an application for credit as an addendum to the corporate income tax return they file with the Department of Revenue. The department must inform the applicant whether their application is complete and whether they qualify for any credit within 30 days of receipt of the application. If the application is deemed incomplete or ineligible, the applicant may provide more information to the department within 30 days of receipt of the notice of their application status.

There is a cap on the total amount of credits that may be distributed each fiscal year in the amount of [yet to be determined]. The department is directed to evaluate all applications on April 15 of each year beginning in 2016 to determine how much credit will be granted to each applicant. In the event that the total amount of credits applied for surpasses the credit limit, the department is instructed to award the credits on a pro rata basis, based on each applicant's share of the total credits applied for. If an applicant submits more than one application for credit during one year, which may happen under certain circumstances due to extensions of the filing deadline, then only the first application will be included in the pool of applications evaluated for credit that year. Subsequent applications will be included in the following year's pool of applications. The department must notify all applicants of the amount of credit awarded by June

[4] Section 404(a)(9), Internal Revenue Code

30 of each year. Applicants must apply any credit they receive on the next annual return they file after June 30, and may carry forward any unusable balance for up to 5 years.

Fiscal Impact

The Revenue Estimating Conference has not yet evaluated the fiscal impact of this bill, but the annual impact is expected to be the same as the overall cap.

A bill to be entitled

An act relating to corporate income tax credits for profit sharing; amending s. 220.02; providing for the order of application of tax credits; amending s. 220.13; requiring that the amount taken as a credit under s. 220.197 be added to adjusted federal income; creating s. 220.197; providing definitions; providing a credit against corporate income tax for paying qualifying compensation to eligible employees; providing administrative provisions; providing a cap of $___ million per fiscal year; providing a carry forward of unused credits; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(8) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 631.828, those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, those enumerated in s. 220.184, those enumerated in s. 220.186,

those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.1875, those enumerated in s. 220.192, those enumerated in s. 220.193, those enumerated in s. 288.9916, those enumerated in s. 220.1899, those enumerated in s. 220.194, ~~and~~ those enumerated in s. 220.196, and those enumerated in s. 220.197.

Section 2. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) Additions.—There shall be added to such taxable income:

1. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any

amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. This subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

6. The amount taken as a credit under s. 220.195 which is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the

gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

9. The amount taken as a credit for the taxable year under s. 220.1895.

10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.

11. The amount taken as a credit for the taxable year under s. 220.1875. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. This addition is not intended to result in adding the same expense back to income more than once.

12. The amount taken as a credit for the taxable year under s. 220.192.

13. The amount taken as a credit for the taxable year under s. 220.193.

14. Any portion of a qualified investment, as defined in s. 288.9913, which is claimed as a deduction by the taxpayer and taken as a credit against income tax pursuant to s. 288.9916.

15. The costs to acquire a tax credit pursuant to s. 288.1254(5) that are deducted from or otherwise reduce federal taxable income for the taxable year.

16. The amount taken as a credit for the taxable year pursuant to s. 220.194.

17. The amount taken as a credit for the taxable year

under s. 220.196. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. The addition is not intended to result in adding the same expense back to income more than once.

18. The amount taken as a credit for the taxable year pursuant to s. 220.197.

Section 3. Section 220.197, Florida Statutes, is created to read:

220.197 Business Revenue Sharing Tax Credit.—

(1) DEFINITIONS.— As used in this section, the term:

(a) "Applicant" means an eligible employer that submitted an application for credit pursuant to this section.

(b) "Compensation" has the same definition as in Section 1.415(c)-2(d)(2) of the United States Treasury Regulations, except that it shall exclude qualifying compensation.

(c) "Eligible employer" means any taxpayer that employs at least two eligible employees during its taxable year.

(d) "Eligible employee" means any employee that:

1. Was employed by the eligible employer on the last day of its taxable year;

2. Was a resident of this state for at least 12 months prior to the end of the eligible employer's taxable year;

3. Worked an average of 30 hours or more per week during the eligible employer's taxable year;

4. Was continuously employed by the eligible employer for

a period of at least 12 months prior to the end of the eligible employer's taxable year;

5. Does not own 5% or more of the equity or voting power of the eligible employer;

6. Is not an officer of the eligible employer;

7. Is not related by blood, marriage, or adoption to either an owner of 5% or more of the equity or voting power of the eligible employer, or an officer of the eligible employer;

8. Received compensation no greater than 4.2 times the poverty guideline for a family of 1 in the 48 contiguous states and District of Columbia as published by the Department of Health and Human Services in the Federal Register, during the eligible employer's taxable year.

(e) "Non-discriminatory basis" means qualifying compensation that is payable:

1. Equally to each eligible employee on a per capita basis; or

2. Proportionally among the eligible employees based upon each eligible employee's share of the total compensation paid by the eligible employer to eligible employees during the period for which the qualifying compensation is paid.

(f) "Qualifying compensation" means a payment made after June 30, 2015 to an eligible employee by an eligible employer during its taxable year if it is:

1. Paid pursuant to a revenue sharing arrangement; or

2. A contribution allocated to an eligible employee under

an employee stock ownership plan as defined under Section 4975(e)(7) of the Internal Revenue Code, including dividends paid on stock owned by such plan, except that contributions used to pay interest on debt owed by such plans shall be excluded from qualifying compensation.

(g) "Revenue sharing arrangement" means a written plan adopted by an employer that provides for a mandatory or discretionary payment by the eligible employer:

1. To all eligible employees of the eligible employer who were employed on the last day of the period for which the payment was made;

2. On a non-discriminatory basis; and

3. During the eligible employer's taxable year or no later than 2.5 months after the end of such taxable year.

(2) Except as otherwise limited, there shall be allowed a credit against the tax imposed by this chapter to any eligible employer that paid qualifying compensation to its eligible employees during the taxable year for which a return is filed pursuant to s. 220.22, or accrued during the taxable year and paid no later than 2.5 months after the end of such taxable year. The amount of such credit shall be equal to 10 percent of the qualifying compensation paid, except that no taxpayer shall be eligible for a credit greater than $1 million for any taxable year.

(3) To receive such credit, a taxpayer shall file an application as an addendum to its annual return filed pursuant

to s. 220.22 at the same time such filing is made, on the form prescribed by the department. This addendum shall include the following information for the applicant's fiscal year:

(a) The number of eligible employees who received qualifying compensation;

(b) The total amount of qualifying compensation paid to eligible employees; and

(c) A copy of the applicant's revenue sharing arrangement, or data on the amount contributed to an employee stock ownership plan meeting the requirements of the definition in subparagraph (1)(f)2..

(4) The department shall notify each applicant within 30 days of receipt of an application for credit pursuant to this section whether such application is complete. If the application is complete, the department shall notify the applicant whether they qualify for credits pursuant to this section, and that they shall be notified of the amount of credit to be received, if any, by the following June 30. If the application is deemed to be incomplete or ineligible for credits, the applicant may provide additional information to the department within 30 days of receipt of notification of an incomplete or ineligible application.

(5) The 365 days prior to April 15 shall be known as the "evaluation period." On or after April 15 of each year, beginning in 2016, the department shall evaluate the applications for credit pursuant to this section received during

the immediately preceding evaluation period or carried forward from prior evaluation periods. The department may only evaluate an applicant's earliest application for which no credit has been awarded. The department shall retain all complete applications until such time as credit is awarded for the application or the application is deemed ineligible for credit. The department shall notify each applicant of the amount of credit approved pursuant to this section by June 30. Each applicant shall apply the approved credit to the next annual return filed pursuant to s. 220.22 by the applicant after June 30.

(6) The total credits awarded pursuant to this section shall not exceed $ million each state fiscal year. If the total amount of credits applied for during the evaluation period exceeds $ million, each applicant which is eligible for a credit pursuant to this section shall receive a pro rata portion of the available credits based on its proportional share of the total qualifying compensation paid by all applicants filing during the evaluation period.

(7) If any credit granted pursuant to this section is not fully used in the first year for which it becomes available, the unused amount may be carried forward for a period not to exceed 5 years. The carryover may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

Section 4. This act shall take effect July 1, 2015.

Ad Valorem Tax
"Save Our Homes"
Recapture

Summary of Draft Language Amending "Recapture Rule"

Present Situation

Just Value & Assessed Value

Section 4, Art. VII of the State Constitution requires that all property be assessed at just value for ad valorem tax purposes. Under Florida law, "just valuation" is synonymous with "fair market value," and is defined as what a willing buyer would pay a willing seller for property in an arm's length transaction.[1] The State Constitution authorizes certain alternatives to the just valuation standard for specific types of property,[2] including:

- Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational[3]
- Land used for conservation purposes[4]
- Livestock and tangible personal property that is held for sale as stock in trade[5]
- Historic properties[6]
- Property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older[7]
- Improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices[8]
- Certain working waterfront property[9]

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or the Florida Statutes.

Save Our Homes

The "Save Our Homes" provision in s. 4, Art. VII of the State Constitution limits the amount a homestead's assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).[10] Homestead property owners who establish a new homestead may transfer up to $500,000 of their accrued "Save Our Homes" benefit to that homestead.[11]

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[1] Section 193.011, F.S. *See, also, Walter v. Shuler,* 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County,* 275 So.2d 4 (Fla. 1973).
[2] The constitutional provisions in s. 4, Art. VII of the State Constitution, are implemented in Part II of ch. 193, F.S.
[3] Section 4(a), Art. VII of the State Constitution.
[4] Section 4(b), Art. VII of the State Constitution.
[5] Section 4(c), Art. VII of the State Constitution.
[6] Section 4(e), Art. VII of the State Constitution.
[7] Section 4(f), Art. VII of the State Constitution.
[8] Section 4(i), Art. VII of the State Constitution.
[9] Section 4(j), Art. VII of the State Constitution.
[10] Section 4(d), Art. VII of the State Constitution.
[11] Section 4(d), Art. VII of the State Constitution.

Rule 12D-8.0062, Florida Administrative Code: "The Recapture Rule"

In October 1995, the Governor and the Cabinet, acting as the head of the Department of Revenue, adopted Rule 12D-8.0062, F.A.C., entitled "Assessments; Homestead; and Limitations."[12] The rule "govern[s] the determination of the assessed value of property subject to the homestead assessment limitation under Article VII, Section 4(c), Florida Constitution and Section 193.155, F.S."[13]

Subsection (5) of the rule is popularly known as the "recapture rule." This subsection requires property appraisers to increase the assessed value of a homestead property by the lower of three percent or the CPI on all property where the prior year's assessed value is lower than the just value.

Currently, this requirement applies even if the just value of the homestead property has decreased from the prior year. Therefore, homestead owners entitled to the "Save Our Homes" cap whose property is assessed at less than just value may see an increase in the assessed value of their home in years where the just/market value of their property has decreased.

Subsection (6) of the rule provides that if the change in the CPI is negative, then the assessed value must be equal to the prior year's assessed value decreased by that percentage.

Markham v. Department of Revenue[14]

On March 17, 1995, William Markham, the Broward County Property Appraiser, filed a petition challenging the validity of the Department of Revenue's proposed "recapture rule" within Rule 12D-8.0062, F.A.C. Markham alleged that the proposed rule was "an invalid exercise of delegated legislative authority and is arbitrary and capricious."[15] Markham also claimed that subsection (5) of the rule was at variance with the constitution—specifically that it conflicted with the "intent" of the ballot initiative and that a third limitation relating to market value or movement[16] should be incorporated into the language of the rule to make it compatible with the language in s. 4(c), Art. VII of the State Constitution.

A final order was issued by the Division of Administrative Hearings on June 21, 1995, which upheld the validity of Rule 12D-8.0062, F.A.C., and the Department of Revenue's exercise of delegated legislative authority. The hearing officer determined that subsections (5) and (6) of the administrative rule were consistent with s. 4(c), Art. VII of the State Constitution. The hearing officer also held that the challenged portions of the

[12] While s. 193.155, F.S., did not provide specific rulemaking authority, the Department of Revenue adopted Rule 12S-9.0062, F.A.C., pursuant to its general rulemaking authority under s. 195.927, F.S. Section 195.027, F.S., provides that the Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and that the Legislature intends that the department shall formulate such rules and regulations that property will be assessed, taxes will be collected, and that the administration will be uniform, just and otherwise in compliance with the requirements of general law and the constitution.

[13] Rule 12D-8.0062(1), F.A.C.

[14] *Markham v. Department of Revenue*, Case No. 95-1339RP (Fla. DOAH 1995).

[15] *Id.*

[16] *Id.* at ¶ 21, stating that "[t]his limitation, grounded on "market movement," would mean that in a year in which market value did not increase, the assessed value of a homestead property would not increase."

rule were consistent with the agency's mandate to adopt rules under s. 195.027(1), F.S., since the rule had a factual and logical underpinning, was plain and unambiguous, and did not conflict with the implemented law.[17]

Effect of Proposed Changes

The joint resolution places a constitutional amendment on the ballot in November, 2016. If approved by the voters, the proposed amendment would amend s. 4, Art. VII, State Constitution, to prohibit increases in the assessed value of a homestead property and certain non-homestead property, in any year where the market value of the property decreases.[18]

If approved by the voters, these provisions will take effect on January 1, 2017.

Fiscal Impact

The Revenue Estimating Conference has not yet adopted an estimate of the fiscal impact of this proposed constitutional amendment. However, the recurring annual impact of similar legislation in 2011 was estimated at -$17.7 million for school purposes and -$32.5 million for non-school purposes.

[17] *Id.* at ¶ 20.

[18] The assessed value of such properties could still increase for unrelated reasons, such as an increase in just value due to improvements made to the homestead property. *See*, s. 4(d)(5), Art. VII of the State Constitution.

House Joint Resolution

A joint resolution proposing amendments to Section 4 of Article VII and the creation of Section 32 of Article XII of the State Constitution to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, and provide effective dates.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Section 4 of Article VII and the creation of Section 32 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. 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) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) 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.

(d) 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 in this subsection.

(1) Assessments subject to this subsection 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) Except for changes, additions, reductions, or improvements to homestead property assessed as provided in paragraph (6), an assessment may not increase if the just value of the property is less than the just value of the property on the preceding January 1.

(3) ~~(2)~~ No assessment shall exceed just value.

(4) ~~(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, unless the provisions of

paragraph (9) ~~(8)~~ apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(5) ~~(4)~~ New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (9) ~~(8)~~ apply. That assessment shall only change as provided in this subsection.

(6) ~~(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 in this subsection.

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

(8) ~~(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.

(9) ~~(8)~~ a. A person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption pursuant to Section 6 of this Article as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. If this revision is approved in January of 2008, a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only

if that person received a homestead exemption on January 1, 2007. The assessed value of the newly established homestead shall be determined as follows:

1. If the just value of the new homestead is greater than or equal to the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be the just value of the new homestead minus an amount equal to the lesser of $500,000 or the difference between the just value and the assessed value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned. Thereafter, the homestead shall be assessed as provided in this subsection.

2. If the just value of the new homestead is less than the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be equal to the just value of the new homestead divided by the just value of the prior homestead and multiplied by the assessed value of the prior homestead. However, if the difference between the just value of the new homestead and the assessed value of the new homestead calculated pursuant to this sub-subparagraph is greater than $500,000, the assessed value of the new homestead shall be increased so that the difference between the just value and the assessed value equals $500,000. Thereafter, the homestead shall be assessed as provided in this subsection.

b. By general law and subject to conditions specified therein, the legislature shall provide for application of this paragraph to property owned by more than one person.

(e) 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.

(f) 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.

(g) For all levies other than school district levies, assessments of residential real property, as defined by general law, which contains nine units or fewer and which is not subject to the assessment limitations set forth in subsections (a) through (d) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be

changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year. Except for changes, additions, reductions, or improvements to property assessed as provided in paragraph (4), an assessment may not increase if the just value of the property is less than the just value of the property on the preceding date of assessment provided by law.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(h) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (d) and (g) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year. Except for changes, additions, reductions, or improvements to property assessed as provided in paragraph (5), an assessment may not increase if the

just value of the property is less than the just value of the property on the preceding date of assessment provided by law.

(2) No assessment shall exceed just value.

(3) The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4) The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

(5) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law.~~:~~ However, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(i) 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.

(j)(1) The assessment of the following working waterfront properties shall be based upon the current use of the property:

a. Land used predominantly for commercial fishing purposes.

b. Land that is accessible to the public and used for vessel launches into waters that are navigable.

c. Marinas and drystacks that are open to the public.

d. Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

(2) The assessment benefit provided by this subsection is subject to conditions and limitations and reasonable definitions as specified by the legislature by general law.

ARTICLE XII

SCHEDULE

SECTION 32. Property assessments.—This section and the amendment of Section 4 of Article VII addressing homestead and specified nonhomestead property having a declining just value shall take effect January 1, 2017.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

ARTICLE XII, SECTION 32

PROPERTY TAX LIMITATIONS; PROPERTY VALUE DECLINE.—

(1) This would amend Florida Constitution Article VII, Section 4 (Taxation; assessments). It also would add Article XII, Section 32, relating to the Schedule for the amendments.

(2) In certain circumstances, the law requires the assessed value of homestead and specified nonhomestead property

to increase when the just value of the property decreases. Therefore, this amendment provides that the assessment of homestead and specified nonhomestead property may not increase if the just value of that property is less than the just value of the property on the preceding January 1, subject to any adjustment in the assessed value due to changes, additions, reductions, or improvements to such property which are assessed as provided for by general law. This amendment takes effect upon approval by the voters, and shall take effect January 1, 2017.