

RESEARCH REPORT

October 1992

Amendment 10: More Harmful Than Helpful

On November 3, 1992 Florida voters will go to the polls to decide on nine amendments to the Florida Constitution. If passed, one of these -- Amendment #10 -- will have a profound impact on local government's tax structure, tax equity and even the state's economy.

Amendment 10 -- the Save Our Homes initiative -- would limit the annual growth of assessments on homestead property to either 3% or the inflation rate (the increase in the Consumer Price Index), whichever is smaller. Only when a home is sold or its homestead exemption status is lost would it be reassessed to reflect fair market value.

Supporters of Amendment 10 point to two reasons why it is needed. One is that assessments are rising too rapidly and some homeowners cannot afford the increasing tax burden. The other is that these rising assessments provide local governments with increasing revenues -- and spending -- without accountability.

Addressing these issues are laudable goals. However, after analyzing Amendment 10, Florida TaxWatch finds that while Amendment 10 would positively impact these concerns, the amendment contains too many negative aspects to support. Moreover, there are other ways to address rising taxes and diffused or inefficient accountability.

Amendment 10 does not limit local taxes nor does it limit property tax increases. It does not limit government spending. It limits only homestead property assessments. It does not prohibit local governments from raising property tax millage rates or enacting other tax, fee and revenue hikes.

It would also lead to several tax inequities. The most blatant is that taxpayers who are "similarly situated" could have vastly different property tax burdens. Imagine two identical \$75,000 houses, side by side, in an area where fair market values average 8% growth per year. In five years, one home is sold to a new owner, the other retains the same ownership. The new owner's property tax would be based on fair market value of \$110,200 (minus the \$25,000 homestead exemption.) The other owner would be taxed on only \$86,946 (minus the exemption.) After 20 years, the inequity would mushroom to over \$214,000.

Also, only owners of residential property qualifying for the homestead exemption would benefit from Amendment 10. Non-homestead residential properties, rental properties and businesses, as well as any property whose assessments are not increasing more than 3%, would not benefit. Further, probable millage rate increases to make up for limiting some assessment would additionally burden them.

Florida
TaxWatch
Inc.

Make no mistake, local government would search for ways to raise any revenue lost through Amendment 10. The amendment does nothing to dissuade city and county commissioners and school boards from raising millage rates. There is, however, a constitutional ten mill cap on millage rates. Nineteen of Florida's 67 counties and five of nearly 400 cities are within one mill of the cap. A Taxation and Budget Reform Commission forecast projects that 39 counties and 92 cities will be within one mill of the cap by the year 2000. Amendment 10 would certainly increase that number. Local governments will look elsewhere for revenue.

Another amendment -- Number 6 -- would give each of Florida's counties and cities the authority to levy a sales tax of up to 1% with voter approval. An analysis performed for Florida TaxWatch by Dr. Craig E. Reese, Professor of Accounting and Taxation at St. Thomas University found that the combination of Amendments 10 and 6 would lead to exhaustion of the property tax, then increased user and service charges and finally adoption of increased sales taxes. This is similar to what happened in California after the 1978 passage of Proposition 13. The result would be an even more regressive local revenue structure where the benefits of Amendment 10 would be enjoyed most by citizens with above average incomes and wealth who live in areas where home values are appreciating.

The measure's opponents have cited its disproportionate benefit to the wealthy, even cynically calling it the "Save Our Waterfront Homes" initiative. This argument holds some merit since millage rates will rise to make up for lower assessments -- in fact, local governments do not have to notify property owners of a millage increase unless it will bring in more money than the previous year. It is a given that in jurisdictions where the 10-mill cap allows it, rates will rise to at least what is needed to bring in the same amount of revenue. This will mean the burden will shift from homestead to non-homestead properties. Among homestead properties, it will shift from faster appreciating homes to slower appreciating homes and new homeowners.

From a tax policy standpoint, Amendment 10 would also change the basic purpose of the property tax. The property tax is a tax on wealth, i.e. the value of an owner's property. The arbitrary limit on assessment growth of 3% means that as time passes a taxpayer's taxable value becomes farther removed from its actual value. The limit is arbitrary. Proponents admit it was chosen for no other reason than it "seemed reasonable." It has no empirical or historical basis.

The proponents also argue that increased assessments are a "hidden tax increase," even if the tax rate stays the same. Natural growth in a tax base, such as the additional sales tax paid on merchandise because of inflation or the income tax paid on a salary increase, should not be considered a tax increase.

There is also a question of what the amendment would do to housing and related industries. Homeowners enjoying a tax break from an artificially low assessment are less likely to relocate to a home on which the assessment would reflect fair market value. Less home turnover would have a negative impact on the already hurting real estate and construction industries.

Of course, not only the wealthy live in rapidly appreciating homes. The possibility of people being taxed out of their homes is a real concern, particularly for elderly on fixed incomes. But again, Amendment 10 does not limit taxes, just assessments. And there are statutory provisions to help those whose property taxes threaten their homes. All homeowners can defer any portion of their property tax bill that exceeds 5% of their income until it is sold or bequeathed. Homeowners over 65 can defer taxes that exceed 3% of their income. Anyone with income less than \$10,000 (less than \$12,000 for those over 70) can defer all of their tax bill. If these safeguards are insufficient, they should be readdressed by the Legislature.

(continued on page 4)

Constitutional Amendment #10

Article VII, Section 4

Ballot title and summary: Homestead Valuation Limitation

Providing for limiting increases in homestead property valuations for ad valorem tax purposes to a maximum of 3% annually and also providing for reassessment of market values upon changes in ownership.

Full text of revision:

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

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

(A) three percent (3%) of the assessment of the prior year.

(B) the percent change in the Consumer Price Index for all urban consumer, U.S. City Average, all items 1967=100, or successor report for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

2. No assessment shall exceed just value.

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

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

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

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

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

There is also a better way to limit government growth and increase accountability for taxing and spending. Florida TaxWatch has recommended a government spending limitation that could be applied to both state and local governments (*Budget Watch No. 21, "A Responsible Spending/Revenue Cap: Rebuilding Citizen Confidence and Priorities in Florida Government", April 15, 1992.*) This proposal places an empirically determined cap on government that would reasonably limit Florida's spending from outpacing the growth in Florida's economy and its citizens' ability to pay. It is intended to set the framework for growth coupled with realistic fiscal restraints related to the actual resources of Florida citizens.

Amendment 10 is an attempt to correct a problem. However, it creates more problems. Whether or not the amendment passes, Florida TaxWatch will continue to work to address the problems.

Finally, there is the question of a court challenge to Amendment 10. A decision is currently pending in the Florida Supreme Court as to whether Amendment 10 would mandate the repeal of the homestead exemption. The issue is language in the state Constitution that says the homestead exemption would be repealed if any amendment to Section 4 is adopted that provides for the assessment of homestead property at a specified percentage of its just value. While a literal reading of the language would indicate that Amendment 10 would not do that, the Court has not yet ruled. It should do so before Floridians vote on it. If it does not, it casts yet another shadow on this amendment.

Regardless of the court decision, Floridians should vote no on Amendment 10.

*This report was researched and written by Kurt R. Wenner, Senior Research Analyst
under the direction of Dr. Neil S. Crispo, Director, Research & Operations.*

*Dominic M. Calabro, President and CEO Catherine M. Haagenson, Communications Director
Copyright Florida TaxWatch, Inc., October 1992*



1st Class Pre-sort

**U.S. POSTAGE
PAID**

TALLAHASSEE, FL
Permit No. 409

1114 Thomasville Road
P.O. Box 10209
Tallahassee, FL 32302
Phone: (904) 222-5052
Fax: (904) 222-7476