

1984

Session Law 84-261

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Sess. Law # 84-261	Sec. # 2	LOF cite I 11, 1216-1217
Prime Bill # SB 19	Comp./Sim. Bills none	
JLMC Hist. Cites	Senate 25-26	Comms. of Ref. Senate F+T
	House	House F+T <i>Appendix (w/t)</i>

COMMITTEE RECORDS

H/S	Committee	Record Series: Folder title, etc.	Loc. Cite	✓
H	F+T	<i>Meeting files, 1984 5-23-84 (SB 79)</i>	19/1774	<i>D</i>
S	F+T	<i>Meeting files, 1984 2-8-84 (SB 79) dup</i>	18/1774	<i>φ</i>
	"	<i>Meeting files, 1984 SB 19</i>	18/1372	
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Senate/House Journals

Page #	?	Date	Page #	?	Date
<i>SJ, 142</i>		<i>April 18, 1984</i>			

Committee/Floor Tapes

H/S	c/f	Committee/subcommittee name	Date	#	Location Cite

Other Documentation

Record Series Title, folder title, etc.	Location Cite

Florida Legislature

History of Legislation 1984 Regular Session



prepared by:

Joint Legislative Management Committee

Legislative Information Division
Capitol Building, Room 826 — 488-4371

07/10/84 16 32

HISTORY OF SENATE BILLS

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HISTORY OF SENATE BILLS

PAGE 26

05/15/84 SENATE Placed on Special Order Calendar, Passed as amended, YEAS 31 NAYS 6, Immediately certified -SJ 00264
 In Messages
 05/15/84 HOUSE Received, placed on Calendar -HJ 00417
 05/16/84 HOUSE Placed on Special Order Calendar
 05/29/84 HOUSE Substituted for HJR 350 Read second time, Read third time, Passed, YEAS 110 NAYS 1 -HJ 00861
 05/30/84 Ordered enrolled -SJ 00540
 06/06/84 SENATE Signed by Officers and filed with Secretary of State

S 0077 GENERAL BILL by Jennings (Similar CS/H 0041)
Mortgage Escrow Accounts, requires lenders of money whose loans are secured by mortgages on Fla real estate, & who receive funds for payment of property taxes & hazard insurance premiums, to make payments with respect to such funds from escrow accounts, establishes liability, etc Amends 501 137 Effective Date 10/01/84
 12/06/83 SENATE Prefiled
 12/20/83 SENATE Referred to Commerce
 01/23/84 SENATE On Committee agenda-- Commerce, 02/07/84, 9 00 am, Rm A
 02/07/84 SENATE Comm Report Favorable with amend, placed on Calendar by Commerce
 04/03/84 SENATE Introduced, referred to Commerce -SJ 00011, Comm Report Favorable with amend, placed on Calendar by Commerce -SJ 00053, Placed on Special Order Calendar
 04/10/84 SENATE Placed on Special Order Calendar, Passed as amended, YEAS 38 NAYS 0 -SJ 00094
 04/12/84 HOUSE In Messages
 04/26/84 HOUSE Received, placed on Calendar -HJ 00253
 04/30/84 HOUSE Placed on Special Order Calendar
 05/08/84 HOUSE Substituted for CS/HB 41, Read second time -HJ 00331, Amendments adopted -HJ 00332
 05/09/84 HOUSE Read third time, Amendment adopted, Passed as amended, YEAS 111 NAYS 0 -HJ 00344
 05/11/84 SENATE In Messages
 05/15/84 SENATE Concurrred, Passed as amended, YEAS 36 NAYS 0
 05/15/84 Ordered engrossed, then enrolled -SJ 00258
 05/22/84 SENATE Signed by Officers and presented to Governor -SJ 00391
 05/29/84 Approved by Governor Chapter No 84-52 -SJ 00534

S 0078 GENERAL BILL by Jennings (Similar Eng/H 0111)
Automated Telephone Solicitation, prohibits use of telephone for solicitation when such use involves an automated system for selection and/or dialing of telephone numbers & playing of recorded message, provides exemption, provides penalties Amends 365 165 Effective Date. 10/01/84
 12/06/83 SENATE Prefiled
 12/20/83 SENATE Referred to Judiciary-Civil, Commerce
 02/17/84 SENATE On Committee agenda-- Judiciary-Civil, 03/07/84, 9 00 am, Rm B
 03/07/84 SENATE Comm Report Favorable with amend by Judiciary-Civil; Now in Commerce
 04/03/84 SENATE Introduced, referred to Judiciary-Civil, Commerce -SJ 00011, Comm Report Favorable with amend by Judiciary-Civil, Now in Commerce -SJ 00052, On Committee agenda-- Commerce, 04/04/84, 9 00 am, Rm A
 04/04/84 SENATE Comm Report Favorable, placed on Calendar by Commerce -SJ 00086
 04/18/84 SENATE Placed on Special Order Calendar; Iden /Sim House Bill substituted, Laid on table under Rule, Iden /Sim /Compare Bill passed, refer to HB 111 (Ch 84-12) -SJ 00147

S 0079 GENERAL BILL by Scott and others
Condominiums, prohibits separate assessment of ad val taxes or special assessments against certain recreation facilities or other common elements, requires assessments of certain condominium or residential development parcels to include certain portions of common elements Amends 718 120, 193 023 Effective Date 01/01/85
 CONTINUED ON NEXT PAGE

12/07/83 SENATE Prefiled
 12/20/83 SENATE Referred to Finance, Taxation and Claims
 01/20/84 SENATE On Committee agenda-- Finance, Tax & Claims, 02/08/84, 12 noon, Rm 1C
 02/08/84 SENATE Comm Report Favorable with amend, placed on Calendar by Finance, Taxation and Claims
 04/03/84 SENATE Introduced, referred to Finance, Taxation and Claims -SJ 00011, Comm Report, Favorable with amend, placed on Calendar by Finance, Taxation and Claims -SJ 00053
 Placed on Special Order Calendar, Passed as amended, YEAS 36 NAYS 0 -SJ 00142
 04/19/84 SENATE In Messages
 04/25/84 HOUSE Received, referred to Finance & Taxation, Appropriations -HJ 00254; On Committee agenda-- For subreferral, 21 HOB, 1 30pm, 04/30/84
 05/22/84 HOUSE On Committee agenda-- F. & T 21 HOB, 8 30am, 05/23/84
 05/24/84 HOUSE Comm Report Favorable with amend by Finance & Taxation -HJ 00683; Now in Appropriations
 05/29/84 HOUSE Withdrawn from Appropriations -HJ 00840, Placed on Calendar
 05/31/84 HOUSE Placed on Special Order Calendar, Read second time, Read third time, Passed, YEAS 113 NAYS 0 -HJ 00986
 05/31/84 Ordered enrolled -SJ 00625
 06/14/84 SENATE Signed by Officers and presented to Governor
 06/19/84 Approved by Governor Chapter No 84-261

S 0080 GENERAL BILL by McPherson (Similar H 1154)
Cigarette Tax Evasion; prohibits any person from jamming, tampering with, or altering meter machines, provides penalties Amends 210 18 Effective Date. 10/01/84.
 12/07/83 SENATE Prefiled
 12/20/83 SENATE Referred to Judiciary-Criminal
 01/20/84 SENATE On Committee agenda-- Judiciary-Criminal, 02/07/84, 9 00 am, Rm C
 02/07/84 SENATE Comm Report Favorable with amend, placed on Calendar by Judiciary-Criminal
 04/03/84 SENATE Introduced, referred to Judiciary-Criminal -SJ 00011, Comm Report Favorable with amend, placed on Calendar by Judiciary-Criminal -SJ 00053
 04/18/84 SENATE Placed on Special Order Calendar, Passed as amended, YEAS 39 NAYS 0 -SJ 00147
 04/25/84 HOUSE In Messages
 04/26/84 HOUSE Received, placed on Calendar -HJ 00254, Substituted for HB 1154, Read second time, Read third time, Passed, YEAS 108 NAYS 0 -HJ 00260
 04/30/84 Ordered enrolled -SJ 00195
 05/04/84 SENATE Signed by Officers and presented to Governor -SJ 00233
 05/10/84 Approved by Governor Chapter No. 84-19 -SJ 00257

S 0081 GENERAL BILL/CS by Natural Resources and Conservation, McPherson (Similar CS/H 0177, Compare CS/H 0338, CS/S 0876)
Vessels, provides duties of D N R, provides procedures for registering & numbering vessels, provides for classifying vessels, provides circumstances for municipal or county regulation of vessels, provides requirements & penalties re certificates of title, etc Amends Chs 327, 328 Effective Date 10/01/84
 12/07/83 SENATE Prefiled
 12/20/83 SENATE Referred to Natural Resources and Conservation, Appropriations
 01/20/84 SENATE On Committee agenda-- Natural Res & Cons, 02/08/84, 9 00 am, Rm H
 02/08/84 SENATE Comm. Report. CS by Natural Resources and Conservation, Now in Appropriations
 04/03/84 SENATE Introduced, referred to Natural Resources and Conservation, Appropriations -SJ 00011, Comm Report CS by Natural Resources and Conservation -SJ 00053, CS read first time -SJ 00054, Now in Appropriations -SJ 00053

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A bill to be entitled
An act relating to condominiums; amending s.
718.120, F.S.; prohibiting the separate
assessment of ad valorem taxes or special
assessments against certain recreation
facilities or other common elements; providing
an effective date.

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

Section 1. Subsection (1) of section 718.120, Florida
Statutes, is amended to read:

718.120 Separate taxation of condominium parcels,
survival of declaration after tax sale; assessment of time-
share estates.--

(1) Ad valorem taxes and special assessments by taxing
authorities shall be assessed against the condominium parcels
and not upon the condominium property as a whole. No ad
valorem taxes or special assessments shall be separately
assessed against recreation facilities or other common
elements, if such facilities or common elements are owned by
the condominium association or owned jointly by the owners of
the condominium parcels Each condominium parcel shall be
separately assessed for ad valorem taxes and special
assessments as a single parcel. The taxes and special
assessments levied against each condominium parcel shall
constitute a lien only upon the condominium parcel assessed
and upon no other portion of the condominium property

Section 2 This act shall take effect January 1, 1985.

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SENATE SUMMARY

Prohibits separately assessing ad valorem taxes or special assessments on common elements owned jointly by owners of condominium parcels or by the condominium association.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

	<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1.	Beggs <i>SB/MS</i>	Beggs <i>SB/MS</i>	1. FTC	Fav/2 amend.
2.			2.	
3.			3.	

SUBJECT:

Condominiums

BILL NO. AND SPONSOR:

SB 79 by
Senators Scott & Margolis

I. SUMMARY:

A. Present Situation:

Section 718.120, F.S., requires that condominium parcels be assessed individually for ad valorem taxes and special assessments, not the condominium property as a whole. Section 4, Article VII of the Florida Constitution requires that all property be assessed at its "just valuation." This has been interpreted by the courts to mean fair market value. There is no specific requirement in law that condominium common areas owned jointly by the owners of condominium parcels not be separately assessed. The Department of Revenue states, however, that it is their interpretation that the value of such common areas is included in the fair market price of the individual parcels and therefore should not be separately assessed. Separate assessments would only be justified when the common areas are owned by someone other than the condominium parcel owners. While some separate assessments of common areas have been made in recent years, to the Department's knowledge no such assessments are now being made.

B. Effect of Proposed Changes:

Section 718.120, F.S., is amended to specifically prohibit the separate assessment of ad valorem taxes or special assessments against recreation facilities or other common elements owned by a condominium association or owned jointly by the owners of condominium parcels.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

To the extent that separate assessment of jointly owned common areas is occurring, parcel owners would receive only a single assessment and tax bill reflecting the market value of their parcel.

B. Government:

Insignificant.

III. COMMENTS:

This act would take effect on January 1, 1985.

IV. AMENDMENTS:

#1 by Finance, Taxation & Claims:

Includes within the duties of the property appraiser in making assessments under chapter 193, Florida Statutes, the requirement that the fractional or proportionate share of the common elements

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REVISED: February 8, 1983

BILL NO. SB 79

DATE: February 2, 1984

Page 2

corresponding to each parcel of any residential development having common elements be included in the assessed value of each parcel of the development if the common elements are jointly owned by the owners of the parcels.

#2 by Finance, Taxation & Claims:
Title amendment for amendments #1.

SENATE COMMITTEE AMENDMENT

SB 79

No. 1

(reported favorably)

HB _____

The Committee on Fin., Tax., & Claims recommended the following

.....amendment.....which was adopted:
and failed:

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Amendment

On page1....., between lines 28 & 29,

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes
			<input type="checkbox"/>	<input type="checkbox"/>

insert:

Section 2. Subsection (5) is added to section 193.013, Florida Statutes, to read:

193.013 Duties of the property appraiser in making assessments.--

(5) In assessing any condominium parcel or any parcel of any other residential development having common elements appurtenant to such parcels, if such common elements are owned by the condominium association or owned jointly by the owners of such parcels, the assessment shall apply to each such parcel and its fractional or proportionate share of the appurtenant common elements.

(Renumber subsequent section)

CODING Words in ~~struck through~~ type are deletions from existing law, words underlined are additions.

* Amendment No. 1, taken up by committee: Adopted *

* Offered by Senator Margolis

(Amendment No. _____ Adopted Failed Date __/__/__)

SENATE COMMITTEE AMENDMENT

SB 79

No. 2

(reported favorably)

HB _____

The Committee on Fin., Tax., & Claims recommended the following

.....amendment.....which was adopted:
and failed:

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Title Amendment

In title, on page1....., line6.....,
after the semicolon ";"

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No Yes
			—

insert:

adding s. 193.023(5), Florida Statutes;
requiring assessments of certain condominium or
residential development parcels to include
certain portions of common elements;

CODING: Words in ~~stuck through~~ type are deletions from existing law, words underlined are additions.

* Amendment No. 2, taken up by committee: Adopted *
* Offered by Senator Margolis Failed *

(Amendment No. Adopted Failed Date / /)

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INTEROFFICE MEMO

TO: Pat Griffith, Director of Legislative Policy & Analysis
FROM: J. Terrell Williams, Assistant Attorney General, *JTW*
DATE 2/2/84 RE: SB-79

My comments on the language in the proposed SB-79 which would amend §718.120(1), F.S., to prohibit the property appraiser from making a separate assessment against recreational facilities or other common elements owned by condominium associations or owned jointly by the owners of the condominium parcels are as follows:

1 The rationale for dispensing with separate assessments of common elements appurtenant to condominium units is that the value of the recreational facilities or other common elements are actually reflected in the purchase price of the respective condominium units. I have talked with several property appraisers, whose opinions I respect, and they advised that they are presently not separately assessing such common elements unless they are still titled in the name of the developer and are given only a minimal value. These property appraisers stated that their sales data clearly demonstrated that the purchase price of condominium units having recreational facilities is significantly higher than similar condominium units having no or only minimal recreational facilities.

2. My research reveals that a majority of the states having condominium acts providing separate taxation for condominium parcels do not separately assess common elements appurtenant to condominium units. The States of New York, Arizona and Hawaii essentially provide by statute that each condominium unit and proportionate or fractional share of the appurtenant common elements constitutes a parcel of property for ad valorem taxation.

3. The condominium industry apparently relies on the Florida Supreme Court case of Dept. of Revenue v. Morganwoods Greentree, Inc., 341 So 2d 756 (Fla. 1977), as authority for the proposed statutory language. However, I do not read the Morganwoods Greentree, Inc. case to hold that recreational facilities or the common elements appurtenant to a condominium should not be separately assessed for ad valorem tax purposes. In the Morganwoods case, the Florida Supreme Court did make a ruling that common areas of the particular housing project in question were an integral part of the residential units. However, the Supreme Court expressly found that it was proper for the property appraiser to assess the value of the common areas separately, but ruled that the property appraiser should make an adjustment with respect to the valuation of the common areas,

since the record reflected he had apparently also considered the common areas in valuing residential units.

4. What may be possibly a minority position is presented in the State of New Jersey wherein the tax court basically held that, in order for the record owner of the common elements to establish that common elements have no separate value for ad valorem tax purposes, such owner must show that the use and enjoyment of such common areas was so burdened by the rights and easements of the unit owners so that the property had no value of beneficial interest to the owner. See, Tower West Apts. Assn. v. Town of West N.Y., 2 N.J. Tax 565 (1981). In the Town of West N.Y. case, the tax court ruled that, even though the right to use a parking garage located in a condominium complex may have increased the value of the individual condominium units, such increase in value did not per se justify "a transfer of value" approach to assessing the parking garage so that the value of the parking garage would be totally allocated to each individual condominium unit. The holding of the Florida Supreme Court in the Morganwoods Greentree case would appear to be more in accord with the New Jersey position than the other states.

5. Furthermore, even in those States like New York, Arizona and Hawaii where statutory provisions define a parcel for ad valorem purposes as a condominium unit and its proportionate share of the appurtenant elements, such statutes apparently require the assessors to determine a separate value of the common elements and to allocate, in some manner, a proportionate share of the common elements to each respective condominium unit. The proposed language in SB-79 would seemingly not even require the property appraisers to even go through the mechanics of arriving at a separate value for the common elements and then allocating that value in some proportionate manner to various condominium units. This is presumably based upon the view that the total value of such common elements is already reflected in the purchase prices of the respective condominium units. Thus, the approach in SB-79 appears to go beyond the statutory provisions of N.J., Arizona and Hawaii and even beyond the holding of the Florida Supreme Court in the Morganwoods Greentree, Inc. case, wherein the Florida Supreme Court specifically found that it was proper for the property appraiser to separately assess a value for the common areas provided adjustments were made to the value of each residential unit.

6. I do see some potential problems with the concept in SB-79, particularly where the record title owner to the recreational facilities or the common areas is held separately in a corporate capacity by a condominium association. Although there is express constitutional authority for allowing homestead exemption benefits based upon "indirect ownership" of stock in a corporation (Art. VII, §6(a)), there appears to be very little legal precedent

in this state for abolishing separate assessment of property for ad valorem tax purposes based upon an "indirect ownership" theory through ownership of stock or membership shares in a condominium association. In the fairly recent case of Kings Gate Club, Inc. v. Mikos, 426 So.2d 74 (Fla. 2 DCA 1983), the Second District Court did hold that the membership interests of the individual owners of mobile homes in a nonprofit corporation which held the legal title to the land on which the mobile homes were affixed was essentially equivalent to "ownership" for ad valorem taxation and therefore the mobile homes were taxable as real property. Thus, in the Kings Gate Club case, the Second District used the "indirect ownership" of corporate membership shares to support separate taxation of mobile home lots, as opposed to prohibiting separate taxation.

In closing, I am of the view that the proposed language may survive a potential constitutional attack alleging that such language effectively exempts or excepts from taxation such recreational facilities or other common elements in violation of Art. VII, §4, requiring the promulgation of general laws securing the "just valuation" of all property of ad valorem taxation. However, substitute language along the lines that "each condominium parcel and its fractional or proportionate share of the appurtenant common elements shall be separately assessed for ad valorem taxes as a separate parcel," might be an alternative approach. I am aware that the mechanics of allocating the value of common elements to the individual condominium units would be challenging and would likely be the subject of additional controversy in property appraisers' circles and in the condominium industry. However (as reflected by the allocation of common elements approach in Arizona, Hawaii and N.J.), the requirement of assigning a fractional value of common elements to the respective condominium units is certainly not an untried or novel approach.