

Florida's Property Tax Study Interim Report

(As required by Chapter 2006-311, Laws of Florida)

Legislative Office of Economic and Demographic Research

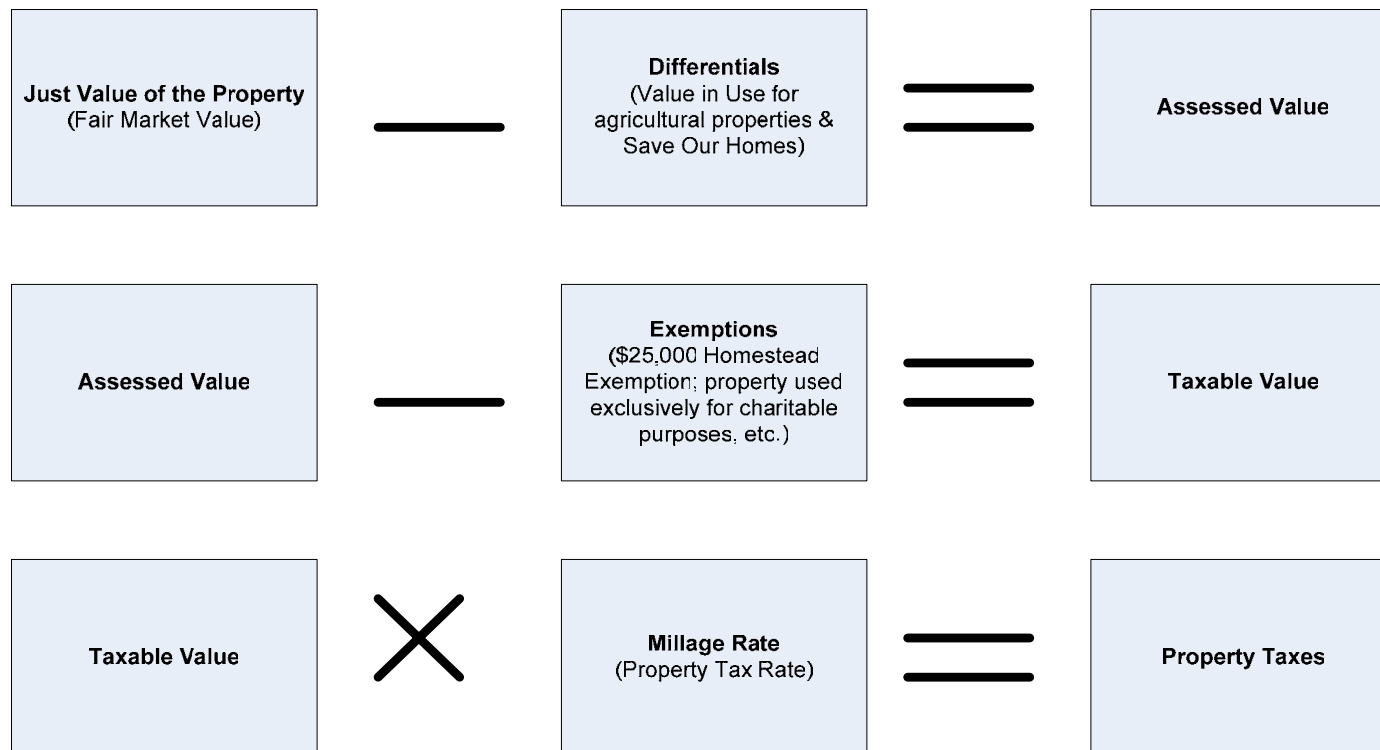


Foundation of Facts

- Legislatively required study.
- Based on data and historical record with the exception of the portability estimate.
- Primary focus on:
 - Findings related to the Department of Revenue data
 - Background material sufficient to develop those findings
 - Legal analysis of the various proposals

Findings from EDR Research

- **Exemptions** shrink the property tax base and, in Florida, reduce the total capacity to raise revenues. They also shift the property tax burden (and cost for public services) from the exempt entity to nonexempt entities.



Tax Effects

- ❑ Studies have shown that tax breaks for residential property (such as Save Our Homes) will increase **housing prices** for the benefited properties. The converse is also true – higher property taxes suppress housing prices, all else being equal.
- ❑ Several studies have found that **commercial and industrial investment** tends to be more responsive to tax rates than residential investment. This means that the increasing shift of the property tax burden to businesses may cause them to reduce or eliminate commercial investment – in some instances, leading them to investments in other states where the property taxes are less burdensome.

What Has Happened?

- The interplay between falling statewide millage rates and the Save Our Homes limitation being less than the growth in the consumer price index for four out of the twelve years since implementation has had the practical effect of producing ***real tax bills that are lower today*** than they were in 1994 for those homesteads that have been protected since then, assuming adjustments for inflation.

Tax Rolls Affected by Save Our Homes

Year	Save Our Homes Limitation	Median Sales Price of an Existing Home
1995	2.7%	2%
1996	2.5%	5%
1997	3.0%	4%
1998	1.7%	6%
1999	1.6%	7%
2000	2.7%	7%
2001	3.0%	9%
2002	1.6%	9%
2003	2.4%	12%
2004	1.9%	17%
2005	3.0%	29%
2006	3.0%	6%

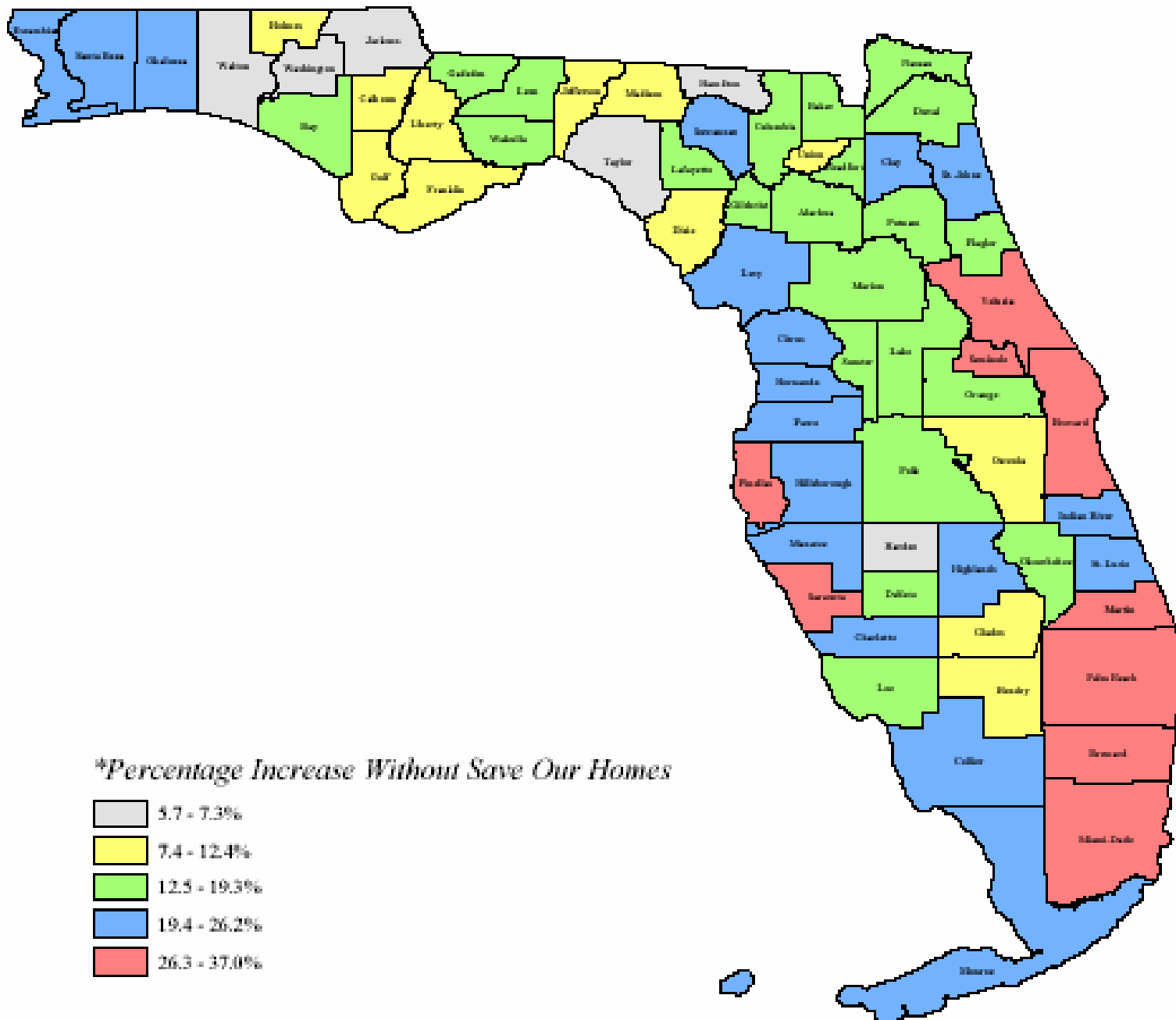
Findings Based on DOR Data

- As intended, the Save Our Homes amendment has **suppressed the taxable value** of homestead properties in Florida. In doing so, it has significantly shifted the tax burden away from homestead property and onto non-homestead residential and non-residential property.

	Percent of Taxable Value	
	Current	W/O SOH
Homestead Property	32.1%	45.5%
Non-Homestead Residential	34.5%	28.4%
Non-Residential Property	32.5%	26.1%

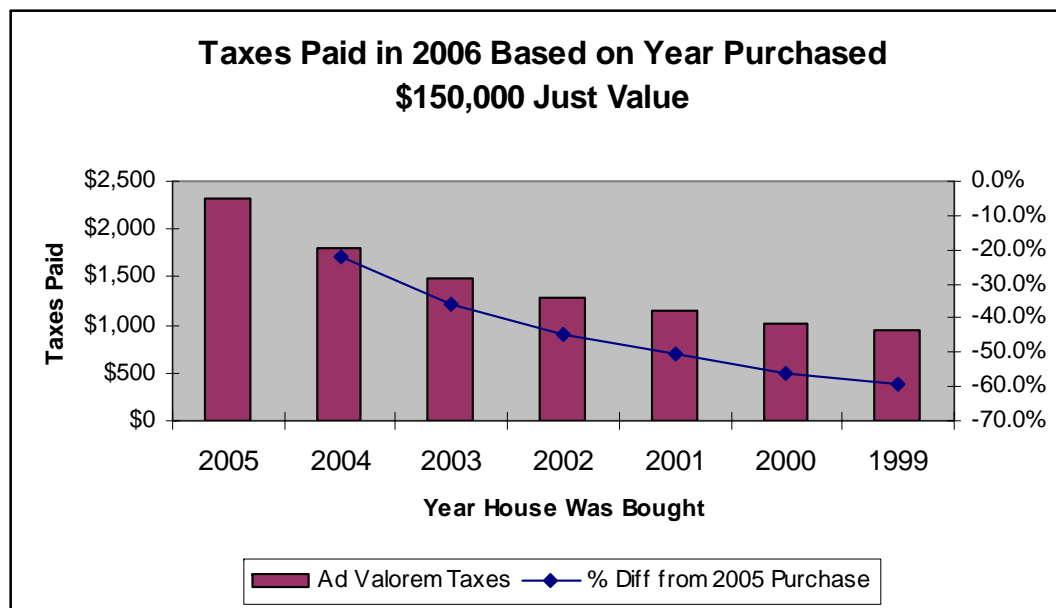
Differentials and Burdens

- The impact of Save Our Homes varies considerably by county; however, the greatest differentials have generally occurred in the **coastal areas of central and south Florida, and the extreme edges of north Florida**. Because larger differentials lead to greater tax shifting, non-homestead residential and non-residential property owners in those counties have increased tax burdens.



Equity

- A direct outcome of the Save Our Homes tax preference is that **dissimilar tax burdens have been placed on homeowners in similar circumstances**, based solely on length of ownership. This is a horizontal inequity.



Affordability

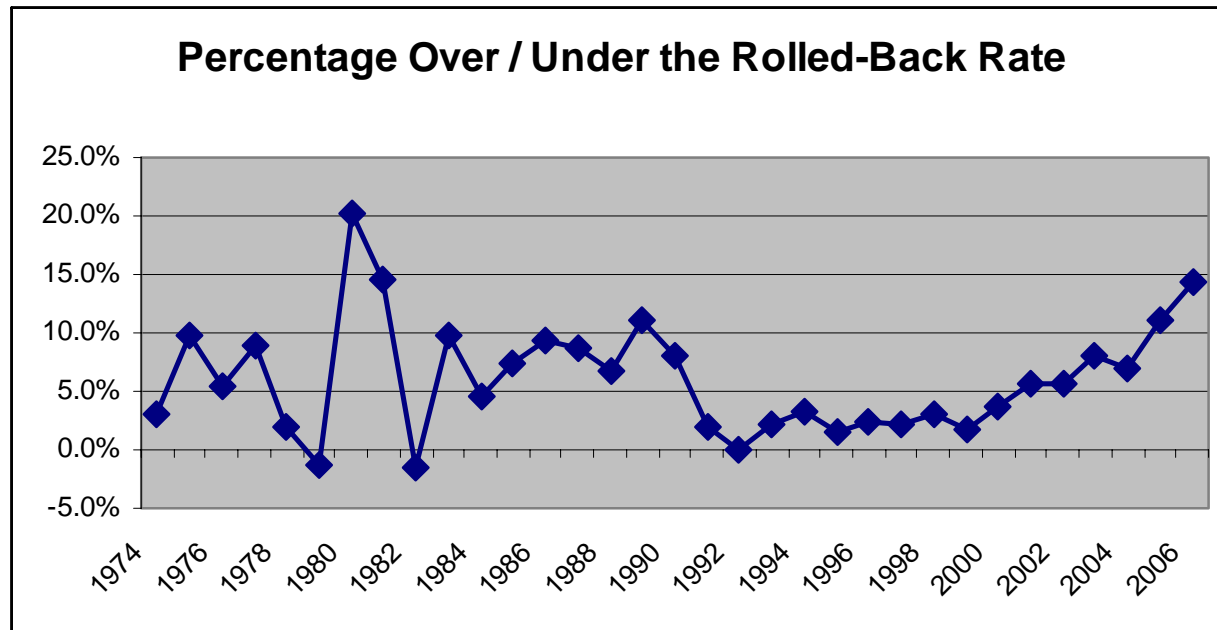
- The dissimilar nature of the tax burden caused by Save Our Homes has an impact on the overall **affordability of housing** for individual buyers, but more research needs to be conducted prior to determining whether the increased burden is cost prohibitive to homebuyers and renters.
- The Save Our Homes protection has made it possible for homeowners on the margin to **remain in their homes longer** than they otherwise could have, but more research needs to be conducted on existing homeowners' ability-to-pay prior to determining the magnitude of this effect.

State Funding for Schools

- The presence of the Save Our Homes assessment growth limitation has had a **detectable impact on the distribution of the state-funded portion of the FEFP** in Florida. While the total funding per student is not affected, the mix of local and state funding is altered between school districts. This in turn affects the local property tax burden. Approximately \$135 million or 1.8% of the total required local effort has been impacted.
- To the extent that the greatest differentials have generally occurred in the coastal areas of central and south Florida, and the extreme edges of north Florida (as previously found), these areas have **disproportionately benefited from the interaction of the FEFP with the Save Our Homes protection**, while the other areas have experienced higher school property taxes than they otherwise would have.

Rolled-Back Rate

- For the 33 year period from 1974 to 2006, local taxing jurisdictions levied millages that were an average of **6.1% above the rolled-back rate**. For public school levies, this average was 5.8%, and for all other taxing jurisdictions, 6.4%. To the extent that homesteaded properties were protected by Save Our Homes, the **tax increases fell disproportionately on non-homesteaded properties**.



Affordability

- While the dollar value of the property tax burden may have increased for many Floridians, this does not translate directly into statements regarding individual affordability and ability-to-pay. **Homesteaders are shielded from the full impact of tax increases at the expense of non-homesteaders.**

Tax Burdens

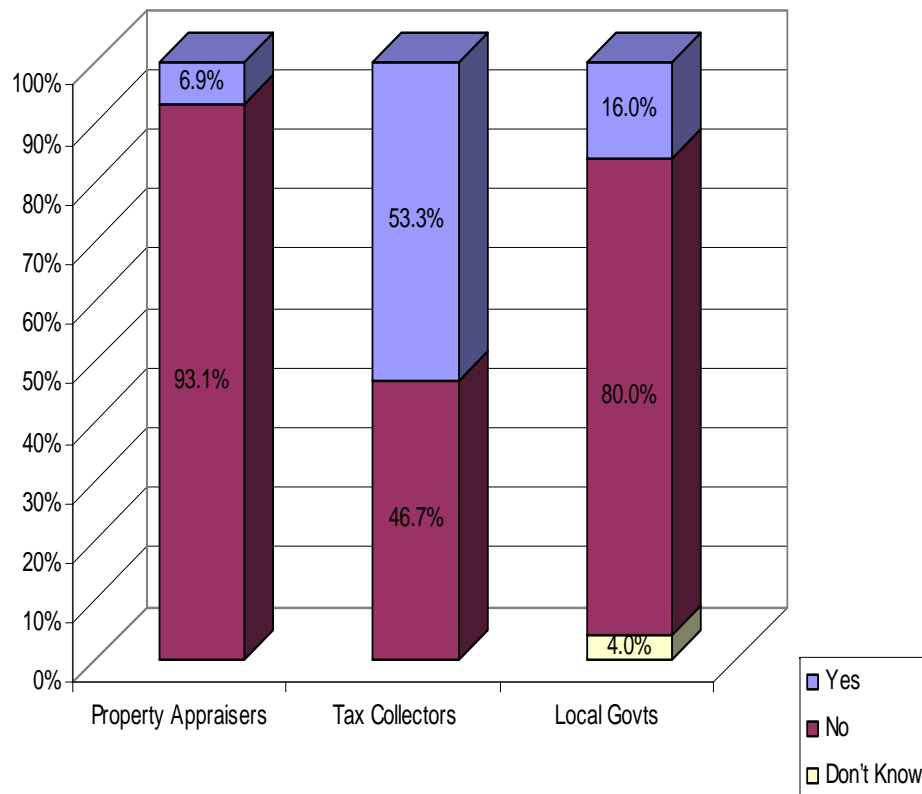
- The impact of Save Our Homes on net property tax burdens is difficult to assess without additional study. **Personal wealth** as reflected in higher just values is not fully captured by measures of personal income, and **tax exportation** to other states and the federal government is rarely taken into account.
- Because Save Our Homes has shielded homesteaded property owners from the full effect of tax increases, the **visibility and awareness of the taxes being paid has been reduced**, potentially leading to an over-demand of services.

Findings Based on EDR Surveys

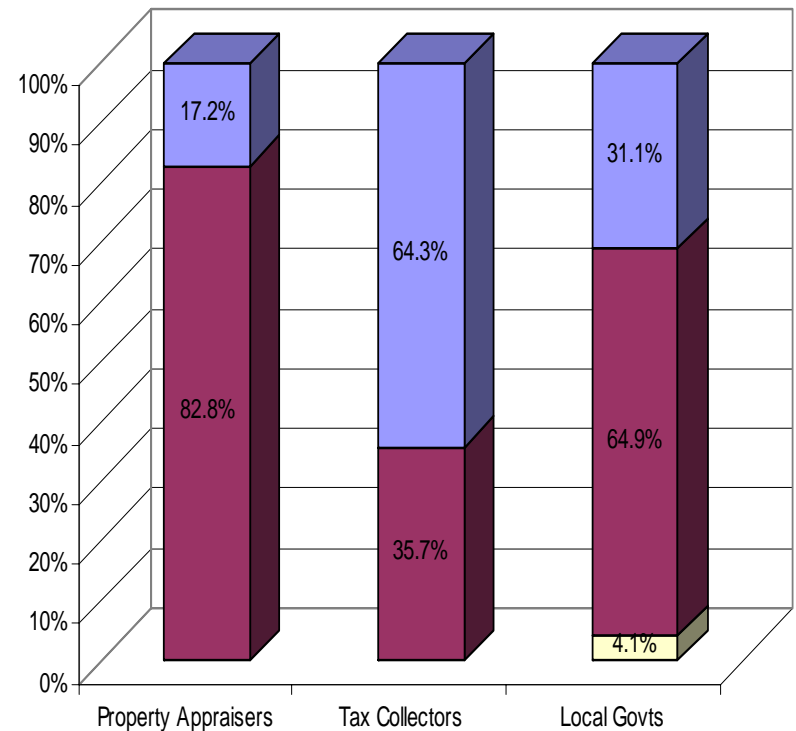
- Both local government officials and the county property appraisers feel that the property tax burden is not shared equitably among all property owners *or* among owners of homestead property, whereas the tax collectors were evenly divided on the question for all owners and thought that the burden was equitable for owners of homestead property.
- Most of the comments regarding whether the property tax burden is shared equitably pointed to “Save Our Homes” or to the class of all exemptions as the cause of the inequities.

Survey Results on Equity

Among all Property Owners



Among Owners of Homestead Property



TRIM Process

- Property appraisers, county tax collectors, and local government officials were all asked to explain the primary purpose of the TRIM process. The responses were varied and wide-ranging indicating that there is no consistent vision of the primary purpose of TRIM in Florida.
 - When asked if TRIM was achieving its purpose, only the tax collectors strongly indicated that it was.
 - Comments on the TRIM notice indicated that the form is confusing, hard to understand and provides too much information.

Portability

- **Portability of any previously accumulated differential** (that is, the amount of the reduced assessment related to the Save Our Homes protection) from a prior homestead to a new homestead.
- Under pure portability, the “ported” amount is **subtracted from the new homestead’s just value** to determine the new assessed value, with no limitation on resulting assessed value.
- Most of the proposals contemplate that the differential can be ported **anywhere in the state** (i.e. across taxing districts’ geographic boundaries).

Findings Related to Portability

- Adoption of portability will **further reduce tax rolls** below the levels they would otherwise have attained.
- Full or 'pure' portability, if implemented with the 2008 roll, would reduce the ad valorem tax base by \$13.6 billion in the first year. This reduction in taxable value would grow to \$65.0 billion in the fifth year. At the 2005 average weighted millage of 19.6 mills, these tax base reductions would amount to reduced revenues ranging from **\$267 million in 2008 to \$1.3 billion in 2012**, if millage rates were held constant.
- In operation, portability is merely an extension of Save Our Homes. Because the differential can be transferred from one home to another, portability has the practical effect of **intensifying all of the previous findings related to Save Our Homes**. Both the magnitude and duration of the effects are increased.

Variants of Portability

- ❑ Only available within qualifying counties (local option: referendum or super majority vote of governing body).
- ❑ Capped amount (income-based).
- ❑ Capped amount (either a dollar ceiling or a specified percentage of the prior differential)
- ❑ Age-limited (senior citizens).
- ❑ Directional limit (upsized or downsized only).
- ❑ One-time availability.
- ❑ Alternative definitions of portability, the most common of which uses the sales price minus the prior homestead's assessed value, the dollar value of which is then subtracted from the purchase price of the new home to determine the new assessed level.

Findings Based on Hellerstein Legal Analysis

- While most of the proposed alternatives to the current property tax structure in Florida present no significant federal constitutional issues, **portability may provide opportunities for legal challenge** based on the Commerce Clause, the “Interstate” Privileges and Immunities Clause, and the Right to Travel.
- The **extension of assessment limitations** to non-homesteaded properties may generate Commerce Clause objections, but their strength is currently untested.

PROPOSAL	SIGNIFICANT CONSTITUTIONAL ISSUES (Legal Basis for Challenge)				DESCRIPTION & SPECIAL ISSUES
	Equal Protection Clause	Commerce Clause	“Interstate” Privileges and Immunities Clause	Right to Travel	
<i>Elimination of Save Our Homes (effect on current beneficiaries)</i>	None	None	None	None	Grandfathering that continues the current provisions for a select group would have greater vulnerability than a grandfather coupled with a freeze.
<i>Extension of Assessment Limitations to Non-Homesteaded Properties</i>	None	Unclear	None	None	U.S. Supreme Court granted certiorari in R.H. Macy case which addressed this issue, but taxpayer withdrew its petition.
<i>Increase in the Current Homestead Exemption</i>	None	None	None	None	
<i>Modification of the Existing Save Our Homes Provision</i>	None	None	None	None	
<i>Portability</i>	None	EXIST¹	EXIST, BUT WEAK²	EXIST, AND STRONG³	<p>1. Portability discriminates against interstate commerce (burden is of greater magnitude than SOH).</p> <p>2. Portability discriminates because only benefits residents (same as SOH).</p> <p>3. Portability deprives newly arrived residents of the right to be treated equally in their new State of residence (greater magnitude).</p>

Remedies

- If any of the proposed alternatives is adopted and later held to be unconstitutional the discrimination or burden would have to be:
 - Eliminated on a prospective basis, and
 - Remedied through meaningful backward-looking relief on a retrospective basis.
 - Meaningful backward-looking relief for a discriminatory tax may entail either a refund or any other remedy that cures the discrimination, *e.g.*, taxing the previously favored class on a retroactive basis.