To: Professor Moody  
From:  
Date: 10 December 2007  
Subject: An Analysis of Amendment 10

Introduction:  
The following memo covers an analysis of Florida’s Amendment 10. Items addressed in this memo include some brief background information, as well the findings when analyzed from four different perspectives: equity, economic, legal, and administrative. I will conclude with a recommendation for future tax policy.

Background Information:  
In 1992 Amendment 10, commonly known as the Save Our Homes Amendment (SOH), narrowly passed by a vote of 54%. SOH limited the rate at which homesteaded residential real estate assessment values could appreciate to inflation or 3%, whichever is less. Also, the amendment stipulated that the tax liability savings were not portable. Therefore, assessments are reset to the just value whenever property is sold.

Equity:  
For this policy equity takes on two forms⎯horizontal and vertical. In the case of property taxation, horizontal equity asserts that homes of equal value should bear an equal tax burden. With vertical equity homes with higher assessments should bear an equal burden relative to income as those with lower assessed values. Through the analysis it was determined that the current system is inequitable with respect to horizontal and vertical equity. Similar homes are taxed unequally and, depending on the context, the system can be progressive or possibly highly regressive.

Economic:  
The shifted tax burden coupled with the lack of portability has had a significant impact on efficiency. Academic literature suggests a “lock-in” effect that moves the market away from efficiency and discourages people from moving. This effect has been measured empirically by utilizing probability of sale statistics that were derived using several econometric models. These models found that the policy is negatively associated with the probability of sale. When the disparity between the SOH assessed value and just value rises to a mere 5%, the effect is a 2.6% reduction in the volume of sales. That being said, the disparity is typically much larger and thus there should be reason for concern. Results such as this could present problems for economic development and the business climate in general.

Legal:  
Several legal cases have upheld assessment limitation property tax systems. Among these, the two most relevant are the Nordlinger v. Hahn U.S. Supreme Court case that dealt with Proposition 13, and the Florida Association of Counties and Florida League of Cities’ challenge of Amendment 10 at the state supreme court. Nordlinger lost by 8-1, however, Amendment 10 was upheld by a mere 4-3 opinion in which the dissenters found the system to be in violation of the state constitution’s equal protection clause.

Administrative:  
The Florida Department of Revenue has concluded that SOH has resulted in lost revenues of approximately 24.5% for local governments. However, they also found that governments have since increasingly relied on other taxes, such as sales taxes and user fees to make up for the shortfalls. Thus, at least administratively, SOH has not resulted in any dire consequences.

Recommendation:  
After reading the applicable academic literature and analyzing the available data, I recommend that the state overhaul its current property tax system. The current scheme is grossly inequitable, reduces efficiency in the real estate market, has negative economic implications, and is only marginally legal. A more appropriate system would consist of revenue neutral and more democratic components. Representatives should be attuned to the preferences of their constituents. If property values appreciate considerably, effective rates should be lowered. If not, the citizens should support a candidate in the forthcoming election that will be more responsive to their needs and preferences.
An Analysis of Florida’s Amendment 10

By
Introduction

In 1992 Florida voters made a big decision regarding their future property taxes by approving Amendment 10 with just over 54% of the vote. Dubbed “Save Our Homes” (hereafter SOH) for its presumptive effect, the amendment limits local taxing jurisdictions from increasing property tax assessments by more than inflation or 3%, whichever is less. The catch and item of contention, however, is that the amendment applies solely to residential real estate and homesteaded properties. Second homes, rental properties, newly bought homes, and other land designations, such as commercial or industrial, are not eligible for the tax break. Moreover, the cap lacks portability. In other words, when a person moves their tax liability is automatically reset and they start the process anew.

The following policy brief provides an assessment of the policy utilizing several perspectives—equity, economic, legal, and administrative. Within this framework I hope to address several key questions: Does the policy stand on firm legal ground? Are their equity concerns? Has the economy been adversely affected? And finally, what implications has the policy had on local administrators? Other avenues will be explored throughout, but these are the probing questions that must be answered in order to give a fair evaluation of the policy that, for a time, was touted as the “saving grace” for Florida’s senior and middle income population. As of late, however, the policy has been called into question. New property tax schemes are coming to the fore, therefore, it is extremely important to find out whether the policy can be refurbished or if its irreparably flawed. Through this investigation I intend to muddle through the implications to decipher whether or not the policy was indeed appropriate, or if another route would have better served the citizens of Florida.
Background Information

Implemented in 1995, SOH was originally conceived by Lee County Property Appraiser Ken Wilkinson in 1987 with the founding of the Save Our Homes Foundation. Wilkinson, a longtime native of Florida, had seen a noticeable upward trend in property values and its commensurate effect on his constituency. In particular, he recognized the effect it had on seniors who bought up relatively affordable waterfront property during the late ‘70s and ‘80s. In one interview with the St. Petersburg times he was quoted as saying that “Homesteaders, particularly in growth areas, are being asked to provide an unequal burden of the growth costs of Florida” (Cutter 23 Sept. 1989). He and his supporters viewed the tax structure at the time as inherently inequitable. Thus, Wilkinson purposely sought to shift the tax burden away from these coastal residents.

While Property Appraiser Ken Wilkinson was incorrect in his assertion that coastal property owners were bearing a disproportionate load of the costs of growth, he was unequivocally correct in stating that property values had appreciated considerably over the past
few years. However, much of the appreciation of the late 1970s and early 1980s can be attributed to one piece of legislation—Truth-in-Millage of 1980. TRIM forced county appraisers to annually assess properties at their “just” value. For Florida, this meant generally at 85% of the market value (Kincaid 2007). Upon passage in 1980 homes appreciated by nearly 14%, although, as the graph displays, valuations soared even before the legislation. Although, this time gap is reconciled by the fact that many counties had already passed local legislation to assess properties at their just value. State legislation was being pursued to reduce the massive disparities that had accrued due to these differences in assessment practices.

All the way up to voting day people on both sides of the issue vigorously sought the support of Florida voters. The Florida Association of Counties spent tens of thousand of dollars on advertisements opposing the measure. Not to be outdone, the Save Our Homes Foundation continued to drum up local support by building political alliances and buying television ads (Rado 14 Oct. 1992). Political “mud” was thrown from every direction imaginable. Alton Parker, the Hillsborough County Property Appraiser at the time, alleged “Wilkinson was playing on the fears and ignorance of voters who do not know enough about the process of how voters pay for the services they demand from government” (Irwin 2007). With Pinellas Property Appraiser Jim Smith at his side, Wilkinson retorted that “people on fixed or limited incomes are finding they can’t afford the Sunshine State” (Malmgren 16 Aug. 1987). After everything was said and done (literally), the initiative was approved by a narrow margin.

The Details

The Save Our Homes Amendment accomplished several things. Firstly, it limited appreciation of the assessed values for those properties that receive the state’s $25,000 homestead exemption by the lesser of inflation or 3%. Secondly, it disallowed portability of the
accrued tax liability savings. Thirdly, it applied solely to residential real estate. Fourthly, it stipulated to cover renovations and additions. Of note, however, the amendment did not place any limitations on the taxing jurisdiction’s ability to raise the mill levy.

The process of obtaining tax savings under SOH is relatively simple. At the end of each year property tax liability is computed, with any changes taking effect January 1 of the following year. If an individual bought a home in that year for which he/she intends to homestead, the individual files for a homestead exemption. For the first year of tenure, the owner does not reap any savings and essentially establishes a “base” assessment from which to build on. In following years the SOH assessed value, instead of the just value (85% market value) is the used to compute property tax liability. Put rather succinctly by Jacquelyn Kincaid (2007), “the tax liability becomes the Save Our Homes assessed value less any exemptions the homeowner claims such as the standard $25,000 homestead exemption, the $500 disability exemption, $500 widow/widower exemption, or $5,000 veteran disability exemption” (Kincaid 2007). Once the exemptions are subtracted the actual taxable value is multiplied by the county mill rate to produce the tax bill. Finally, each subsequent year if home values jump above inflation or 3% the owner receives a benefit in the amount of the disparity between the SOH assessed value and the just value times the mill rate. The table below presents an example of the potential savings accrued by homesteading a $200,000 property in the year 2000.
Comparison with California’s Proposition 13

Whenever the issue of tax caps arise comparisons are drawn with California’s Proposition 13. However, as many scholars have warned, any such comparison must be taken with a grain of salt. Particularly, the comparison between Florida’s SOH and Proposition 13. The two are distinct in very significant ways. For one, Proposition 13 does not stop at limiting the appreciation of assessed values at 2%. It goes much further. Not only does it limit appreciation, the measure limits the effective tax rates of jurisdictions to a mere 1% plus the interest cost on local government bonds (McGuire 1999). In addition, it applies to all real estate, including commercial and industrial. That being said, the scholarly work on Proposition 13 still provides some valuable insights that are applicable. These cover a broad range of issues such as equity, efficiency, and the law.

Equity Perspective

Policies should be assessed on more than their economic characteristics. The equity implications are equally important. Equity takes on two forms, horizontal and vertical. Horizontal equity asserts that equals should be treated equally. In the case of property taxation, homes of equal value should bear the same burden of taxation. Vertical equity asserts that
unequals should be treated unequally, but proportionately with respect to income. In other words, homes with higher assessed values should bear a tax burden equal with respect to income to that of homes with lower assessed values. In the paragraphs that follow I will analyze the SOH policy on both the horizontal and vertical components.

With tax assessment liability caps horizontal inequities surface when “a household’s property tax liability depends on the purchase price of its property, rather than the market value” (Sexton 1999). In simpler terms, if tax liability is based on what the property sold for when you bought it, rather than what the actual market value is today, gross disparities in tax liability will occur. This type of taxing system can be best termed as an acquisition approach. Intuitively, one would expect horizontal inequities to surface based on the face value of the policy. The chart below demonstrates the tax liability savings and supports this argument. As the median assessed value of homes in Florida increased in the aggregate, owners of non-homesteaded residential property were forced to endure appreciation rates in excess of 20% over their homesteaded counterparts. Therefore, a less tenured homeowner pays more taxes than a homeowner who purchased an identical property in a prior year.

While the figure above is persuasive by itself, there have been several formal studies that have looked to see if the empirical evidence supports the horizontal inequity claim. The result
has been the discovery of incontrovertible evidence in support. They have found that indeed a shift in the burden has occurred from homesteaded residential to non-homesteaded residential properties. Florida’s Office of Economic and Demographic Research (EDR) uncovered that the average SOH assessment value on homesteaded properties was merely 62% of the just market value as of January 2006 (Florida 2007). When quantified, this represents an average difference of approximately $92,000 for each property. That being said, however, it is important to note that these numbers vary dramatically, from a low of 51.9 % to a high of 85.9%, depending on the population growth and turnover rates in the subject area (Florida 2007). Nonetheless, the EDR reports prove the horizontal inequity argument. Even in those areas of the state that exhibit low growth and turnover rates, the issue of horizontal inequity is an unavoidable outcome of assessment limitation property tax systems.

Vertical equity is a related concern that has been the subject of extant research with California’s Proposition 13 and has recently aroused interest with Florida’s SOH amendment. In one such study on Proposition 13, O’Sullivan, Sexton, and Sheffrin constructed an econometric model based on data acquired from California’s Department of Revenue. The model explained that low-income and senior households end up paying proportionately less in property taxes due to lower mobility and consequent longer tenure relative to their younger and more affluent counterparts (Sexton 1999). Moreover, a study completed by Wasi and White (2005) supports Sexton’s argument. They suggest that as income increases, tenure length decreases. In fact, seniors were three times more likely to have lived in the same home since the implementation of Proposition 13, and thereby reaped the largest gains. Furthermore, the scholars also put some time into researching the effect of reverting from an assessment limitation system to a market-value system (FL & CA prior to SOH and Prop. 13). The resulting study showed that in three
metropolitan areas (Los Angeles, Alameda and San Mateo Counties) on average the annual property taxes for a homeowner with an annual income of $30,000 would go up $215, while the taxes for a homeowner with an annual income of $70,000 would go down $112, providing further evidence in support of the progressive hypothesis (Sexton 1999). However, due to the cap on local taxes and the fact that Proposition 13 applies to all real estate, the findings may not be directly applicable to the experience of Floridians.

A report by Florida’s Department of Revenue attempted to shed some light on the nature of Amendment 10. In contrast to the studies conducted by Sexton et al. the report claims the amendment has had a regressive effect. It suggests that the burden has been shifted to non-homesteaded residential and since rental units fall under this category, renters have been adversely affected. There are problems with the argument, however, because it disregards the effect of elasticity. While it may be the case that in many communities across the state renters bear a larger burden, it may also be that rental markets are so competitive that the burden cannot be passed on to the renter. In that case landlords bear the extra burden. As argued by Carroll (1994), “If there is high competition between rentals, and renters are mobile, owners will be forced to absorb some if not all of the property tax burden (Carroll 1994). The report has left this matter unresolved. Therefore, we can only reasonably conclude that low-income homeowners have benefited from Amendment 10, but due to the countervailing forces of higher tax burden and elasticity, cannot make any suggestions with regards to its effect on renters.

**Economic Perspective**

There are two pressing issues with respect to the SOH amendment that need to be addressed from an economic perspective. Firstly, how has the shifting tax burden affected the behavior of individuals? Some scholars suggest the shifted burden coupled with the lack of
portability has created a “lock-in” effect, discouraging housing turnover. Secondly, if inefficiencies are evident in the real estate market, what implications does this have for the economy? Both will now be addressed in turn.

There have been a number of inquiries into the effect of SOH on how the shifted tax burden has affected the market for residential real estate. While some may present subtle differences, there is a common theme. Amendment 10 discourages individuals from moving. Coupled with the lack of portability the tax burden creates a “lock-in” effect for homesteaded property owners. The longer the tenure, the greater the disparity between the SOH and just assessment, and thus the higher probability the individual will be deterred from moving. To a point, the individual will make sacrifices to keep the tax liability savings. He will live in a smaller house, farther away from his job, farther away from good schools, his preferred entertainment, etc. In short, the match between the desired level of service (incl. home size) and taxes is distorted, moving the market away from an efficient equilibrium.

The table below presents a realistic, hypothetical example of this phenomenon. It demonstrates the savings accrued with SOH on a median priced home with an average tax rate bought in 1999, compared to without SOH. After five years the person saves over $1,100 annually in taxes. With this example in hand, one can imagine why the amendment to would pose a significant barrier to mobility.
The inefficiency created by the aforementioned “lock-in” effect is commonly measured by using the change in the probability of sale of real estate. In this arena, there has been some great empirical research undertaken by Jacquelyn Kincaid, a graduate student at Florida State University, and the Department of Revenue for the state of Florida. Both studies show how this effect has played out in the real estate market for the counties with the largest populations and highest turnover: Pinellas, Hillsborough, Broward, Dade, Duval, Orange, and Palm Beach counties. The result was some rather hard evidence that showed theory translating into reality. Econometric research done by Kincaid demonstrates that when the SOH ratio increases from 0 to 5%, sales volume is reduced by approximately 2.6%. To put things in perspective, in 2005 the SOH savings ratio for the selected counties varied from 0.17 to 0.33, or 17-33% savings for homesteaded residential properties (Kincaid 2007). Therefore, when the actual SOH ratios are considered, the disparities resulted in a boon to the real estate market. Moreover, her research explains that the effect is greatest with homes in the range of $150,000 to $300,000 in just value—the middle class. Research completed by the DOR demonstrates the same, but also complements with the finding that the effect on the probability of sale is non-linear with respect to the SOH ratio. For instance, in Broward county tax liability savings of $200,000 results in a 12.4% decrease in the probability of sale, whereas savings of $500,000, which is not at all unheard of, lead to a 34% reduction in the probability of sale (Florida 2007).
After recognizing the barriers to mobility, the related question refers to its overall affect on the economy of Florida at large, as well as the local economies involved. There are significant economic problems that go beyond real estate sales, commissions, and the commensurate multiplier effect. However, these are not easily quantified. One would expect that the large tax burden would deter people from moving to the state. In turn, as the burden continually shifts to new homebuyers, businesses should find it increasingly difficult to attract quality employees from outside the region and the state. If anything, they may have to increase their compensation to offset the prevailing deterrent effect. Nonetheless, since this is a more indirect effect of the amendment it is difficult to provide an empirical analysis of any substantive quality.

**Legal Perspective**

As I briefly mentioned earlier, questions of legality have surrounded limited tax liability systems ever since their invocation. California’s Proposition 13 was under much scrutiny and encountered a number of legal hurdles. Likewise, Florida’s Amendment 10 was challenged by the Florida Association of Counties and Florida League of Cities prior to its implementation. In response to these concerns, in this section I will give a brief overview of these two court cases
that provided much insight into how the courts view the tax systems.

In the California case, the petitioner Stephanie Nordlinger purchased a house in Los Angeles for approximately $170,000 in late 1988. Prior to her purchase, Nordlinger rented an apartment in the same area and had never owned a home in California. The premise for her lawsuit was that she was bearing a disproportionate tax burden, which was wholly due to Proposition 13. Therefore, the initiative violated the Fourteenth Amendment of the U.S. Constitution. The case was brought against the Los Angeles property appraiser. Within it she asked for the remittance of a portion of property taxes paid, along with the determination that Proposition 13 was unconstitutional.

The case of Nordlinger v. Hahn resulted in an 8-1 decision in favor of the defendant. Justice Harry Blackum wrote the opinion of the court. In it he stated the initiative was constitutional for three reasons. Firstly, Nordlinger could not assert her right to travel unimpeded as a basis for the violation of the Equal Protections Clause. After all, she was able to travel and buy property wherever she pleased. The fact that she rented prior to her purchase was further testament. Secondly, the state could allow citizens with longer tenure to pay less tax because the state has an interest in discouraging turnover. Less turnover results in “neighborhood preservation, continuity, and stability”. And third, new owners do not have the same “reliance interest” warranting protection against higher taxes. They have the ability to determine whether or not they can afford the taxes prior to purchase, whereas current owners are already “saddled” with their purchase and do not have the option of deciding not to buy should taxes appreciate considerably. In start contrast, the dissenter, Justice Stevens viewed the case in terms of black and white. In his opinion Proposition 13 “created severe inequities in California’s property tax scheme” and thus should be deemed unconstitutional (Irwin 2007).
The challenge to Amendment 10 by the Florida Association of Counties and League of Cities was much different. Instead of challenging based on the state constitutionality, they argued that should the initiative pass, the homestead exemption would become void. By a narrow margin the Supreme Court of Florida disagreed. In the majority opinion of the court, Gerald Kogan concluded that “Amendment 10 features a variable cap that will not apply to all homestead property, so it is not a specified percentage reduction. Accordingly, Amendment 10 will not reduce the homestead exemption” (Wilson 30 Oct. 1992). After reviewing the empirical evidence, however, it is apparent that in nearly every case the “variable cap” applied to all homesteaded property. In keeping with this line of thought, the dissenting opinion, albeit with some degree of ambivalence, stated that “if passed the measure might violate the equal protections provision of Florida’s constitution by requiring owners of identical homes to pay different taxes for identical public services” (Wilson 30 Oct. 1992).

**Administrative Perspective**

Along with the equity, economic, and legal issues involved, there is one significant administrative issue—revenue generation. The Florida Department of Revenue has concluded that counties would have garnered 24.5% additional tax revenues without the SOH initiative in place (Florida 2007). With that in mind, administrators had and continue to have limited options to increase the public coffers. One option was to simply shift the burden to non-homesteaded properties. Earlier analysis proved that some of this occurred. Another option, which has partially offset the increased burden borne by non-homesteaded property owners, was to shift the overall tax burden away from property taxes and toward other sources such as sales taxes and user fees. Research on Proposition 13 as well as a recent study by the Department of Revenue have come to several conclusions that will now be discussed.
In the short term it appears that government revenues declined and non-homesteaded property owners shouldered a grossly disproportionate burden. However, as research by Galles and Sexton suggests, “local governments made up lost revenues through the use of non-tax fees and charges” (Sexton 1999). In fact, the authors conclude that since the passage of Proposition 13 local governments have generated more revenue and spent more in real terms than in their entire history (Sexton 1999). During the period of 1977-1990 that was studied, property taxes in the aggregate decreased by $315 and non-tax fees and charges increased by $399 per capita. The limit forced administrators to find new means of raising revenue, which in retrospect presented little problems.

Analysis provided by the state Department of Revenue shows the same phenomenon has occurred with regard to SOH. Mill rates declined since the implementation of SOH and the burden has shifted, with the non-homesteaded property owners bearing a disproportionate burden. Even so, local governments still lost out on a staple revenue source and were forced to find new ways to generate revenues. Similar to Proposition 13, though, it doesn’t appear that this presented a big administrative hurdle. As the graph below demonstrates, average county property tax revenues increased approximately with inflation, but other revenue sources appreciated considerably to make up for any shortfalls.
Conclusion

The preceding paper analyzed Florida’s Amendment 10 utilizing four different perspectives: equity, economic, legal, and administrative. Nearly all of the available research has pointed to both horizontal and vertical inequities as a consequence of the amendment. Economic concerns, through the measure of probability of sale, have been shown to be warranted. Legally, the prevailing opinion finds the amendment constitutional, but lingering concerns remain as evident by the split 4-3 decision of the Florida Supreme Court. With regard to administrative concerns, there is ample academic literature and anecdotal evidence that suggests the Save Our Homes Amendment has not been a great detriment to local governments. Possibly, though, the most pressing questions have yet to be answered. Was Amendment 10 truly necessary? Were there other ways to deal with the problem?

I posit that certainly other options could have been implemented. The most obvious viable alternative would have been for citizens to hold their representatives accountable via elections and a revenue neutral tax system. If assessments increase considerably, effective tax
rates should be reduced. As a matter of fact, even the report provided by the Florida Department of Revenue indicated that Amendment 10 had the unintended effect of reducing “homeowners’ stake in the property tax process” (Florida 2007). Instead, tax savings were given to an exclusive group of Floridians, leading me to believe that political considerations clouded rational thought in the decision making process. Amendment 10 may have merely served a political purpose. Nonetheless, these are all questions for future research, in need of different methodology, and vastly different perspectives.


