

## **Amendment One**

**Summary:** Amendment One provides that aliens ineligible for citizenship may not be barred from owning property. Specifically, the Amendment deletes archaic provisions in the state constitution authorizing the Legislature to regulate possession of real property by aliens ineligible for citizenship.

**Sponsor:** Sen. Steven Geller (SJR 166 in 2007)

**What it does in Detail:** The amendment deletes a provision in section 2, article I of the state constitution relating to basic individual rights. Specifically, it deletes a provision authorizing the Legislature to regulate or prohibit the ownership, inheritance, disposition and possession of real property by aliens ineligible for U.S. citizenship.

### **Items to consider:**

- The United States specifically limited immigration of Asians from 1862-1965. From the state level, California was the first state in 1913 to pass laws banning Asian immigrants from owning and inheriting property. Over a dozen other states followed California's lead.
- Numerous federal appellate courts, including the U.S. Supreme Court, have held that other state alien land laws violate the equal protection clause of the Fourteenth Amendment to the U.S. Constitution because they discriminate against individuals on the basis of race, alienage or national origin.
- Most states did away with their alien land laws between 1940 and 1960. As late as 2005, Florida and New Mexico were the only states remaining with these laws on their books.
- In November 2006, New Mexico voters approved a constitutional amendment removing their alien land law. This leaves Florida as the sole state with an alien land law.

### **Bottom Line:**

- This law stems from the Jim Crow era in the United States.
- Florida's alien land law is a symbol of a time when people's opportunity and place in society was defined by race.
- The law creates a negative image of Florida, especially since we are the last state that still has such a law in its constitution.
- No change is expected in land ownership practices in Florida with the passage of the amendment.
- The Florida Legislature has never exercised its constitutional authority to regulate or prohibit property ownership by aliens ineligible for citizenship.

## **Amendment Two Florida Marriage Protection Amendment**

**Summary:** Amendment Two defines marriage as the legal union of only one man and one woman as husband and wife and provides that no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized.

**Sponsor:** Florida4marriage.org

**What it does in detail:** Amendment Two is a response to recent court decisions throughout the country that have overturned legislative definitions of marriage. In Florida, the Legislature has already defined marriage as the union between one man and one woman, but many pro-marriage advocates fear that without codification in the constitution, Florida's Defense of Marriage legislation will remain ripe for litigation and judicial activism.

### **Items to consider:**

- In 1997, the Florida Legislature overwhelmingly approved the Defense of Marriage Act which defined marriage as the union between one man and one woman.
- Several other states initiated similar legislation before and after Florida, in response to newfound activism from gay rights groups who sought to redefine marriage as part of a national strategy.
- Since 1997, several states have seen their Defense of Marriage legislation overturned by the courts, most notably Massachusetts and California.
- Against this backdrop, Amendment Two proponents argue that unless marriage is defined in our constitution, Floridians can expect a similar attempt to redefine marriage through the judiciary.
- Amendment Two defines marriage as a union between man and woman, and prevents any redefinition. Amendment Two would not affect civil unions or other contractual relationships entered into between consenting adults.

### **Amendment 3**

#### **Changes and Improvements Not Affecting the Assessed Value of Residential Real Property**

**Summary:** Amendment 3 would repeal an existing provision in the Florida Constitution that allows the Legislature to provide a property tax exemption for property on which a renewable energy source device is installed and operated. The proposed amendment would also allow the Legislature to prohibit the consideration of storm-hardening improvements and the installation of renewable energy source devices in determining the assessed value of residential property.

**Sponsor:** Florida Taxation and Budget Reform Commission (TBRC)

**What it does in detail:** Amendment 3 would repeal Section 3(d), Article VII, of the Florida Constitution, which authorizes the Legislature to grant an ad valorem tax exemption for property on which a renewable energy source device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years. This authorization applies to all real property, including commercial property, as well as tangible personal property.

**History of Section 3(d), Article VII:** The 1980 Legislature authorized a property tax exemption for real property on which a renewable energy source device is installed and is being operated. However, the exemption expired after 10 years.

The 2008 Legislature reinstated the exemption through House Bill 7135. The new law removes the expiration date of the property tax exemption for real property -- both residential and commercial -- on which a renewable energy source device is installed and is being operated, thereby allowing property owners to once again apply for the exemption, effective January 1, 2009. The period of each exemption is limited to 10 years. The law limits the exemption to the amount of the original cost of the device, including the installation cost, but not including the cost of replacing previously existing property.

If Amendment 3 is passed by the people of Florida this exemption would be repealed.

The amendment would allow the Legislature to prohibit the consideration of storm-hardening improvements and the installation of renewable energy source devices in determining the assessed value of residential property. The benefit would apply to all property used for residential purposes, which would include rental apartments, second or vacation homes, as well as homesteads. The amendment appears to apply to residential properties that are retrofitted with improvements, rather than new construction.

**Items to consider:**

- This amendment authorizes the Legislature to create incentives for property owners to strengthen their properties and to use renewable energy source devices; however the Legislature can do so without the constitutional amendment.
- It also repeals an exemption that was reinstated during the 2008 Session. This exemption gives homeowners tax credits for using renewable energy devices on their homes. The amendment seemingly contradicts itself by having half of the amendment working towards incentivizing homeowners to use renewable energy devices while the other half of the amendment takes an incentive away.

**Bottom Line:**

- Amendment 3 authorizes the Legislature to create an incentive for residential property owners to strengthen the property to resist wind damage or to install a renewable energy source device. However, the Legislature does not need a constitutional amendment in order to do what the amendment suggests.
- Amendment 3 is unnecessary and does nothing more than authorize the Legislature to create property tax exemptions while at the same time taking away exemptions the Legislature has already put into place.
- The Legislature is aware that Florida must move in the direction of creating and using renewable energy and made steps during the 2008 Session to encourage people to do so. Amendment 3 undoes the progress the Legislature has made in moving Florida in the direction of clean energy.

**Amendment 4**  
**Property Tax Exemption of Perpetually Conserved Land; Classification and**  
**Assessment of Land Used for Conservation**

**Summary:** Amendment 4 would give a full tax exemption for property that is permanently designated as conservation land. It also requires property appraisers to set property values for conservation land that is not perpetually encumbered for how it is currently being used, rather than how it could potentially be used.

**Sponsor:** Florida Taxation and Budget Reform Commission (TBRC)

**What it does in detail:** Amendment 4 provides for the creation of conservation easement under Florida law. A conservation easement is a legal agreement between a landowner and a land trust or governmental agency that permanently limits the use of land in order to protect its conservation value. The primary purpose of a conservation easement is to protect agricultural land, timber resources and other valuable natural resources such as wildlife habitat, clean water, clean air or scenic open space by separating the right to subdivide and build on the property from the other rights of ownership.

The amendment would give a full tax exemption for property that is permanently designated as conservation land. It also requires property appraisers to set property values for conservation land that is not perpetually encumbered for how it is currently being used, rather than how it could potentially be used.

Should the amendment pass, the Legislature will decide and put into statute the conditions, limitation and definitions of Amendment 4 and must implement these changes in 2010.

**Items to consider:**

- Florida Forever is the state's primary land conservation program. Since its inception in July 2001, Florida Forever has targeted nearly \$2 billion in taxpayer money towards protecting more than 500,000 acres. But projections indicate that the Florida Forever funds may be overcommitted in fiscal years 2008-2009 and 2009-2010. To continue conservation efforts without committing more taxpayer dollars to land acquisition Amendment 4 provides for conservation easement.
- A similar program is already in effect in Florida for agriculture land. This program is commonly referred to as a greenbelt classification. It is not an exemption, but rather is a benefit that provides a lower assessment to farmers in order that they may continue to commercially farm their land.
- Like the greenbelt classification, conservation easement will encourage people to keep important conservation land at its current use without the fear of skyrocketing property taxes.

**Bottom Line:**

- Taxpayer funded conservation cannot do it all. The state does not have enough money to buy all the land that should be conserved and the land that needs to be conserved is not always available for purchase.
- Conservation easement will give Florida another tool to help continue its conservation efforts by encouraging private land owners to keep their land undeveloped.
- Conservation easements protect open space and enhance the quality of life in rapidly growing urban and suburban areas. Open space preserves scenic beauty and underpins quality tourism, while giving local residents “breathing room.”
- Easements protect land for future generations while allowing landowners to retain many private property rights and to live on and use their land as they have traditionally.

## **Amendment 6**

### **Assessment of Working Waterfront Property Based on Current Use**

**Summary:** Amendment 6 requires property appraisers to set property values based on how a working waterfront property is currently being used, rather than how it could potentially be used.

**Sponsor:** Florida Taxation and Budget Reform Commission

**What it does in detail:** Amendment 6 would require property appraisers to assess the value of certain working waterfront properties based on how the property is currently being used, rather than how it could potentially be used in the future.

Working waterfront properties covered by this amendment include:

- Land used predominantly for commercial fishing purposes
- Land that is accessible to the public and used for vessel launches into waters that are navigable
- Marinas and drystacks that are open to the public
- Water-dependent marine manufacturing facilities, commercial fishing facilities and their support activities

**Items to consider:**

- Development interests have been buying traditional working waterfronts and converting them to residential or more profitable uses. “Water-enhanced” and “water-related” activities, such as a beachfront condominium or a restaurant on the waterway, are replacing traditional or “water-dependent” activities, such as marinas, dry docks and after-catch commercial fishing operations. This has the effect of both decreasing the availability of waterfront property for traditional water-dependent activities, as well as prohibitively increasing the value of nearby working waterfront property.
- This increase in property value results in higher property taxes, which may cause the working waterfronts to be decreasingly profitable thereby increasing the pressure to convert property from public access to private residential use or more lucrative non-public uses.

**Bottom Line:**

- Florida relies on its beaches and water for tourism and other economic activities. This amendment incentivizes qualified waterfront property owners to continue to their existing use of the property by avoiding taxes premised on highest and best use.

## **Amendment Eight**

### **Local Option Tax for Community Colleges**

**Summary:** Amendment Eight, also called the Local Option Tax for Community Colleges, requires the legislature to authorize a local option sales tax to supplement funding for public community colleges.

**Sponsor:** Tax and Budget Reform Commission (TBRC)

**What it does in detail:** The amendment provides a process by law to permit counties to submit a referendum to the voters for local option sales tax to raise funds for public community colleges. Specifically, the amendment would give community colleges taxing authority similar to what local school districts, counties, and municipalities already have.

State funding for public community colleges has shrunk due to current budget shortfalls and other funding challenges, including rising costs. A need for new revenue streams has generated a search by some for funding options for public community colleges.

The amendment provides that any taxes approved in a referendum would sunset after five years and may be reauthorized by the voters.

#### **Items to consider:**

- Would all counties in the service area and in the state be authorized to pass the same sales tax percentage?
- The sales tax would probably raise a disproportionate share in some counties - is that equitable?
- Some community colleges serve a high proportion of students outside of their service area. For example many South Florida students attend Tallahassee Community College (TCC). If Leon County had a sales tax and Broward or Dade did not, would TCC charge an out of service area fee for students from those areas?
- Would the sales tax revenue replace existing general revenue funding for the community colleges?
- What impact would a sales tax have on businesses in the county?
- For many years, community colleges have been primarily funded with state general revenue funds. What would be the impact on these state funds? Would the state diminish its contribution?