

CHAPTER 97-249

House Bill No. 1601

An act relating to equitable distribution of marital assets and liabilities; creating s. 61.077, F.S.; prescribing factors to be considered by a court before entering a final judgment making a determination of the credits or set-offs upon the sale of the marital home; providing an effective date.

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

Section 1. Section 61.077, F.S., is created to read:

61.077 A party is not entitled to any credits or set-offs upon the sale of the marital home unless the parties' settlement agreement, Final Judgment of Dissolution of Marriage, or Final Judgment Equitably Distributing Assets or Debts specifically provides that certain credits or set-offs are allowed or given at the time of the sale. In the absence of a settlement agreement involving the marital home, the court shall consider the following factors before determining the issue of credits or set-offs in its final judgment:

(a) Whether exclusive use and possession of the marital home is being awarded, and the basis for the award;

(b) Whether alimony is being awarded to the party in possession and whether the alimony is being awarded to cover, in part or otherwise, the mortgage and taxes and other expenses of and in connection with the marital home;

(c) Whether child support is being awarded to the party in possession and whether the child support is being awarded to cover, in part or otherwise, the mortgage and taxes and other expenses of and in connection with the marital home;

(d) The value to the party in possession of the use and occupancy of the marital home;

(e) The value of the loss of use and occupancy of the marital home to the party out of possession;

(f) Which party will be entitled to claim the mortgage interest payments, real property tax payments, and related payments in connection with the marital home as tax deductions for federal income tax purposes;

(g) Whether one or both parties will experience a capital gains taxable event as a result of the sale of the marital home; and

(h) Any other factor necessary to bring about equity and justice between the parties.

Section 2. The provisions of this act apply to all settlement agreements entered into or actions filed on or after October 1, 1997.

Section 3. This act shall take effect October 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.