

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SJR 1254

INTRODUCER: Community Affairs Committee and Senator Fasano

SUBJECT: Property/Annual Assessment/Exemption

DATE: March 17, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Fav/CS
2.			FT	
3.			EA	
4.			WPSC	
5.			RC	
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This joint resolution proposes an amendment to sections 4 and 6, Article VII, of the State Constitution, to create an additional homestead exemption for first-time homebuyers and to reduce from ten percent to five percent, the limitation on annual assessment increases applicable to non-homestead property.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature.

II. Present Situation:

Just Value

Section 4, Art. VII, of the State Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Under Florida law, “just valuation” is synonymous with “fair market value”, and is defined as what a willing buyer would pay a willing seller for the property in an arm’s length transaction.¹

¹ Section 193.011, F.S. See also *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.² Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.³ Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.⁴ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.⁵ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.⁶ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.⁷ Certain working waterfront property is assessed based upon the property's current use.⁸

Save Our Homes

The "Save Our Homes" provision in section 4, Art. VII, of the State Constitution, as amended in January 2008, limits the amount a homestead's assessed value can increase annually to the lesser of 3 % or the consumer price index (CPI).⁹ In 2008, Florida voters approved an amendment to section 4(d), Art. VII, State Constitution, to provide for the portability of the accrued "Save Our Homes" benefit. This amendment allows homestead property owners that relocate to a new homestead to transfer up to \$500,000 of the "Save Our Homes" accrued benefit to the new homestead.

Additional Assessment Limitations

Sections 4(g) and (h), Art. VII, State Constitution, were created in January 2008, when Florida electors voted to provide an assessment limitation for residential real property containing nine or fewer units, and for all real property not subject to other specified classes or uses. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units **must** be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature **may** provide that such property shall be assessed at just value after a change of ownership or control. Section 27, Art. XII, State Constitution, provides that the amendments creating a limitation on annual assessment increases in subsections (f) and (g) are repealed effective January 1, 2019, and that the Legislature must propose an amendment abrogating the repeal, which shall be submitted to the voters for approval or rejection on the general election ballot for 2018.

² The constitutional provisions in section 4, Art. VII, of the State Constitution, were implemented in Part II of ch. 193, F.S.

³ Art. VII, section 4(a) of the Florida Constitution.

⁴ Art. VII, section 4(c) of the Florida Constitution.

⁵ Art. VII, section 4(e) of the Florida Constitution.

⁶ Art. VII, section 4(f) of the Florida Constitution.

⁷ Art. VII, section 4(i) of the Florida Constitution.

⁸ Art. VII, section 4(j) of the Florida Constitution.

⁹ Art. VII, section 4(d) of the Florida Constitution.

Homestead Exemption

Section 6, Art. VII, State Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains the permanent residence of the owner is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

Other Exemptions

Section 3, Art. VII, State Constitution, as amended in November 2008, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.¹⁰ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.¹¹ A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.¹² A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹³ Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁴ The Legislature must grant an exemption for real property dedicated in perpetuity for conservation purposes.¹⁵

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.¹⁶

Florida Property Tax Reform:***Amendment 3 (2009 SJR 532, by Senator Lynn and others) 2010 Ballot***

The proposed amendment 3 that is on the 2010 Ballot reduces the annual assessment limitation to five percent annually and provides an additional homestead exemption for first time homebuyers that have not owned a homestead in the previous *eight* years that is equal to 25 percent of the just value of the homestead up to \$100,000. The amount of the additional homestead exemption decreases by 20 percent of the initial exemption each succeeding five years until it is no longer available in the sixth and subsequent years. The proposed amendment 3 also reduces the maximum annual increase in the assessment of non-homestead property from ten to five percent.

¹⁰ Art. VII, section 3(a) of the Florida Constitution.

¹¹ Art. VII, section 3(b) of the Florida Constitution.

¹² Art. VII, section 3(c) of the Florida Constitution.

¹³ Art. VII, section 3(d) of the Florida Constitution.

¹⁴ Art. VII, section 3(e) of the Florida Constitution.

¹⁵ Art. VII, section 3(f) of the Florida Constitution.

¹⁶ Art. VII, sections 3 and 6 of the Florida Constitution. *See also* ch. 196, F.S.

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to sections 4 and 6, Art. VII, of the State Constitution, to provide an assessment limitation for non-homestead property that is limited to five percent annually and to create an additional homestead exemption for first-time homebuyers.

Assessment Limitation

The joint resolution proposes to amend paragraph 1 of subsections (g) and (h) in s. 4, Art. VII, State Constitution, to reduce the annual assessment limitation on non-homestead property from ten percent to five percent. This assessment limitation is pursuant to general law and subject to the conditions specified in such law. If approved by Florida voters, this provision will take effect on January 1, 2011.

Additional Homestead Exemption for First Time Homebuyers

The joint resolution proposes to create subsection (f) in s. 6, Art. VII, State Constitution. This amendment allows individuals that are entitled to a homestead exemption under s. 6(a), Art. VII, State Constitution, that have not previously received a homestead exemption in the past three years to receive an additional homestead exemption equal to 50 percent of the just value of the homestead property up to \$100,000 for a period of five years or until the property is sold. The additional exemption is available within one year of purchasing the homestead and would be reduced by 20 percent of the initial exemption on January 1 of each succeeding year, until it is no longer available in the sixth and subsequent years.

If approved by Florida voters, this provision will take effect on January 1, 2011, and shall be available for properties purchased on or after January 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 1, Art. XI, State Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State, or at a special election held for that purpose.

Section 5(e), Art. XI, State Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If adopted by the voters, the joint resolution will provide an ad valorem tax relief to first-time homebuyers, and owners of specified residential rental and commercial real property will experience further reduction in tax assessments due to the five percent assessment limitation.

B. Private Sector Impact:

First-time homebuyers who purchase homes in 2010 and thereafter will experience temporary reductions in ad valorem taxes. The value of the reduction will decrease by one-fifth each year and will disappear in the sixth year after the homestead is established. During this period, the ad valorem taxes levied on the homestead will increase significantly each year. Other property owners in the taxing jurisdiction will pay higher taxes if the jurisdiction adjusts the millage rate to offset the loss to the tax base.

Owners of existing residential rental and commercial real property may experience property tax savings and will not see their taxes increase significantly in a single year. To the extent that local taxing authorities' budgets are not reduced, the tax burden on other properties will increase to offset these tax losses. New properties or properties that have changed ownership or undergone significant improvements will be assessed at just value, and will be at a competitive disadvantage compared to older properties with respect to their tax burden.

C. Government Sector Impact:

Section 5(d), Art. XI, State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$94.68 for this fiscal year. The department estimates the full publication costs for this joint resolution to be \$271,542.24.¹⁷

Local governments may experience a reduction in the ad valorem tax base if the joint resolution is approved by voters. Public school funding is tied to property taxes through

¹⁷ Department of State, *Senate Joint Resolution 1254 Fiscal Analysis* (Feb. 10, 2010) (on file with the Senate Committee on Community Affairs).

the required local effort, which is the amount of taxes that must be levied by the district to participate in the Florida Education Finance Program (FEFP). School districts are not exempt from the additional homestead exemption provisions of this joint resolution.

Since this amendment would require voter approval, the Revenue Estimating Conference adopted an indeterminate negative estimate for SJR 1254. However, should this amendment be approved by Florida voters, the Revenue Estimating Conference has determined that the statewide impact on school taxes would be:

FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
-\$29 million	-\$52 million	-\$77 million	-\$103 million

Assuming current millage rates, the Revenue Estimating Conference determined that the statewide impact on non-school taxes would be:

FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
-\$36 million	-\$64 million	-\$96 million	-\$131 million

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VI. Technical Deficiencies:

None.

VII. Related Issues:

Amendment 3 (SJR 532) is currently on the ballot for November 2010. The Department of Revenue states that there may be confusion amongst Florida voters if SJR 532 from last year and SJR 1254 from this year are both on the November ballot. The department has suggested that there be a provision within this SJR that would call for the removal of the previous version from the ballot.¹⁹

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 17, 2010:

The committee substitute reduces the additional first-time homebuyer exemption to a maximum of \$100,000.

- B. **Amendments:**

None.

¹⁸ Revenue Estimating Conference, *First-Time Homebuyer’s Exemption SJR 1254 & HJR 0655* (March 4, 2010).

¹⁹ Department of Revenue, *Senate Joint Resolution 1254 Fiscal Analysis* (Feb. 3, 2010) (on file with the Senate Committee on Community Affairs).

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
