

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 655

Nonhomestead Property Assessment Limit; Additional Homestead

Exemption

SPONSOR(S): Domino

TIED BILLS:

IDEN./SIM. BILLS: SJR 1254

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Finance & Tax Council		Diez-Arguelles	Langston
2)	Policy Council			
3)	Rules & Calendar Council			
4)				
5)				

SUMMARY ANALYSIS

This joint resolution proposes an amendment to sections 4 and 6, Article VII, of the State Constitution, to reduce from 10% to 5% the limitation on annual assessment increases applicable to non-homestead property and to create an additional homestead exemption for first-time homebuyers.

The additional homestead exemption will be available to persons that have not received a homestead exemption in the past three years. The initial exemption is equal to 50% of the just value of the homestead property. The amount of the exemption cannot exceed \$500,000. The additional exemption is reduced each succeeding year by the greater of 20 percent of the initial exemption or the Save Our Homes Benefit (the difference between just value and assessed value determined under the Save Our Homes provisions).

The Revenue Estimating Conference (REC) has estimated that the fiscal impact of this joint resolution is indeterminate because it must be approved by the voters. If the voters approve the amendment, the REC estimates that it will result in a reduction in local government revenues of \$143.7 million in FY 2011-12, increasing to \$587.9 million in FY 2014-15, based on current millage rates.

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

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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

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 Land used for conservation purposes must be assessed solely on the basis of character and use.⁴ 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.⁵ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.⁶ 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.⁷ 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.⁸ Certain working waterfront property is assessed based upon the property's current use.⁹

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).

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(b) of the Florida Constitution

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

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

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

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

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

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).¹⁰ 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 and **must** provide for reassessment following a qualifying improvement, as defined by general law. 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.

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.¹¹ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.¹² 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.¹³ A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹⁴ Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁵ The Legislature must grant an exemption for real property dedicated in perpetuity for conservation purposes.¹⁶

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.¹⁷

¹⁰ Art. VII, section 4(d) of the Florida Constitution.

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

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

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

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

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

¹⁶ Art. VII, section 3(f) of the Florida Constitution.

¹⁷ Art. VII, sections 3 and 6 of the Florida Constitution. *See also* ch. 196, F.S.

**Proposed Amendment Already on the 2010 Ballot
Amendment 3, SJR 532 (2009)**

Proposed amendment 3 on the 2010 Ballot addresses the same issues as this joint resolution. It provides an additional homestead exemption for homebuyers that have not owned a homestead in the previous *eight* years. The additional homestead exemption is equal to 25% 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. Proposed amendment 3 also reduces the maximum annual increase in the assessment of non-homestead property from 10% to 5%.

Proposed Changes

The joint resolution proposes an amendment to sections 4 and 6, Art. VII, of the State Constitution, to change from the assessment increase limitation for non-homestead property from 10% of the prior year's assessed value to 5%, 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 10% to 5%. If approved by the 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 and have not received a homestead exemption in the previous three years to receive an additional homestead exemption equal to 50% of the just value of the homestead property. The amount of the exemption cannot exceed \$500,000. The additional exemption is reduced each succeeding year by the greater of 20 percent of the initial exemption or the Save Our Homes Benefit (the difference between just value and assessed value determined under SOH).

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

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

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 \$271,542.24.¹⁸

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Since this amendment requires voter approval, the Revenue Estimating Conference adopted an indeterminate negative estimate for this joint resolution. However, should this amendment be approved by the voters, the Revenue Estimating Conference has determined that the statewide impact on school taxes, at current millage rates, would be:

FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
-\$34 million	-\$64 million	-\$95 million	-\$127 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
-\$109.7 million	-\$233.6 million	-\$348.1 million	-\$460.9 million

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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 no less than 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 each year as the exemption is reduced. Other property owners in the taxing jurisdiction may pay higher taxes, if the jurisdiction adjusts the millage rate to offset the loss to the tax base.

Owners of existing non-homestead residential rental and commercial real property may experience property tax savings and will not see their taxes increase significantly in a single year due to the change in the assessment increase limitation from 10% to 5%. 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 pay higher taxes than comparable properties that have not changed ownership or undergone significant improvements.

D. FISCAL COMMENTS:

Public school funding is tied to property taxes through 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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

¹⁸ Department of State, *Senate Joint Resolution 1254 Fiscal Analysis* (Feb. 10, 2010)

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

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 this joint resolution are both on the November 2010 ballot.¹⁹

The differences between SJR 532 and this joint resolution are displayed below.

Comparison of SJR 532 (2009) on November Ballot with HJR 655 (2010)

ISSUE	SJR 532	HJR 655	EFFECTS
Reduce limit on nonhomestead property annual assessment increases from 10% to 5%.	Same	Same	
New Homeowner Exemption - eligibility	Have not owned a principal residence during 8-yr. period before the purchase. If married, applies to the purchaser and the spouse.	Have not owned property in the previous 3 years to which the existing homestead exemption applied. Does not mention married couples.	HJR 655 has a higher fiscal impact due to (1) the reduction of the waiting period from 8 to 3 years for existing Florida residents and (2) the elimination of the waiting period for new Florida residents who have not had a Florida homestead exemption in the previous 3 years.
New Homeowner Exemption - amount	25% of just value, \$100,000 limit	50% of just value, \$500,000 limit	Higher fiscal impact due to higher percentage and limit.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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