

By Senators Williams, Grant, Dudley and Brown-Waite

6-1483-98

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Senate Joint Resolution No. ____

A joint resolution proposing an amendment to Section 4 of Article X of the State Constitution, to provide that the homestead exemption from forced sale does not apply to homestead property that is acquired or whose equity value is increased through prepayment of any mortgage debt with intent to defraud creditors.

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

That the following amendment to Section 4 of Article X of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE X

MISCELLANEOUS

SECTION 4. Homestead; exemptions.--

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a

1 municipality; or if located within a municipality, to the
2 extent of one-half acre of contiguous land, upon which the
3 exemption shall be limited to the residence of the owner or
4 his family;

5 (2) personal property to the value of one thousand
6 dollars.

7 (b) These exemptions shall inure to the surviving
8 spouse or heirs of the owner.

9 (c) The homestead shall not be subject to devise if
10 the owner is survived by spouse or minor child, except the
11 homestead may be devised to the owner's spouse if there be no
12 minor child. The owner of homestead real estate, joined by
13 the spouse if married, may alienate the homestead by mortgage,
14 sale or gift and, if married, may by deed transfer the title
15 to an estate by the entirety with the spouse. If the owner or
16 spouse is incompetent, the method of alienation or encumbrance
17 shall be as provided by law.

18 (d) The homestead exemption in this section does not
19 apply to any property to the extent that the homestead is
20 acquired or the equity value of the homestead is increased
21 through the prepayment of any mortgage debt with the intent to
22 hinder, delay, or defraud the creditors of the owners.

23 BE IT FURTHER RESOLVED that the following statement be
24 placed on the ballot:

25 CONSTITUTIONAL AMENDMENT

26 ARTICLE X, SECTION 4

27 HOMESTEAD EXEMPTIONS.--Proposing an amendment to the
28 State Constitution to prohibit the homestead exemption from
29 forced sale from applying to property that is acquired or
30 whose equity value is increased by prepayment of any mortgage
31 debt with the intent to defraud creditors.