

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

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article X of the State Constitution, relating to exemptions of property from forced sale.

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

That the amendment to Section 4 of Article X of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1998:

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

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

1           **(b)** These exemptions do not apply to the extent such  
2 real property is acquired or improved, or the equity value of  
3 such property is increased by prepaying any mortgage debt,  
4 with the intent to defraud creditors.

5           **(c)**~~(b)~~ These exemptions shall inure to the surviving  
6 spouse or heirs of the owner.

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

16           BE IT FURTHER RESOLVED that in accordance with the  
17 requirements of section 101.161, Florida Statutes, the title  
18 and substance of the amendment proposed herein shall appear on  
19 the ballot as follows:

20                           LIMITED EXCEPTION TO PROHIBITION

21                           ON FORCED SALE OF DEBTORS' HOMESTEAD PROPERTY

22           Proposing an amendment to Section 4 of Article X of the  
23 State Constitution to exclude from the exemption from forced  
24 sale any homestead property acquired or improved, or the  
25 equity value of which is increased by prepayment of mortgage  
26 debt, with an intent to defraud creditors.

27  
28  
29  
30  
31