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**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS**

BILL #: CS/HB 573
RELATING TO: Ad Valorem Tax Exemption/Elderly Living
SPONSOR(S): Committee on Local Government & Veterans Affairs, Representatives Gibson & others
TIED BILL(S): CS/HJR 295

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
 - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 6 NAYS 0
 - (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 10 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 573 is implementing language for HJR 295, which proposes an amendment to Article VII, Section 4, of the Florida Constitution. The proposed amendment authorizes counties, in the manner prescribed by general law, to provide for a reduction in the assessed value of homestead property where there has been an increase in the assessed value of that property, due to the construction or reconstruction of the property, in order to provide living quarters for the natural or adopted parents or grandparents of the owner, provided that at least one of said parents or grandparents is age 62 or older. The reduction in value is limited to the lesser of the following:

The increase in value resulting from the construction or reconstruction; or

Twenty percent of the total assessed value of the property as improved.

This bill provides that counties may allow a reduction in assessed value for the construction of living quarters for the parent or grandparent of a property owner or owner's spouse if the parent or grandparent is 62 years of age or older. The bill provides limitations, sets forth application procedures, provides penalties for making a willfully false statement in the application, and provides for the just value of the improvements to be added back to the assessed value of the property when the owner no longer qualifies for the reduction in assessed value.

This bill will be effective on the effective date of the constitutional amendment it implements.

Three amendments adopted by the Council for Smarter Government, which are traveling with the bill, are explained in section V of the analysis.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 4, Article VII, of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value.

Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use. Also, tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.

In addition, effective January 1, 1994, subsection (c) of Section 4, Article VII, of the Florida Constitution provides a limitation to the extent that assessments for homesteads may be changed annually on January 1 of each year. Changes in assessment may not exceed the lower of 3 percent of the assessment for the prior year or the percent change in the Consumer Price Index.

Pursuant to s. 193.155(4)(a), F.S., changes, additions or improvements to homestead property must be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed. Under current law, if the property is a homestead limited by the Save Our Homes amendment, the additional value attributed to the improvement is put on the roll at just value and the cap is separately applied to the existing home and the new construction in future years.

Section 6, Article VII, of the Florida Constitution authorizes an exemption from ad valorem taxation for homestead property used by taxpayers as their permanent residence, as follows:

Subsection (a) provides a basic \$5,000 exemption to all qualified homeowners.

Subsection (b) prohibits the granting of more than one exemption to any one person or the granting of an exemption that is in excess of the total assessed value of the property.

Subsection (c) increases the exemption to \$25,000 for school district levies for all qualified homestead owners and to \$10,000 for all other ad valorem tax levies if the homestead owner has attained age 65 or is totally and permanently disabled and is not entitled to the exemption provided in subsection (d).

Subsection (d) increases the exemption to \$25,000 for non-school district levies. This subsection further provides that the increase is not applicable upon the effective date of any amendment to Article VII, Section 4 of the Florida Constitution that would authorize the assessment of homestead property at a specified percentage of its just value. A third provision of subsection (d) disallows the increased exemption in counties in which the tax roll has not been certified as in compliance with Section 4, Article VII, of the Florida Constitution.

Subsection (e) authorizes the Legislature to give ad valorem tax relief to renters.

Section 196.031, F.S., primarily implements homestead exemption, although other statutory sections provide specific procedures and conditions, e.g., procedures for application for the exemption (s. 196.011, F.S.), the extent of the exemption (s. 196.041, F.S.), and the effect of renting homestead property. Additionally, four sections of Chapter 196, F.S., provide for additional homestead exemptions as follows:

Section 196.075, F.S., provides counties and municipalities with the option of granting an additional \$25,000 exemption to persons 65 and older whose household income does not exceed \$20,000.

Section 196.081, F.S., exempts the homesteads of certain permanently and totally disabled veterans and surviving spouses of certain veterans;

Section 196.091, F.S., exempts the homesteads of disabled veterans confined to wheelchairs; and

Section 196.101, F.S., exempts the homestead of certain totally and permanently disabled persons.

Section 197.242, F.S., establishes the "Homestead Property Tax Deferral Act." Section 197.252, F.S., provides for deferral of ad valorem taxes for qualified individuals. Ad valorem tax deferral is available to any homeowner whose tax burden is greater than five percent of household income, and homeowners over 70 years of age whose tax burden is greater than three percent of household income. Social security income is not included in this calculation. Participation in the tax deferral plan varies by county.

C. EFFECT OF PROPOSED CHANGES:

HB 573 is implementing language for HJR 295, which proposes an amendment to Article VII, Section 4, of the Florida Constitution. The proposed amendment authorizes counties, in the manner prescribed by general law, to provide for a reduction in the assessed value of homestead property where there has been an increase in the assessed value of that property, due to the construction or reconstruction of the property, in order to provide living quarters for the natural or adopted parents or grandparents of the owner, provided that at least one of said parents or grandparents is age 62 or older. The reduction in value is limited to the lesser of the following:

The increase in value resulting from the construction or reconstruction; or

Twenty percent of the total assessed value of the property as improved.

This bill provides that counties may allow a reduction in assessed value for the construction of living quarters for the parent or grandparent of a property owner or owner's spouse if the parent or grandparent is 62 years of age or older. The bill provides limitations, sets forth application procedures, provides penalties for making a willfully false statement in the application, and provides

for the just value of the improvements to be added back to the assessed value of the property when the owner no longer qualifies for the reduction in assessed value.

This bill will be effective on the effective date of the constitutional amendment it implements.

Implementation of this bill will be complicated. Property appraisers are required to assess the just or market value of every property which is deemed to be the price a willing buyer would pay a willing seller. If implemented, this amendment would require that property appraisers value not only the parcel as a whole, but also appraise the value of the improvements separately. This will be complicated because there is no separate market for improvements which the property appraiser could use for comparative purposes.

Moreover, in those cases where assessed and just value of the subject property are not identical before this provision takes affect, such as on homesteaded properties which are protected under the "Save our Homes" provisions, it is not entirely clear how the provisions will interact.

Finally, the bill provides no definition of an "adopted" parent or grandparent.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Section 193.703, F.S., is created to authorize, pursuant to Article VII, Section 4(3), of the Florida Constitution, a county to provide for a reduction in the assessed value of homestead property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adopted parents or grandparents of the owner of the property or of the owner's spouse if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age.

The section provides that a reduction may be granted only to the owner of homestead property where the construction or reconstruction is consistent with local land-development regulations. The reduction in assessed value applies only to construction or reconstruction to an existing homestead that occurred after the effective date of this section and applies only during taxable years during which at least one such parent or grandparent maintains his or her primary place of residence in such living quarters within the homestead property of the owner.

The section provides that a reduction in assessment may be granted only upon an application made annually, upon a form to be adopted by the county property appraiser. The application must be made before March 1 of the year for which the reduction is to be granted. If the property appraiser is satisfied that the property is entitled to a reduction in assessment, the property appraiser must approve the application, and the value of the residential improvements must be excluded from the value of the property for purposes of ad valorem taxation. The value of the reduction may not exceed the increase in value resulting from the construction or reconstruction, or twenty percent of the total assessed value of the property as improved. The section provides that if the owner of a residential property for which a reduction in assessed value has been granted is found to have made any willfully false statement in the application for the reduction, the reduction shall be revoked, the owner is subject to a civil penalty of not more than \$1,000, and the owner shall be disqualified from receiving any such reduction for a period of 5 years. The section also provides that when the property owner no longer qualifies for the reduction in assessed value, the just value of the improvements as of the first January 1 after the improvements were substantially completed must be added back to the assessed value of the property.

Section 2. The section provides that the act shall take effect upon the effective date of an amendment to Section 4 of Article VII of the State Constitution which allows counties to provide for

a reduction in assessed value of living quarters constructed for property owners' parents or grandparents.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

If this provision were implemented by all 67 counties, the fiscal impact to local governments is estimated at -4.5 million dollars.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If this provision was enacted and implemented, property owners constructing living quarters for their parent or grandparent who is 62 years old or older would enjoy a reduced ad valorem assessment.

D. FISCAL COMMENTS:

This provision would shift the tax burden to other ad valorem taxpayers and could result in a tax increase for those other taxpayers as local governments seek to keep their revenues constant.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Article VII, section 18(b), of the Florida Constitution provides:

"Except upon approval of each house of the Legislature by two-thirds of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989."

However, laws of insignificant fiscal impact (\$1.6 million) are exempt from this provision.

HB 573, allows, but does not require, a county to provide for a reduction in the assessed value of residential property meeting specified requirements. As a result, the bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Council for Smarter Government

On March 29, 2001, the Council for Smarter Government considered CS/HB 573, adopted three amendments, and passed the bill as amended. The amendments, which are traveling with the bill, are explained below.

Amendment #1

On page 1, line 26, the amendment deletes the word "adopted" and inserts the word "adoptive" to conform to standard English usage. "Adoptive" is used to refer to a parent or grandparent who has adopted a child.

Amendment #2

On page 2, lines 4 through 6, the amendment deletes said lines and inserts new language. This is a technical amendment that clarifies the construction or reconstruction must occur after the effective date of this section, not the existence of the homestead.

Amendment #3

On page 3, line 3, before the word "just", the amendment inserts the words "previously excluded" to clarify that only the excluded portion of the just value of the improvement is to be added back once the owner no longer qualifies for the exemption.

Committee on Local Government & Veterans Affairs

On March 20, the Committee on Local Government & Veterans Affairs considered HB 573, adopted a strike-everything amendment, and passed the bill as a committee substitute. The committee substitute differs from HB 573 in the following ways:

- Replaces references to "residential" with "homestead" to clarify that the bill applies only to homestead property.
- Clarifies that the construction or reconstruction must be consistent with local land-development regulations.
- Clarifies that the reduction in assessment applies only to construction or reconstruction of an existing homestead.
- Changes the application deadline from April 1 to March 1.
- Limits the value of the allowed reduction to the lesser of the increase in value resulting from the construction or reconstruction; or twenty percent of the total assessed value of the property as improved.
- Provides that when the property owner no longer qualifies for the reduction in assessed value, the just value of the improvements as of the first January 1 after the improvements were substantially completed must be added back to the assessed value of the property.

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

Kama Monroe

Staff Director:

Greg Turbeville

AS REVISED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Thomas L. Hamby, Jr.

Staff Director:

Joan Highsmith-Smith

AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Thomas L. Hamby, Jr.

Council Director:

Don Rubottom