

STORAGE NAME: h0317s1a.sgc.doc
DATE: January 31, 2002

**HOUSE OF REPRESENTATIVES
SMARTER GOVERNMENT COUNCIL
ANALYSIS**

BILL #: CS/HJR 317
RELATING TO: Homestead Property/Elderly Housing
SPONSOR(S): Committee on Local Government & Veterans Affairs and Representative Gibson
TIED BILL(S): CS/HB 313

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 11 NAYS 0
- (2) FISCAL POLICY AND RESOURCES YEAS 9 NAYS 0
- (3) SMARTER GOVERNMENT COUNCIL YEAS 12 NAYS 0
- (4)
- (5)

I. SUMMARY:

CS/HJR 317 is a House Joint Resolution proposed to amend Article VII, Section 4, of the Florida Constitution. The Resolution 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 adoptive 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.

The resolution is not self-executing.

This resolution would be on the ballot and submitted to the electors at the next general election, in November of 2002. Since no effective date is provided in the bill, this amendment would be effective January 7, 2003, if approved by the voters in November of 2002.

In addition, this amendment would make corrections in the punctuation and numbering scheme of the currently existing language of Article VII section 4 of the Florida Constitution.

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"/> |

See "Fiscal Comments" section of the analysis.

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 noncommercial 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 Constitution¹ 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).

¹ This provision is commonly referred to as the "Save Our Homes" amendment.

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:

CS/HJR 317 is a House Joint Resolution proposed to amend Article VII, Section 4, of the Florida Constitution. The Resolution, which provides for a reduction in the assessed value of certain homestead properties, is not self-executing, but would require general law implementation by the Legislature. The resolution authorizes the Legislature to pass a general law which allows counties to provide a reduction in the assessed value of any homestead 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 adoptive 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.

Implementation of the amendment 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.

Finally, this amendment would correct some errors in punctuation and numbering within the currently existing portions of Article VII, Section 4, of the Florida Constitution.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Division of Elections would incur an insignificant cost to advertise the proposed constitutional amendment twice in a newspaper of general circulation in each county prior to the 2002 general election.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Impact Conference's has estimated that if this provision is enacted and implemented by all 67 counties, the fiscal impact to local governments would be -4.5 million dollars.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If this provision is enacted and implemented, property owners constructing living quarters for their parent or grandparent who is 62 years old or older will enjoy a reduced ad valorem assessment. The bill may result in more individuals housing their elderly parents or grandparents within their homestead as an alternative to other arrangements, such as placing their parents or grandparents in an assisted living facility or nursing home.

D. FISCAL COMMENTS:

If implemented, this provision may 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:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

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

As a House joint resolution proposing an amendment to the Florida Constitution, the provisions of Article VII, Section 18 of the Florida Constitution do not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On November 27, 2001, the Committee on Local Government & Veterans Affairs considered HJR 317, adopted two amendments, and passed the joint resolution as a committee substitute. The committee substitute differs from the original filed resolution in the following ways:

- CS/HJR 317 replaces the word "adopted" with the word "adoptive" to conform to Standard English usage. "Adoptive" is used to refer to a parent or grandparent who has adopted a child.
- CS/HJR 317 replaces the ballot language in HJR 317 with more descriptive ballot language.

VII. SIGNATURES:

COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Thomas L. Hamby, Jr.

Joan Highsmith-Smith

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AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Staff Director:

Kama Monroe

Lynne Overton

AS FURTHER REVISED BY THE SMARTER GOVERNMENT COUNCIL:

Prepared by:

Staff Director:

Thomas L. Hamby, Jr.

Don Rubottom