

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HJR 1571 CS Assessment of Newly Established Homestead Property after Eminent Domain Taking of Previous Homestead Property  
**SPONSOR(S):** Rubio  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Local Government Council</u>	<u>8 Y, 0 N</u>	<u>Camechis</u>	<u>Hamby</u>
2) <u>Justice Council</u>	<u>11 Y, 0 N, w/CS</u>	<u>Camechis</u>	<u>De La Paz</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

This joint resolution proposes to amend the Florida Constitution's "Save Our Homes" property tax protections to provide that, when a person's homestead property in this state is taken by power of eminent domain and within two years the person establishes another property as homestead property, the newly established homestead property must be initially assessed at less than just value, as provided by general law. The difference between the new homestead property's just value and its assessed value in the first year the homestead is established may not exceed the difference between the previous homestead property's just value and its assessed value in the year the homestead property was taken by eminent domain. In addition, the assessed value of the new homestead property must equal or exceed the assessed value of the previous homestead property. Thereafter, the homestead property must be assessed as provided by the Constitution.

The proposed amendment will be submitted to the electors at the next general election or at an earlier special election specifically authorized by law for that purpose. If approved by the voters, this amendment will take effect January 2, 2007, and will apply to property tax valuations for the 2008 tax year. If approved by the voters, the proposed amendment will require enactment of implementing legislation.

Pursuant to Article XI, section 1 of the State Constitution, amendments to the constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. The proposed amendment must then be submitted to the electors at the next general election held more than ninety days after the joint resolution is filed with the custodian of state records, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide for lower taxes: This joint resolution proposes to amend the Florida Constitution to provide “portability” of the Save Our Homes ad valorem property tax protections if a homestead property is taken by eminent domain by any entity authorized to exercise the power of eminent domain in Florida.

#### B. EFFECT OF PROPOSED CHANGES:

##### Introduction

In 1992, Florida voters approved the popularly named “Save Our Homes” amendment to the State Constitution to limit the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. The amendment also provided for a reassessment of homestead property at just value after any change of ownership.

This joint resolution proposes to amend the Florida Constitution to provide “portability” of the Save Our Homes ad valorem property tax protections if a homestead property is taken by eminent domain by any entity authorized to exercise the power of eminent domain in Florida. The amendment may limit the growth in the amount of revenue generated from property taxes absent an adjustment in millage rates, while providing homeowners protection from increased property taxes if a homeowner’s property is taken by eminent domain.

##### Current Situation

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03 (the last year for which published fiscal information is available), property taxes accounted for 31 percent of county governmental revenue (i.e., \$6.3 billion), and almost 20 percent of municipal government revenue (i.e., \$2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied \$8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value. Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property.

In 1992, Florida voters approved the so-called “Save Our Homes” amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It also provides for a reassessment of homestead property at just value after any change of ownership. The “Save Our Homes” constitutional amendment, originally proposed as a way to protect homeowners from being forced to sell their homes because of escalating property taxes caused by assessment increases, is now seen by some as keeping people from selling their homes and buying another home because of substantially higher property taxes resulting from the constitutionally required reassessment upon change in ownership.

Largely due to the recent surge in housing values and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in 2004. These annual property tax increases are twice as high as the 5 percent average increase

experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990. Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend. However, the differential between the actual millage rate and the so-called "roll back rate" (i.e., the millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, than it was from 1990 to 1999. The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the "Save Our Homes" provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2005, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision grew by \$81 billion over the previous year compared to \$1.7 billion removed as a result of the homestead exemption.

### **Effect of Proposed Changes**

This joint resolution proposes to amend the Florida Constitution's "Save Our Homes" property tax protections to provide that, when a person's homestead property in this state is taken by power of eminent domain and within two years the person establishes another homestead property, the newly established homestead property must be initially assessed at less than just value, as provided by general law. The difference between the new homestead property's just value and its assessed value in the first year the homestead is established may not exceed the difference between the previous homestead property's just value and its assessed value in the year the homestead property was taken by eminent domain. In addition, the assessed value of the new homestead property must equal or exceed the assessed value of the previous homestead property. Thereafter, the homestead property must be assessed as provided by the Constitution.

The proposed amendment will be submitted to the electors at the next general election or at an earlier special election specifically authorized by law for that purpose. If approved by the voters, this amendment will take effect January 2, 2007, and will apply to property tax valuations for the 2008 tax year. If approved by the voters, the proposed amendment will require enactment of implementing legislation.

C. SECTION DIRECTORY: Not applicable.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: None.
2. Expenditures: Publication costs incurred by the Department of State in informing the public of this proposed committee amendment would be an estimated \$50,000, assuming the ballot summary contains 75 or less words. Please see Fiscal Comments for additional information.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: The amendment may limit the growth in the amount of revenue generated from property taxes absent an adjustment in millage rates, while providing homeowners protection from increased property taxes if a homeowner's property is taken by eminent domain.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: The amendment may limit the growth in the amount of revenue generated from property taxes absent an adjustment in millage rates, while providing homeowners protection from increased property taxes if a homeowner's property is taken by eminent domain.

D. FISCAL COMMENTS: None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: The mandates provisions of Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

2. Other: Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: Amendments or revisions to the Florida Constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.<sup>1</sup> Passage in a committee requires a simple majority vote. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.<sup>2</sup> Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.<sup>3</sup>

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the Justice Council adopted one amendment to this resolution. As filed, the resolution required a replacement homestead to be "purchased" in order for the Save Our Homes ad valorem tax protection to be applied to the replacement homestead. This amendment will also allow the transfer of Save Our Home tax protections if homestead status is transferred to second home owned by the person whose property was taken or otherwise established without an actual "purchase" of property.

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<sup>1</sup> See Art. XI, Sec. 1, Fla. Const.

<sup>2</sup> See Art. XI, Sec. 5(a), Fla. Const. The 2006 general election is on November 7, 2006.

<sup>3</sup> See Art. XI, Sec. 5(c), Fla. Const.