

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Community Affairs Committee

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BILL: CS/SJR 1692

INTRODUCER: Community Affairs Committee and Senator Clary

SUBJECT: Homestead/Assessed Value/Age 62

DATE: March 21, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Fav/CS
2.	_____	_____	GE	_____
3.	_____	_____	GA	_____
4.	_____	_____	WM	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

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## I. Summary:

This committee substitute (CS) for SJR 1692 proposes to amend Art. VII, s. 4, Florida Constitution, to authorize a county to prohibit, by ordinance, an increase in the assessed value of homestead property located in that county which is owned by any person who is age 62 or older and whose household income does not exceed \$25,000.

This CS amends, upon the approval of the electorate, Section 4 of Article VII of the State Constitution.

## II. Present Situation:

**Property Taxation in Florida** – The ad valorem tax or “property tax” is an annual tax levied by local governments based on the value of real and tangible personal property as of January 1 of each year. The taxable value of real and tangible personal property is the fair market value of the property adjusted for any exclusions, differentials or exemptions. Tax bills are mailed in November or each year based on the previous January 1<sup>st</sup> valuation and payment is due by the following March 31.

Ad valorem tax continues to be a major source of revenue for local governments in Florida. In FY 2002-03 (the last year for which certain fiscal information is available) property taxes constituted 31 percent of county governmental revenue (\$6.3 billion)<sup>1</sup>, and 17 percent of municipal governmental revenue (\$2.5 billion), making it the largest single source of tax or general revenue for general purpose governments in Florida. In addition, the property tax is the

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<sup>1</sup> Information provided by the Legislative Committee on Governmental Relations (LCIR), from the LCIR database at <http://fcn.state.fl.us/lcir/cntyfiscal/corevprofsw.xls>.

primary local revenue source for school districts. In FY 2003-04, school districts levied \$8.4 billion in property taxes for K-12 education.<sup>2</sup>

The property tax is important not only because of the revenue it generates, but because it is the only taxing authority not preempted by the Florida Constitution to the state.<sup>3</sup> However, the property tax is not an unlimited source of revenue. The Florida Constitution caps the millage rates assessed against the value of the property.<sup>4</sup> In addition, the Florida Constitution grants property tax relief in the form of valuation differentials,<sup>5</sup> assessment limitations,<sup>6</sup> and exemptions,<sup>7</sup> including homestead exemptions.<sup>8</sup>

<sup>2</sup> See 2005 Florida Tax Handbook, p. 135.

<sup>3</sup> See Art. VII, s. 1, Fla. Const.

<sup>4</sup> See Art. VII, s. 9, Fla. Const. For counties, municipalities, and school districts, the cap is 10 mills. The millage rate for water management districts is capped at 1 mill, except that it is 0.05 mills for the Northwest Florida Water Management District. The millage rate for other special districts is as established by law. A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

<sup>5</sup> Article VII, s. 4 of the Florida Constitution, authorizes valuation differentials, which are based on character or use of property, such as agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes. This section also provides that tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities are authorized to assess historical property based solely on the basis of its character or use.

<sup>6</sup> Article VII, s. 4(c) of the Florida Constitution, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation. The statutes also provide for differential treatment of specific property, to include pollution control devices (s. 193.621, F.S.) and building renovations for the physically handicapped (s. 193.623, F.S.).

<sup>7</sup> Article VII, s. 3 of the Florida Constitution, provides authority for the following property tax exemptions:

- All property owned by a municipality and used exclusively by it for municipal or public purposes;
- Portions of property use predominantly for educational, literary, scientific, religious or charitable purposes, as provided in general law;
- Household goods and personal effects, not less than one thousand dollars;
- Property owned by a widow or widower or person who is blind or totally and permanently disabled, not less than five hundred dollars, as provided in general law;
- Property used for community and economic development, by local option and as defined by general law;
- Certain renewable energy source devices and real property on which the device is installed and operated; and
- Historic properties, by local option and as defined by general law.

The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

<sup>8</sup> Article VII, s. 6(a-d) of the Florida Constitution, provides for a \$25,000 homestead exemption. Article VII, s. 6(e) of the Florida Constitution authorizes the Legislature to provide renters who are permanent residents ad valorem tax relief on all ad valorem tax levies. This \$25,000 exemption is implemented in ss. 196.1975(9)(a) and 196.1977, F.S., for certain units in non-profit homes for the aged and certain proprietary continuing care facilities. Article VII, s. 6(f) of the Florida Constitution, authorizes the Legislature to allow counties or municipalities, by ordinance, for the purpose of their respective tax levies, to grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who are 65 years of age whose household income, as defined by general law, does not exceed \$20,000, adjusted for inflation.

In addition, the courts have ruled that property of the federal government, the state, and the counties is immune from, or not subject to, taxation.<sup>9</sup> The courts have further ruled that this immunity extends to property of school districts<sup>10</sup> and certain special districts.<sup>11</sup>

In tax year 2004, the combination of these various forms of property tax relief effectively reduced the taxable value of property in this state by 28 percent.<sup>12</sup> For FY 2005-06, it is estimated that at an aggregate average millage rate of 20.09, the tax revenue loss due to these forms of property tax relief will be \$823 million for agricultural and other valuation differentials, \$4.5 billion for the “Save Our Homes” assessment limitation, and \$2.1 billion for the \$25,000 homestead exemption.<sup>13</sup>

**Homestead Exemptions** - Article VII, s. 6 of the State Constitution authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner. The value of the homestead exemption is currently \$25,000 of the assessed value of the real estate.<sup>14</sup>

**Additional Homestead Exemption for the Elderly** - Article VII, s. 6(f) of the Florida Constitution, authorizes the Legislature to allow counties or municipalities, by ordinance, for the purpose of their respective tax levies, to grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who are 65 years of age whose household income, as defined by general law, does not exceed \$20,000, adjusted for inflation.<sup>15</sup> Currently, 53 counties and 158 municipalities have implemented the additional homestead exemption authorized under this section.<sup>16</sup>

**“Save Our Homes” Assessment Limitation** - Article VII, s. 4 of the Florida Constitution, requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value.<sup>17</sup> However, section 4 also provides exceptions to this requirement, in the form of valuation differentials and assessment limitations. The most significant of which is the “Save Our Homes” assessment limitation. The annual increase in homestead property values is limited to 3 percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value. If there is a change in ownership, the property is to be assessed at its just value on the following January 1. Section 193.155, F.S., implements this assessment limitation.

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<sup>9</sup> See *Park-N-Shop, Inc. v. Sparkman*, 99 So. 2d 571 (Fla. 1957); *Orlando Utils. Comm'n v. Milligan*, 229 So. 2d 262 (Fla. 4th DCA 1969); and *Dickinson v. City of Tallahassee*, 325 So. 2d 1 (Fla. 1975).

<sup>10</sup> See *Dickinson v. City of Tallahassee*, 325 So. 2d 1 (Fla. 1975).

<sup>11</sup> See *Sarasota-Manatee Airport Auth. v. Mikos*, 605 So. 2d 132 (Fla. 2d DCA 1992). Cf. *Canaveral Port Auth. v. Department of Revenue*, 690 So. 2d 1226 (Fla. 1996).

<sup>12</sup> Out of \$ 1,581 billion in just (or market) value, \$465 billion was not taxed. See LCIR database at <http://fcn.state.fl.us/lcir/dataAto?Z.html>.

<sup>13</sup> See 2005 Florida Tax Handbook, p. 139-40.

<sup>14</sup> Implemented in s. 196.031, F.S.

<sup>15</sup> Implemented in s. 196.075, F.S.

<sup>16</sup> Florida Department of Revenue, *Counties and Municipalities Implementing Additional Exemption for Persons 65 and Older Under Section 196.075, F.S.*, February 24, 2006.

<sup>17</sup> See *Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965).

**III. Effect of Proposed Changes:**

This CS would, subject to approval by the electorate, amend Art. VII, s. 4, of the Florida Constitution, provide authority for a county to prohibit, by ordinance and in the manner prescribed by general law, an increase in the assessed value of homestead property located in that county which is owned by any person who has attained age 62 and whose annual household income, as defined by general law, does not exceed \$25,000, as adjusted in accordance with general law.

The CS includes ballot language and provides that the amendment shall be submitted to the electors of Florida for approval or rejection at the general election in November 2006.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

Article XI, Section 1 of the State Constitution provides the Legislature the authority to propose amendments to the 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.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

If approved by the electorate, counties could prohibit an increase in the assessed value of homestead property located in that county which is owned by any person who is age 62 or older and whose annual household income does not exceed \$25,000. All local government taxing authorities (counties, cities, school districts, and special districts) would not realize the tax revenue benefit of increasing assessments on properties whose owners qualify for the assessment cap. Any reduction in the property tax base will likely result in a corresponding shift in property tax burden to other property tax owners.

**B. Private Sector Impact:**

If approved by the electorate, counties could prohibit an increase in the assessed value of homestead property located in that county which is owned by any person who is age 62 or older and whose annual household income does not exceed \$25,000. Persons qualifying for such an exemption would generally pay the same property taxes in years subsequent to qualifying for the assessment cap, absent increases in millage rates.

**C. Government Sector Impact:**

The Division of Elections estimates that the cost to advertise the proposed constitutional amendment twice in a newspaper of general circulation in each county prior to the 2006 general election is approximately \$50,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Article VII, s. 6(f) of the Florida Constitution provides authority for counties or cities to grant an additional homestead tax exemption of up to \$25,000 to senior homeowners whose household income does not exceed \$20,000, adjusted for inflation. Section 196.075, F.S., implements this provision and establishes the guidelines for the annual change in household income.

For consistency and ease in annual calculation, it may be practical to link the annual income adjustment required in this proposed constitutional amendment to the existing annual income adjustment for the senior homestead exemption currently provided for in statute.



## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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