

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 353 CS Increased Homestead Exemption
SPONSOR(S): Lopez-Cantera and others
TIED BILLS: **IDEN./SIM. BILLS:** HB 7261

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	5 Y, 3 N, w/CS	Monroe	Diez-Arguelles
2) Local Government Council			
3) Fiscal Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill is a joint resolution, proposing amendments to the Florida Constitution to change the taxable value of homestead property.

Homestead Exemption - This proposal would raise the current homestead exemption from \$25,000 to \$50,000. This increase would be phased in over ten years. Thus, the homestead exemption would be increased to \$27,500 in 2007; \$30,000 in 2008; \$32,500 in 2009; \$35,000 in 2010; \$37,500 in 2011; \$40,000 in 2012; \$42,500 in 2013; \$45,000 in 2014; \$47,500 in 2015; and \$50,000 in 2016. Thereafter, the homestead exemption would increase by the percentage change in the Consumer Price Index.

Save Our Homes – This proposal would make three significant changes to how “Save Our Homes” currently operates. Under Article VII, s. 4, of the Florida Constitution, the “Save Our Homes” provision limits annual increase in homestead property values 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.

First, the bill would limit the differential between the assessed and just value of a homesteaded property to \$100,000 on January 1, 2007.

Second, property owners would be allowed to transfer the value of their differential, up to \$100,000, with them when they move within the same county, provided that the new homestead may not have a lower assessed value than the old homestead.

Finally, property owners with homesteads established before January 1, 2007 would be “grandfathered in” and the maximum differential on their homesteads would be the differential that existed on January 1, 2007, plus \$100,000.

Schedule - This proposal would also create Section 26 of Article XII in the State Constitution which would specifically provide that the provisions of the constitutional amendment would take effect January 1, 2007.

The Revenue Estimating Conference has yet to estimate the fiscal impact of this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes - Taxpayers who have homestead property will benefit from the increase in the homestead exemption and the transferability of the Save Our Homes differential by paying lower taxes. However, this will be a shift in who bears the tax burden and other taxpayers, such as those who do not have a homestead and those who are affected by the limitation on the Save Our Homes benefit, will bear an increased tax burden.

B. EFFECT OF PROPOSED CHANGES:

Background:

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 of each year based on the previous January 1st 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)¹, 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 primary local revenue source for school districts. In FY 2003-04, school districts levied \$8.4 billion in property taxes for K-12 education.²

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.³ 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.⁴ In addition, the Florida Constitution grants property tax relief in the form of valuation differentials,⁵ assessment limitations,⁶ and exemptions,⁷ including the homestead exemptions.

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

² See 2005 Florida Tax Handbook, p. 135.

³ See Art. VII, s. 1, Fla. Const.

⁴ 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.

⁵ 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.

⁶ 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.).

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

Homestead Exemption - The provision which is commonly referred to as the Homestead Exemption, is contained in Article VII, s. 6(a-d) of the Florida Constitution. It provides a \$25,000 homestead exemption for all owners of homestead property provided that the tax roll in their county has been approved. The \$25,000 amount was established in 1982 and has not been changed since then. If the amount of the homestead exemption had been increased by the percentage change in the Consumer Price Index since 1982, the current value of the Homestead Exemption would be \$50,596.

In addition, 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. This is typically referred to as the Increased Homestead Exemption for Low Income Seniors.

Finally, 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. However, this provision has been minimally implemented.⁸

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.⁹ The courts have further ruled that this immunity extends to property of school districts¹⁰ and certain special districts.¹¹

In tax year 2006, the combination of these various forms of property tax relief is estimated to effectively reduce the taxable value of real property in this state by 31.9 percent.¹² For the 2006 tax year, it is estimated that at an aggregate average millage rate of 19.54, the tax revenue loss due to these forms of property tax relief will be \$1.1 billion for agricultural and other valuation differentials; \$6.7 billion for the "Save Our Homes" assessment limitation; and \$2.2 billion for the \$25,000 homestead exemption.¹³

Any additional reduction in the property tax base will result in a corresponding shift in property tax burden to other property tax owners.¹⁴

"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

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- All property owned by a municipality and used exclusively by it for municipal or public purposes;
 - Portions of property used 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.

⁸ 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.

⁹ 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).

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

¹¹ 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).

¹² 2006 estimates are \$ 2,148.5 billion in just value, and \$ 1,463.4 billion in taxable value. Revenue Estimating Conference, Ad Valorem Estimating Conference, March 6, 2006. See EDR website at <http://edr.state.fl.us/conferences/advalorem/adval0306.pdf>

¹³ See 2005 Florida Tax Handbook, p. 137-8.

¹⁴ Generally, local governments respond to reductions in the property tax base in one of three ways: decrease their budgets, replace the lost revenue with other sources of revenue, or increase the millage rate on the remaining taxable property.

to mean fair market value.¹⁵ 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.

The “Save Our Homes” assessment limitation has benefited Florida homestead property owners in the form of reduced ad valorem taxes. However, the assessment limitation has had an unforeseen consequence. Rapidly escalating property values in many Florida communities have resulted in an environment where homeowners may be reluctant to sell their property and purchase new homes due to the often substantial increase in property taxes.

Proposed Changes

This bill is a joint resolution, proposing amendments to the Florida Constitution to change the taxable value of homestead property.

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Schedule - This proposal would also create Section 26 of Article XII in the State Constitution which would specifically provide that the provisions of the constitutional amendment would take effect January 1, 2007.

C. SECTION DIRECTORY:

Not Applicable

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

¹⁵ See *Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965).

2. Expenditures:

Non-Recurring

FY 2006-07

Department of State, Division of Elections
Publications Costs¹⁶

\$50,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill should have a major impact on local revenue sources; however, the bill has yet to be reviewed by the Revenue Estimating Conference.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will result in a shift of tax burden from certain homestead property owners to all other taxpayers.

D. FISCAL COMMENTS:

Article XI, s. 5(d) of the State Constitution requires the state to publish the proposed amendment along with notice of the date of the election at which it will be submitted before electors in one newspaper in each county in which a newspaper is published once in the tenth week and once in the sixth week immediately preceding the week the election is held. The Division of Elections estimates this cost to be approximately \$50,000 to meet the requirements of this provision.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to Joint Resolutions.

2. Other:

Article XI, s. 1 of the Florida 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.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

¹⁶ See Art. XI, Sec. 5(d), Fla. Const.
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IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 31, 2006, the Committee on Finance and Tax adopted a strike everything amendment to the bill. This analysis reflects that amendment. As originally drafted, this bill simply raised the homestead exemption from \$25,000 to \$50,000, without phasing in the exemption.