

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Finance and Tax Committee

BILL: CS/SJR 3034

INTRODUCER: Senator Atwater

SUBJECT: Authorizing an exemption from ad valorem taxation for tangible personal property

DATE: April 17, 2007                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Johansen	FT	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

CS/SJR 3034 amends the Florida Constitution to:

- create an exemption for tangible personal property valued less than \$25,000 per individual return;
- authorize limited portability of a homestead property owner’s Save Our Homes differential; and
- create an additional homestead exemption for first-time homestead property owners.

This Senate Joint Resolution substantially amends sections 3, 4, and 6 of Art. VII of the State Constitution.

**II. Present Situation:**

***Tangible Personal Property***

The Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property,<sup>1</sup> and it establishes various requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district<sup>2</sup> and that property must be assessed at just value unless the Constitution provides for a different assessment standard.<sup>3</sup>

<sup>1</sup> Sections 1(a) and 9(a), Art. VII, State Constitution.

<sup>2</sup> Section 2, Art. VII, State Constitution.

<sup>3</sup> Section 4, Art. VII, State Constitution.

Tangible personal property is singled out for special treatment by the following constitutional provisions:

*SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.--*

*(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.*

*SECTION 3. Taxes; exemptions.--*

*(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.*

*(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.*

*SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:*

*(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.*

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation.

Section 193.052, F.S. requires that tax returns be filed for tangible personal property in the county where the property is located. The Department of Revenue is directed to promulgate rules to ensure that all railroad and utility property is properly returned in the appropriate county. However, the evaluating or assessing of utility property in each county is the duty of the property appraiser. Department of Revenue form DR-405 requires that a separate return must be filed by a taxpayer for each location in the county, except for owners of vending machines, propane tanks and similar free-standing property at many locations, who may submit a single return.

In 2006, 1,293,043 tangible personal property tax returns were filed, with a total taxable value of \$103.7 billion. The 997,109 returns with taxable amounts less than \$25,000 accounted for only \$4.5 billion of the total taxable value.

## ***Save Our Homes***

In 1992, Florida voters approved an amendment to s. 4, Art. VII of the State Constitution which is popularly known as the Save Our Homes amendment. Beginning with the 1994 tax roll, this amendment limited the increase in assessment of homestead property to the Consumer Price Index or 3 percent, whichever is lower. The Save Our Homes limitation first applied to the January 1, 1995 assessment.

After any change in ownership, as provided by general law, homestead property must be assessed at just value as of January 1 of the following year. Thereafter the property is subject to the Save Our Homes assessment limitation. New homestead property must be assessed at just value as of January 1 of the first year the property owner establishes homestead. Thereafter the property is subject to the Save Our Homes assessment limitation. Changes, additions, reductions, and improvements to homestead property are assessed as provided by general law, but after its initial assessment this property is subject to the Save Our Homes assessment limitation. If homestead status is terminated the property is assessed at just value.

### **Purpose of the Save Our Homes Amendment**

In *Smith v. Welton*,<sup>4</sup> the First District Court of Appeal said:

The purpose of the amendment is to encourage the preservation of homestead property in face of ever increasing opportunities for real estate development, and rising property values and assessments. The amendment supports the public policy of this state favoring preservation of homesteads. Similar policy considerations are the basis for the constitutional provisions relating to homestead tax exemption, exemption from forced sale, and the inheritance and alienation of homestead.

### **Impact of Save Our Homes**

In the twelve years since Save Our Homes first limited the assessment of homestead property, its impact on the assessed value of this property has far exceeded the original expectations of such impact. In 1997, the second year of assessment limitations, Save Our Homes reduced the assessed value of homestead property by 3 percent. In 2006 Save Our Homes reduced homestead just value by more than 38 percent. The \$405 billion reduction from Save Our Homes in 2006 equals approximately 25 percent of total taxable value.

### ***Homestead Exemption***

Subsection 6(a), Art. VII of the Florida Constitution provides that every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt for taxation up to the assessed value of five thousand dollars. Subsection 6(b) provides that only one exemption shall be allowed to any individual or family unit. Subsections 6(c) and (d) provide that under certain

---

<sup>4</sup> 710 So. 2d 135, 137 (Fla. App. 1998)

conditions the homestead exemption is \$25,000, which is, in fact, the effective homestead exemption. Subsection (f) provides that, by local option, an additional homestead exemption of up to \$50,000 is available to low-income seniors, and subsection (g) provides an ad valorem tax discount for homestead property owned by disabled veterans who were Florida residents at the time they entered military service.

In 2006 there were 4,368,937 homesteads in Florida, and the homestead exemption reduced the 2006 tax roll by \$108.9 billion.

### **III. Effect of Proposed Changes:**

This Senate Joint Resolution places on the ballot an amendment to the State Constitution that:

- Creates a \$25,000 exemption for each tangible personal property tax return;
- Allows limited portability of the Save Our Homes assessment differential to a new homestead; and
- Grants first-time homebuyers an additional \$25,000 homestead exemption which will be offset as their Save Our Home differential increases.

SJR 3034 creates subsection (f) of s. 3, Art. VII, State Constitution, which authorizes by general law an exemption of up to \$25,000 on each tangible personal property tax return.

The joint resolution amends s. 4(c), Art. VII, State Constitution (the Save Our Homes amendment) to allow a Save Our Homes differential of up to \$500,000 to be transferred to a new homestead within 2 years of giving up a prior homestead. The assessed value of the new homestead will increase by 10 percent annually until it is equal to the just value of the new homestead at the time it was established, increased annually since that time by the Consumer Price Index or 3 percent, whichever is lower. This results in a lower assessment for a period of years that depends upon the size of the differential that is transferred and the just value of the new homestead. The assessed value of the new homestead must be at least as great as the assessed value of the prior homestead.

The joint resolution amends s. 6, Art. VII, State Constitution to repeal obsolete language and provide an additional \$25,000 homestead exemption to first-time homebuyers. This exemption will decrease each year by the amount of the homestead's accumulated Save Our Home differential and disappears when the Save Our Home differential is \$25,000 or greater. The additional exemption reduces the taxable value of the homestead for a period of years that is dependent on its initial just value and its rate of appreciation.

### **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:

In 2006 the Office of Economic and Demographic Research (EDR) contracted with Walter Hellerstein, W. Scott Wright and Charles C. Kearns of Sutherland Asbill & Brennan LLP for a legal analysis of the most commonly referenced legislative proposals regarding property taxes. The report focused primarily on the federal constitutional issues raised by the proposed alternatives to the Save Our Homes amendment, which limits property tax assessment increases on homestead property. The study did not examine specifically the limited portability proposal included in this Senate Joint Resolution.

The key findings were that portability may provide opportunities for legal challenge based on the Commerce Clause, the "Interstate" Privileges and Immunities Clause, and the Right to Travel. If portability is adopted and later held to be unconstitutional, the discrimination or burden it created would have to be eliminated on a prospective basis and remedied through meaningful backward-looking relief on a retrospective basis which could entail either a refund or any other remedy that cures the discrimination, e.g., taxing the previously favored class on a retroactive basis.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

If this resolution is approved by the voters, the tangible personal property exemption is expected to reduce the 2009 tax base by \$12.2 billion, which translates into a local revenue decrease of \$226 million at current millage rates.

If approved by the voters, the portability provision is expected to reduce local revenue by \$148 million in 2009-10 and \$239 million in 2010-11, at current millage rates.

If approved by the voters, the additional homestead for first-time homebuyers is expected to reduce local revenue by \$62.5 million in 2009-10 and \$103 million in 2010-11, at current millage rates.

To the extent that local governments are limited in their ability to levy ad valorem taxes these revenue impacts could be reduced.

B. Private Sector Impact:

Approximately 1 million tangible person property taxpayers, 77 percent of all such taxpayers, will be totally exempt from this tax with a \$25,000 exemption. All non-exempt taxpayers will save up to \$450 per return, at current millage rates.

Portability benefits vary by the size of the differential and the value of the new homestead.

- A homeowner with a \$50,000 SOH differential who buys a new home with a just value of \$300,000 will get “portability benefits” for 3 years. Total tax savings over that period, at 16 mills, equals approximately \$1,500.
- A homeowner with a \$200,000 SOH differential who buys a new home with a just value of \$500,000 will get “portability benefits” for 8 years. Total tax savings over that period, at 16 mills, equals approximately \$15,000.
- A homeowner with a \$500,000 SOH differential who buys a new home with a just value of \$750,000 will get “portability benefits” for 16 years. Total tax savings over that period, at 16 mills, equals approximately \$89,000.

The benefits of the additional homestead exemption for first-time homebuyers, Homestead Plus, also depend on the value and appreciation of the homestead property.

- A first-time homebuyer who buys a new home with a just value of \$100,000 will get homestead plus for 8 years. Total tax savings over that period, at 16 mills, equals approximately \$1,900.
- A first-time homebuyer who buys a new home with a just value of \$200,000 will get homestead plus for 5 years. Total tax savings over that period, at 16 mills, equals approximately \$1,138.
- A first-time homebuyer who buys a new home with a just value of \$300,000 will get homestead plus for 4 years. Total tax savings over that period, at 16 mills, equals approximately \$843.

**C. Government Sector Impact:**

The taxable value of property will be reduced by this amendment, decreasing the revenue-raising potential of a given millage rate. To the extent that a local government is at its constitutional millage cap or is otherwise limited in its ability to levy ad valorem taxes, its revenue will be reduced.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

None.

---

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---