

House Joint Resolution

A joint resolution proposing an amendment to Section 25 of Article I and Section 4 of Article VII of the State Constitution to expand the Taxpayers' Bill of Rights to entitle a person a full and fair opportunity to challenge the property appraiser's assessment of the value of property, specify criteria for such challenges, require the Legislature to adopt implementing legislation by a certain date, and provide an additional limitation on changes in assessments of homestead property.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Section 25 of Article I and Section 4 of Article VII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 25. Taxpayers' Bill of Rights.--

(a) By general law the legislature shall prescribe and adopt a Taxpayers' Bill of Rights that, in clear and concise language, sets forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers under the laws of this state. ~~This section shall be effective July 1, 1993.~~

HJR 1173

2009

29 (b) (1) Every taxpayer or other person contesting the
 30 assessment of ad valorem taxes is entitled to a full and fair
 31 opportunity to challenge a property appraiser's assessment of
 32 the value of the property for purposes of all taxation.

33 (2) In any challenge to an assessment brought by the
 34 taxpayer or person contesting the assessment:

35 a. The property appraiser's assessment shall enjoy no
 36 presumption of correctness and the property appraiser shall bear
 37 the burden of proving by a preponderance of the evidence that
 38 the assessment does not exceed the property's just value.

39 b. Evidence that an assessment is based upon appraisal
 40 practices that differ from those applied to comparable property
 41 within the state shall be relevant in determining whether the
 42 assessment exceeds just value.

43 (c) After voter approval of this amendment, the
 44 legislature shall adopt legislation implementing this section
 45 and having an effective date no later than January 1, 2012.

46 ARTICLE VII

47 FINANCE AND TAXATION

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

51 (a) Agricultural land, land producing high water recharge
 52 to Florida's aquifers, or land used exclusively for
 53 noncommercial recreational purposes may be classified by general
 54 law and assessed solely on the basis of character or use.

55 (b) As provided by general law and subject to conditions,
 56 limitations, and reasonable definitions specified therein, land

57 used for conservation purposes shall be classified by general
 58 law and assessed solely on the basis of character or use.

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

63 (d) All persons entitled to a homestead exemption under
 64 Section 6 of this Article shall have their homestead assessed at
 65 just value as of January 1 of the year following the effective
 66 date of this amendment. This assessment shall change only as
 67 provided in this subsection.

68 (1)a. Assessments subject to this subsection shall be
 69 changed annually on January 1 ~~1st~~ of each year if the just value
 70 of the property is equal to or greater than the just value of
 71 the property on the preceding January 1; but those changes in
 72 assessments shall not exceed the lower of the following:

73 ~~1.a.~~ Three percent (3%) of the assessment for the prior
 74 year.

75 ~~2.b.~~ The percent change in the Consumer Price Index for
 76 all urban consumers, U.S. City Average, all items 1967=100, or
 77 successor reports for the preceding calendar year as initially
 78 reported by the United States Department of Labor, Bureau of
 79 Labor Statistics.

80 b. If the just value of the homestead is less than the
 81 previous year's just value, its assessment shall not change.

82 (2) No assessment shall exceed just value.

83 (3) After any change of ownership, as provided by general
 84 law, homestead property shall be assessed at just value as of

85 January 1 of the following year, unless the provisions of
 86 paragraph (8) apply. Thereafter, the homestead shall be assessed
 87 as provided in this subsection.

88 (4) New homestead property shall be assessed at just value
 89 as of January 1st of the year following the establishment of the
 90 homestead, unless the provisions of paragraph (8) apply. That
 91 assessment shall only change as provided in this subsection.

92 (5) Changes, additions, reductions, or improvements to
 93 homestead property shall be assessed as provided for by general
 94 law; provided, however, after the adjustment for any change,
 95 addition, reduction, or improvement, the property shall be
 96 assessed as provided in this subsection.

97 (6) In the event of a termination of homestead status, the
 98 property shall be assessed as provided by general law.

99 (7) The provisions of this amendment are severable. If any
 100 of the provisions of this amendment shall be held
 101 unconstitutional by any court of competent jurisdiction, the
 102 decision of such court shall not affect or impair any remaining
 103 provisions of this amendment.

104 (8)a. A person who establishes a new homestead as of
 105 January 1, 2009, or January 1 of any subsequent year and who has
 106 received a homestead exemption pursuant to Section 6 of this
 107 Article as of January 1 of either of the two years immediately
 108 preceding the establishment of the new homestead is entitled to
 109 have the new homestead assessed at less than just value. If this
 110 revision is approved in January of 2008, a person who
 111 establishes a new homestead as of January 1, 2008, is entitled
 112 to have the new homestead assessed at less than just value only

HJR 1173

2009

113 | if that person received a homestead exemption on January 1,
 114 | 2007. The assessed value of the newly established homestead
 115 | shall be determined as follows:

116 | 1. If the just value of the new homestead is greater than
 117 | or equal to the just value of the prior homestead as of January
 118 | 1 of the year in which the prior homestead was abandoned, the
 119 | assessed value of the new homestead shall be the just value of
 120 | the new homestead minus an amount equal to the lesser of
 121 | \$500,000 or the difference between the just value and the
 122 | assessed value of the prior homestead as of January 1 of the
 123 | year in which the prior homestead was abandoned. Thereafter, the
 124 | homestead shall be assessed as provided in this subsection.

125 | 2. If the just value of the new homestead is less than the
 126 | just value of the prior homestead as of January 1 of the year in
 127 | which the prior homestead was abandoned, the assessed value of
 128 | the new homestead shall be equal to the just value of the new
 129 | homestead divided by the just value of the prior homestead and
 130 | multiplied by the assessed value of the prior homestead.
 131 | However, if the difference between the just value of the new
 132 | homestead and the assessed value of the new homestead calculated
 133 | pursuant to this sub-subparagraph is greater than \$500,000, the
 134 | assessed value of the new homestead shall be increased so that
 135 | the difference between the just value and the assessed value
 136 | equals \$500,000. Thereafter, the homestead shall be assessed as
 137 | provided in this subsection.

138 | b. By general law and subject to conditions specified
 139 | therein, the Legislature shall provide for application of this
 140 | paragraph to property owned by more than one person.

HJR 1173

2009

141 (e) The legislature may, by general law, for assessment
 142 purposes and subject to the provisions of this subsection, allow
 143 counties and municipalities to authorize by ordinance that
 144 historic property may be assessed solely on the basis of
 145 character or use. Such character or use assessment shall apply
 146 only to the jurisdiction adopting the ordinance. The
 147 requirements for eligible properties must be specified by
 148 general law.

149 (f) A county may, in the manner prescribed by general law,
 150 provide for a reduction in the assessed value of homestead
 151 property to the extent of any increase in the assessed value of
 152 that property which results from the construction or
 153 reconstruction of the property for the purpose of providing
 154 living quarters for one or more natural or adoptive grandparents
 155 or parents of the owner of the property or of the owner's spouse
 156 if at least one of the grandparents or parents for whom the
 157 living quarters are provided is 62 years of age or older. Such a
 158 reduction may not exceed the lesser of the following:

159 (1) The increase in assessed value resulting from
 160 construction or reconstruction of the property.

161 (2) Twenty percent of the total assessed value of the
 162 property as improved.

163 (g) For all levies other than school district levies,
 164 assessments of residential real property, as defined by general
 165 law, which contains nine units or fewer and which is not subject
 166 to the assessment limitations set forth in subsections (a)
 167 through (d) shall change only as provided in this subsection.

HJR 1173

2009

168 (1) Assessments subject to this subsection shall be
 169 changed annually on the date of assessment provided by law; but
 170 those changes in assessments shall not exceed ten percent (10%)
 171 of the assessment for the prior year.

172 (2) No assessment shall exceed just value.

173 (3) After a change of ownership or control, as defined by
 174 general law, including any change of ownership of a legal entity
 175 that owns the property, such property shall be assessed at just
 176 value as of the next assessment date. Thereafter, such property
 177 shall be assessed as provided in this subsection.

178 (4) Changes, additions, reductions, or improvements to
 179 such property shall be assessed as provided for by general law;
 180 however, after the adjustment for any change, addition,
 181 reduction, or improvement, the property shall be assessed as
 182 provided in this subsection.

183 (h) For all levies other than school district levies,
 184 assessments of real property that is not subject to the
 185 assessment limitations set forth in subsections (a) through (d)
 186 and (g) shall change only as provided in this subsection.

187 (1) Assessments subject to this subsection shall be
 188 changed annually on the date of assessment provided by law; but
 189 those changes in assessments shall not exceed ten percent (10%)
 190 of the assessment for the prior year.

191 (2) No assessment shall exceed just value.

192 (3) The legislature must provide that such property shall
 193 be assessed at just value as of the next assessment date after a
 194 qualifying improvement, as defined by general law, is made to

HJR 1173

2009

195 such property. Thereafter, such property shall be assessed as
 196 provided in this subsection.

197 (4) The legislature may provide that such property shall
 198 be assessed at just value as of the next assessment date after a
 199 change of ownership or control, as defined by general law,
 200 including any change of ownership of the legal entity that owns
 201 the property. Thereafter, such property shall be assessed as
 202 provided in this subsection.

203 (5) Changes, additions, reductions, or improvements to
 204 such property shall be assessed as provided for by general law;
 205 however, after the adjustment for any change, addition,
 206 reduction, or improvement, the property shall be assessed as
 207 provided in this subsection.

208 (i) The legislature, by general law and subject to
 209 conditions specified therein, may prohibit the consideration of
 210 the following in the determination of the assessed value of real
 211 property used for residential purposes:

212 (1) Any change or improvement made for the purpose of
 213 improving the property's resistance to wind damage.

214 (2) The installation of a renewable energy source device.

215 (j) (1) The assessment of the following working waterfront
 216 properties shall be based upon the current use of the property:

217 a. Land used predominantly for commercial fishing
 218 purposes.

219 b. Land that is accessible to the public and used for
 220 vessel launches into waters that are navigable.

221 c. Marinas and drystacks that are open to the public.

HJR 1173

2009

222 d. Water-dependent marine manufacturing facilities,
 223 commercial fishing facilities, and marine vessel construction
 224 and repair facilities and their support activities.

225 (2) The assessment benefit provided by this subsection is
 226 subject to conditions and limitations and reasonable definitions
 227 as specified by the legislature by general law.

228 BE IT FURTHER RESOLVED that the following statement be
 229 placed on the ballot:

230 CONSTITUTIONAL AMENDMENT

231 ARTICLE I, SECTION 25

232 ARTICLE VII, SECTION 4

233 TAXPAYERS' BILL OF RIGHTS; HOMESTEAD PROPERTY ASSESSMENT
 234 CHANGE LIMITATIONS.--Proposing an amendment to the State
 235 Constitution to entitle persons contesting the assessment of ad
 236 valorem taxes to a full and fair opportunity to challenge the
 237 property appraiser's assessment of the value of property; to
 238 specify in any challenge to the property appraiser's assessment
 239 of value for purposes of taxation that the property appraiser's
 240 assessment enjoys no presumption of correctness, require the
 241 property appraiser to prove by a preponderance of the evidence
 242 that the assessment does not exceed the property's just value,
 243 and declare the relevance of evidence that the assessment is
 244 based on appraisal practices differing from practices applied to
 245 comparable property; to require the Legislature to adopt
 246 implementing legislation effective no later than January 1,
 247 2012; and to provide that changes to assessments of homestead
 248 property may only be made each year if the just value of the
 249 property is equal to or greater than the just value of the

HJR 1173

2009

250 | property in the prior year, prohibiting a change in assessment
251 | if the property's just value is less than that in the prior
252 | year.