

By Senator Gaetz

4-01142A-09

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Senate Joint Resolution

A joint resolution proposing amendments to Section 25 of Article I and Section 4 of Article VII and the creation of two new sections in Article XII of the State Constitution to prohibit increases in the assessed value of homestead property if the market value of the property decreases and to require challenges to an assessment of real property to be procedurally fair.

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

That the following amendment to Section 25 of Article I and Section 4 of Article VII and the creation of two new sections in Article XII 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.

(b) (1) Every taxpayer or other person contesting a property appraiser's assessment of real property for the purposes of ad

4-01142A-09

20092242

30 valorem taxation has a right to a full and fair opportunity to
31 challenge that assessment.

32 (2) In a challenge of an assessment brought by the taxpayer
33 or person contesting the assessment:

34 a. A presumption of correctness does not apply to the
35 property appraiser's assessment;

36 b. The property appraiser must prove by a preponderance of
37 the evidence that the assessment does not exceed the just value
38 of the property; and

39 c. The use of an appraisal practice that differs from those
40 applied to comparable property within the state is relevant to
41 determine whether the assessment exceeds just value.

ARTICLE VII

FINANCE AND TAXATION

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43
44 SECTION 4. Taxation; assessments.—By general law
45 regulations shall be prescribed which shall secure a just
46 valuation of all property for ad valorem taxation, provided:

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

51 (b) As provided by general law and subject to conditions,
52 limitations, and reasonable definitions specified therein, land
53 used for conservation purposes shall be classified by general
54 law and assessed solely on the basis of character or use.

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

4-01142A-09

20092242__

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

64 (1) Assessments subject to this subsection shall be changed
65 annually on January 1 ~~January 1st~~ of each year if the just value
66 of the property is equal to or greater than the just value of
67 the property on the preceding January 1. The increase; but these
68 ~~changes in assessments~~ shall not exceed the lower of the
69 following:

70 a. Three percent (3%) of the assessment for the prior year.

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

76 (2) An assessment shall not increase if the just value of
77 the property is less than the just value of the property on the
78 preceding January 1.

79 (3)~~(2)~~ No assessment shall exceed just value.

80 (4)~~(3)~~ After any change of ownership, as provided by
81 general law, homestead property shall be assessed at just value
82 as of January 1 of the following year, unless the provisions of
83 paragraph (9) ~~(8)~~ apply. Thereafter, the homestead shall be
84 assessed as provided in this subsection.

85 (5)~~(4)~~ New homestead property shall be assessed at just
86 value as of January 1 ~~January 1st~~ of the year following the
87 establishment of the homestead, unless the provisions of

4-01142A-09

20092242

88 paragraph (9) ~~(8)~~ apply. That assessment shall ~~only~~ change only
89 as provided in this subsection.

90 (6) ~~(5)~~ Changes, additions, reductions, or improvements to
91 homestead property shall be assessed as provided for by general
92 law; provided, however, after the adjustment for any change,
93 addition, reduction, or improvement, the property shall be
94 assessed as provided in this subsection.

95 (7) ~~(6)~~ In the event of a termination of homestead status,
96 the property shall be assessed as provided by general law.

97 (8) ~~(7)~~ The provisions of this amendment are severable. If
98 any of the provisions of this amendment shall be held
99 unconstitutional by any court of competent jurisdiction, the
100 decision of such court shall not affect or impair any remaining
101 provisions of this amendment.

102 (9) ~~(8)~~ a. A person who establishes a new homestead as of
103 January 1, 2009, or January 1 of any subsequent year and who has
104 received a homestead exemption pursuant to Section 6 of this
105 Article as of January 1 of either of the two years immediately
106 preceding the establishment of the new homestead is entitled to
107 have the new homestead assessed at less than just value. If this
108 revision is approved in January of 2008, a person who
109 establishes a new homestead as of January 1, 2008, is entitled
110 to have the new homestead assessed at less than just value only
111 if that person received a homestead exemption on January 1,
112 2007. The assessed value of the newly established homestead
113 shall be determined as follows:

114 1. If the just value of the new homestead is greater than
115 or equal to the just value of the prior homestead as of January
116 1 of the year in which the prior homestead was abandoned, the

4-01142A-09

20092242

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

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

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

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

4-01142A-09

20092242__

146 general law.

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

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

159 (2) Twenty percent of the total assessed value of the
160 property as improved.

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

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

170 (2) No assessment shall exceed just value.

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

4-01142A-09

20092242__

175 shall be assessed as provided in this subsection.

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

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

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

189 (2) No assessment shall exceed just value.

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

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

201 (5) Changes, additions, reductions, or improvements to such
202 property shall be assessed as provided for by general law;
203 however, after the adjustment for any change, addition,

4-01142A-09

20092242__

204 reduction, or improvement, the property shall be assessed as
205 provided in this subsection.

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

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

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

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

215 a. Land used predominantly for commercial fishing purposes.

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

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

219 d. Water-dependent marine manufacturing facilities,
220 commercial fishing facilities, and marine vessel construction
221 and repair facilities and their support activities.

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

225 ARTICLE XII

226 SCHEDULE

227 Right of a taxpayer to challenge an assessment.—The
228 amendment to Section 25 of Article I relating to challenges to
229 an assessment on real property must be implemented by the
230 legislature by legislation that takes effect no later than
231 January 1, 2012.

232 Assessment of homestead property with declining market

4-01142A-09

20092242

233 value.-The amendment to Section 4 of Article VII, relating to
 234 homestead property having a declining market value, and this
 235 section take effect on January 1, 2011.

236 BE IT FURTHER RESOLVED that the following statement be
 237 placed on the ballot:

238 CONSTITUTIONAL AMENDMENTS

239 ARTICLE I, SECTION 25

240 ARTICLE VII, SECTION 4

241 ARTICLE XII

242 ASSESSMENT OF HOMESTEAD PROPERTY THAT HAS A DECLINING
 243 MARKET VALUE; RIGHT TO FAIR ASSESSMENT CHALLENGE.-In certain
 244 circumstances, the law requires the taxable value of homestead
 245 property to increase when the market value of the property
 246 decreases. Under this proposed amendment to the State
 247 Constitution, the taxable value of homestead property may not
 248 increase if the market value of that property decreases.

249 This proposed amendment also provides that a person who
 250 contests an assessment of real property for the purpose of ad
 251 valorem taxation has a right to a full and fair opportunity to
 252 challenge that assessment. The amendment further provides that
 253 in assessment challenges:

254 (1) The property appraiser must prove that an assessment
 255 does not exceed the market value of the property; and

256 (2) The use of an appraisal practice that differs from
 257 those applied to comparable property within the state is
 258 relevant to determine whether the assessment exceeds market
 259 value.