

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/SJR 808

INTRODUCER: Judiciary Committee and Senator Diaz de la Portilla

SUBJECT: Homestead Exemption/Senior Citizens

DATE: April 26, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	Munroe	Maclure	JU	Fav/CS
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature by general law to authorize counties and municipalities to limit the assessments of the homesteads of eligible senior citizens to the assessed value of the property in the prior year if the just value of the property is equal to or less than 150 percent of the average just value of homestead property in the respective county or municipality. The general law must allow counties and municipalities to provide this limitation by ordinance in a manner prescribed by general law. The general law must designate a state agency to annually provide the average just value of homestead property based on the prior year's tax roll to each property appraiser.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

This joint resolution amends Article VII, section 4 of the Florida Constitution.

II. Present Situation:

Property Valuation

A.) *Just Value*

Article VII, section 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 by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹

B.) *Assessed Value*

Section 4 also provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.

The "Save Our Homes" provision in Article VII, section 4(d) of the Florida Constitution, limits the amount that a homestead's assessed value can increase annually to the lesser of 3 percent or the Consumer Price Index (CPI).² If there is a change in ownership, the property is assessed at its just value on the following January 1. The value of changes, additions, reductions, or improvements to the homestead property is assessed as provided by general law. In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution, to provide for the portability of the accrued "Save Our Homes" benefit. This amendment allows homestead property owners that relocate to a new homestead to transfer up to \$500,000 of the "Save Our Homes" accrued benefit to the new homestead.

C.) *Taxable Value*

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.³

D.) *Uniformity Requirement*

Article VII, section 2 of the Florida Constitution, provides that "all ad valorem taxation shall be at a uniform rate within each taxing unit. . ." with certain specified exceptions for taxes on intangible personal property.⁴

¹ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

² FLA. CONST. art. VII, s. 4(d).

³ FLA. CONST. art. VII, ss. 3 and 6.

⁴ See FLA. CONST. art. VII, s. 2.

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁵

A.) Homestead Exemption

Article VII, section 6(a) of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains the permanent residence of the owner is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

B.) Additional Homestead Exemption for Certain Senior Citizens

Article VII, section 6(d) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000 for any person with legal and equitable title to real estate and who maintains the permanent residence of the owner, who has attained the age of 65, and whose household income, as defined by general law, does not exceed \$20,000 adjusted annually for inflation. The county or municipality must grant this additional exemption by ordinance, which must be adopted pursuant to the procedures prescribed in chapters 125 and 166, F.S., and must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.⁶

Section 196.075(1)(b), F.S., defines “household income” to mean “the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.”

III. Effect of Proposed Changes:

This joint resolution amends Article VII, section 4 of the Florida Constitution, to authorize the Legislature, by general law, to allow counties or municipalities to limit ad valorem tax assessments on homestead property of low income seniors to the previous year’s assessed value of the property.

To be eligible for the limitation on assessment, the property must qualify for the low-income senior exemption under section 6(d) of the Florida Constitution and the value of the homestead property must be equal to or less than 150 percent of the average just value of homestead property within the respective county or municipality.

The joint resolution further provides that the general law implementing the constitutional provision must allow counties and municipalities to provide, by ordinance in a manner prescribed by general law, the additional limitation on the assessed on value of the property. The general law must specify the state agency that will calculate the average just value of homestead property within each county and municipality based on the prior year’s tax roll of each county.

⁵ *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁶ See s. 196.075, F.S.

The general law must provide that the state agency will annually supply the information on the average just value of homestead property to each property appraiser.

This joint resolution provides no effective date for the constitutional amendment. In accordance with Article XI, section 5 of the Florida Constitution, it would take effect on the first Tuesday after the first Monday in January following the election at which it was approved by the electorate.

The joint resolution also provides a ballot summary that provides an explanation of the proposed amendments to the Florida Constitution.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments

Section 1, Article XI of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote 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, or at a special election held for that purpose.

Section 5(d), Article XI of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

Section 5(e), Article XI of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

If approved by the voters, this joint resolution will permit the Legislature, by general law, to allow counties by ordinance to limit the assessment on homestead property of qualifying low-income seniors to the assessed value of the property in the prior year. The seniors must qualify for the existing additional homestead exemption (65 years of age or older and who have a household income of \$20,000 or less). Additionally, to qualify the just value of the homestead property must be equal to or less than 150 percent of the average just value of homestead property in the respective county or municipality.

B. Private Sector Impact:

If approved by the voters, this joint resolution will permit the Legislature, by general law, to allow counties by ordinance to limit the assessment on homestead property of qualifying low-income seniors to the assessed value of the property in the prior year. The seniors must qualify for the existing additional homestead exemption (65 years of age or older and who have a household income of \$20,000 or less). Additionally, to qualify the just value of the homestead property must be equal to or less than 150 percent of the average just value of homestead property in the respective county or municipality.

C. Government Sector Impact:

If approved by the voters, and if the Legislature provides for it by general law, counties will be authorized to adopt an ordinance that limits the assessment on the homesteads of eligible persons from increases in ad valorem taxes.

Section 5(d), Article XI of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.⁷ The division has not estimated the full publication costs to advertise this constitutional amendment at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁷ Florida Department of State, *Senate Joint Resolution 390 Fiscal Analysis* (Jan. 28, 2011) (on file with the Senate Committee on Community Affairs).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on April 25, 2011:

The committee substitute no longer proposes an amendment to the Florida Constitution to authorize counties to exempt the homesteads of eligible senior citizens from increases in ad valorem taxation and to provide an exception from the uniformity requirement for the exemption.

The committee substitute proposes an amendment to the Florida Constitution to allow the Legislature by general law to authorize counties and municipalities to limit the assessments of the homesteads of eligible senior citizens to the assessed value of the property in the prior year if the just value of the property is equal to or less than 150 percent of the average just value of homestead property in the respective county or municipality. The general law must allow counties and municipalities to provide this limitation by ordinance in a manner prescribed by general law. The general law must designate a state agency to annually provide the average just value of homestead property based on the prior year's tax roll to each property appraiser.

- B. **Amendments:**

None.