

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 1056

INTRODUCER: Military Affairs, Space, and Domestic Security Committee and Senator Norman

SUBJECT: Homestead Property Tax Exemption for Surviving Spouse of Military Veteran or First Responder

DATE: February 17, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Fav/CS
2.	Toman	Yeatman	CA	Favorable
3.	White	Cibula	JU	Favorable
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution, which would allow the Legislature to provide ad valorem tax relief to surviving spouses of veterans and first responders who died from causes connected to their service, either while on active duty as a member of the United States Armed Forces, or while performing the duties of a first responder. The amount of tax relief contemplated by this joint resolution, to be defined by general law, may equal up to the total amount of the ad valorem tax owed on the homestead property. The joint resolution also proposes an amendment to create section 32 of Article XII of the Florida Constitution, providing an effective date of January 1, 2013.

For the proposed amendment to be placed on the ballot at the 2012 General Election, the Legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the Legislature.

The joint resolution proposes an amendment to section 6, Article VII of the Florida Constitution.

The joint resolution proposes the creation of section 32, Article XII of the Florida Constitution.

II. Present Situation:

Property Valuation in Florida

Median home values in Florida climbed from \$23,100 in 1940 to \$105,500 in 2000,¹ but more recently sales prices have been stagnant across the state, with median sales prices for existing homes dropping 3 percent in 2011.² Some economists, however, predict renewed increases in home prices “in the Miami and Naples markets” throughout 2012 and the beginning of 2013, with a “recovery [that] is likely to roll northward to Central Florida and then North Florida.”³

Although Florida homeowners may face the “frustrating paradox[]” of falling real estate markets combined with rising property taxes,⁴ Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution, provides for uniform ad valorem taxation, stating that “all ad valorem taxation shall be at a uniform rate within each taxing unit.”⁵ The property tax burden for an owner of any particular piece of real estate will depend on the property’s just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at 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 arms-length transaction.⁶

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.⁷ Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.⁸ Land used for conservation purposes must be assessed solely

¹ U.S. Census Bureau, *Housing and Household Economic Statistics Division, Historical Census of Housing Tables: Home Values* (Last Revised Oct. 31, 2011), available at <http://www.census.gov/hhes/www/housing/census/historic/values.html> (last visited Feb. 2, 2012).

² In 2011, the median sales price for existing homes was \$131,700, down from \$135,900 in 2010. Florida Realtors, *Florida’s housing sales activity higher as 2011 ends* (Jan. 20, 2012), <http://www.floridarealtors.org/NewsAndEvents/article.cfm?id=270287> (last visited Feb. 2, 2012).

³ Florida Realtors, *Leading U. S. economists: Fla.’s housing market bouncing back* (Dec. 7, 2011), <http://www.floridarealtors.org/NewsAndEvents/article.cfm?id=268417> (last visited Feb. 2, 2012) (quoting Dr. Lawrence Yun, chief economist for the National Association of Realtors®).

⁴ See Tim Padgett, *TIME, Florida’s Property Taxes Go Wacky in Housing Slump* (June 29, 2009), available at <http://www.time.com/time/business/article/0,8599,1907198,00.html> (last visited Feb. 2, 2012) (quoting Kurt Wenner, research director at Florida Tax Watch in Tallahassee).

⁵ FLA. CONST. art. VII, s. 2.

⁶ 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).

⁷ The constitutional provisions in section 4, Art. VII, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

⁸ FLA. CONST. art. VII, s. 4(a).

on the basis of character or use.⁹ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.¹⁰ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.¹¹ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.¹² Certain working waterfront property is assessed based upon the property's current use.¹³

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.¹⁴

Assessment Limitations

Save Our Homes

The *Save Our Homes* assessment limitation was amended into the Florida Constitution in 1992. 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 percentage increase in the Consumer Price Index (CPI).¹⁵ In addition, an assessment may not exceed just value.

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 benefit under the *Save Our Homes* assessment limitation. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the accrued benefit to the new homestead.

Property Tax Exemptions for Homesteads

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹⁶

⁹ Art. VII, section 4(b) of the Florida Constitution.

¹⁰ FLA. CONST. art. VII, s. 4(e).

¹¹ FLA. CONST. art. VII, s. 4(f).

¹² FLA. CONST. art. VII, s. 4(i).

¹³ FLA. CONST. art. VII, s. 4(j).

¹⁴ FLA. CONST. art. VII, ss. 3 and 6.

¹⁵ FLA. CONST. art. VII, s. 4(d).

¹⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

Homestead Exemption

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by 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 school districts.

Additional Homestead Exemption for Qualified 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. This additional exemption applies to any person who has legal and equitable title to real estate who maintains a property as a permanent residence, has attained the age of 65, and has a household income, as defined by general law, which does not exceed \$20,000. In the implementing legislation for the exemption, the Legislature indexed the \$20,000 figure to inflation. Adjusted for inflation, the current senior low income exemption is around \$26,000.¹⁷

Section 196.075, F.S., is the general law enacted to allow counties and municipalities to grant the additional homestead exemption for qualified senior citizens. 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. The county or municipality must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.¹⁸ For purposes of the exemption, “household income” means “the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.”¹⁹ The term “household” means “a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.”²⁰ In 2010, 59 boards of county commissioners and 206 city commissions had enacted local ordinances granting the additional exemption for seniors.²¹

Exemption for Surviving Spouses of Certain Veterans

Section 196.081(4), F.S., currently provides, under specified conditions, a full exemption from ad valorem taxes on property that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces. To be eligible for the exemption the surviving spouse must provide a letter from the United States Government or United States Department of Veterans Affairs or its predecessor certifying that the veteran died from service-connected causes while on active duty.

¹⁷ Florida Department of Revenue, *SJR 838 Analysis* (Nov. 29, 2011) (on file with the Senate Judiciary Committee).

¹⁸ See s. 196.075, F.S. (Because the exemption applies only to tax millage levied by the county or city that enacts the exemption, it does not apply to millage of school districts or other taxing authorities.).

¹⁹ Section 196.075(1)(b), F.S.

²⁰ Section 196.075(1)(a), F.S.

²¹ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Feb. 3, 2012) (Data obtained from tax rolls submitted to the Department of Revenue for 2010).

Additionally, the veteran must have been a permanent resident of this state on January 1, of the year in which he or she died.

Ad Valorem Discount for Veterans

Article VII, section 6(e) of the Florida Constitution, provides that each veteran, who is age 65 or older and is partially or totally permanently disabled, is entitled to a discount from the amount of the ad valorem tax otherwise owed on homestead property. The disability must be combat related, the veteran must have been a resident of Florida at the time of entering the military service, and the veteran must have been honorably discharged. The discount is in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.

Ad Valorem Exemption for Deployed Military Personnel

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. One such exemption applies to military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.²² The applicable exemption is for a percentage of the taxable value of the homestead property that is equal to the percent of the time during the preceding calendar year the person was deployed on active duty outside of the continental United States, Alaska, or Hawaii, in support of military operations designated by the legislature.

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution which would allow the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and to the surviving spouse of a first responder who died in the line of duty. The amount of tax relief, to be defined by general law, may partially, or totally, exempt the ad valorem tax owed on homestead property.

The proposed amendment defines "first responder" to mean a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic. The proposed amendment defines "in the line of duty" to mean "arising out of and in the actual performance of duty required by employment as a first responder." The Legislature is authorized to further define these terms by general law.

The proposed amendment is effective January 1, 2013, if approved by the voters at the 2012 General Election.

²² FLA. CONST. art. VII, s. 3(g).

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:

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²³

Article XI, section 5(d) 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 (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be \$108,793.50.²⁴ The division estimates the cost based on the average cost per word to advertise the proposed constitutional amendment.

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the date specified in the amendment, which is January 1, 2013.

²³ *Roberts v. Doyle*, 43 So. 3d 654, 659, citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

²⁴ E-mail correspondence with Department of State staff (Jan. 27, 2012) (on file with Senate Judiciary Committee).

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

The proposed amendment, if approved by the voters and implemented by the Legislature, would provide homestead exemptions for surviving spouses of certain veterans and first responders.

B. Private Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, surviving spouses of certain veterans and first responders could receive property tax relief.

C. Government Sector Impact:

The Revenue Estimating Conference has estimated an indeterminate annual reduction in tax revenues, if voters approve this constitutional amendment and if it is implemented by the Legislature.

Article XI, section 5(d) of the State 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 (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be \$108,793.50.²⁵ The division estimates the cost based on the average cost per word to advertise a proposed constitutional amendment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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 Military Affairs, Space, and Domestic Security on January 26, 2012:**

The bill clarifies that the constitutional amendment proposed by the joint resolution takes effect January 1, 2013, if approved by voters.

²⁵ *Id.*

B. Amendments:

None.

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