

**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 Community Affairs Committee

BILL: SB 1738  
 INTRODUCER: Senator Garcia  
 SUBJECT: Homestead Exemptions For Seniors  
 DATE: January 22, 2012      REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|---------|----------------|-----------|--------------------|
| 1. | Toman   | Yeatman        | CA        | <b>Pre-meeting</b> |
| 2. | _____   | _____          | JU        | _____              |
| 3. | _____   | _____          | BC        | _____              |
| 4. | _____   | _____          | _____     | _____              |
| 5. | _____   | _____          | _____     | _____              |
| 6. | _____   | _____          | _____     | _____              |

**I. Summary:**

This bill provides that the board of county commissioners or the governing body of a municipality may adopt an ordinance to allow an additional homestead exemption up to the amount of the assessed value of the property.

A person qualifies for the potential additional homestead exemption if she or he has:

- maintained permanent residence on the property for at least 20 years,
- attained the age of 65, and
- has a household income that does not exceed \$15,000.

The provisions of this bill would require an amendment to the Florida Constitution prior to implementation.

This bill substantially amends section 196.075 and 196.031 of the Florida Statutes.

This bill reenacts a subsection paragraph of section 197.252, of the Florida Statutes.

**II. Present Situation:**

**Property Valuation in Florida**

*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 arm's length transaction.<sup>1</sup>

### ***Assessed Value***

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- 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.<sup>2</sup>
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.<sup>3</sup>
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.<sup>4</sup>
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.<sup>5</sup>
- 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.<sup>6</sup>
- Certain working waterfront property is assessed based upon the property's current use.<sup>7</sup>

### ***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.<sup>8</sup>

### ***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.<sup>9</sup>

### **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.<sup>10</sup>

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<sup>1</sup> 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).

<sup>2</sup> Fla. Const. art. VII, s. 4(a).

<sup>3</sup> Fla. Const. art. VII, s. 4(c).

<sup>4</sup> Fla. Const. art. VII, s. 4(e).

<sup>5</sup> Fla. Const. art. VII, s. 4(f).

<sup>6</sup> Fla. Const. art. VII, s. 4(i).

<sup>7</sup> Fla. Const. art. VII, s. 4(j).

<sup>8</sup> Fla. Const. art. VII, ss. 3 and 6.

<sup>9</sup> See FLA. CONST. art. VII, s. 2.

***Homestead Exemption***

Article VII, section 6, of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon 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.

***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. This additional exemption applies to any person with legal and equitable title to real estate who maintains a property as a permanent residence, 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. The county or municipality must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.<sup>11</sup>

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:**

**Section 1** amends s. 196.075, F.S., to provide that the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow an additional homestead exemption up to the amount of the assessed value for any person who has the legal or equitable title to real estate and has maintained thereon the permanent residence of the owner for at least 20 years, who has attained age 65, and whose household income does not exceed \$15,000.

This section of the bill also amends s. 196.075, F.S., to provide that, beginning January 1, 2014, the \$15,000 income limitation shall be adjusted annually by the percentage change in the average cost of living index compared with the previous year.

Additional conforming and clarifying changes are also made.

**Section 2** amends s. 196.031, F.S., to make conforming changes.

**Section 3** reenacts s. 197.252(2)(a), F.S., for the purposes of incorporating the amendment made by this act to s. 196.075, F.S.

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<sup>10</sup>*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).

<sup>11</sup> See s. 196.075, F.S.

**Section 4** provides that this act shall take effect upon the approval of a corresponding Senate Joint Resolution at the general election to be held in November 2012 or at an earlier special election specifically authorized by law for that purpose.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This bill would allow counties or municipalities the option to grant an additional homestead exemption. As such, the bill does not fall within the purview of Art. VII, s. 18 of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

See Government Sector Impact.

##### **B. Private Sector Impact:**

Qualified low-income senior homeowners could benefit from reduced ad valorem taxes if counties or municipalities adopt an ordinance granting the additional homestead exemption.

##### **C. Government Sector Impact:**

According to the Department of Revenue (DOR), the bill would have an operational impact on the agency related to rulemaking and forms. DOR deems this fiscal impact as insignificant.<sup>12</sup>

The Revenue Estimating Conference (REC) discussed the provisions of SB 1738 at their January 5, 2012, meeting and adopted an indeterminate negative impact should the electorate approve an enabling Constitutional amendment and all the individual jurisdictions pass the necessary ordinances. Due to the overlapping nature of this exemption with existing authorized additional homestead exemptions for seniors, the EDR identified various scenarios for measuring the impact.<sup>13</sup>

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<sup>12</sup> Florida Department of Revenue, *SB 1738 Analysis* (Jan. 17, 2012) (on file with the Senate Committee on Community Affairs).

<sup>13</sup> Office of Economic and Demographic Research, The Florida Legislature, *Low Income Tenure Based Senior Exemption*, (January 5, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact0106.pdf>. Possible impact scenarios

Based on a state-wide average of 10.9 mils, the REC ultimately estimated a potential loss in taxable value of \$4.3 million in FY 14-15 above what is currently authorized by the counties and the municipalities that currently grant the additional homestead exemptions for low-income seniors. The revenue impact to those local jurisdictions due to the loss in taxable value is \$14 million in FY 14-15 and \$14.3 million in FY 15-16.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

SJR 1740 would provide a Constitutional amendment authorizing this bill.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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

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include 1) impact as if the current senior exemption did not exist; 2) impact as the additional exemption that could be authorized beyond what is currently in place; 3) impact as only the new capacity that previously could not be exempted under the low income senior exemption.