

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: SJR 1740

INTRODUCER: Senator Garcia

SUBJECT: Additional Homestead Tax Exemption

DATE: February 15, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>White</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This joint resolution amends Article VII, section 6 of the Florida Constitution, to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for not less than 20 years, who has attained age 65, and whose household income does not exceed \$15,000. The general law must allow counties and municipalities to grant this additional exemption by ordinance and must provide for periodic adjustment of the household income limitation of \$15,000 for changes in the cost of living.

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

II. Present Situation:

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

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).

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 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.⁷
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.⁸
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads which are made to accommodate parents or grandparents who are 62 years of age or older.⁹
- 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.¹⁰
- Certain working waterfront property is assessed based upon the property’s current use.¹¹

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 FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(e).

⁹ FLA. CONST. art. VII, s. 4(f).

¹⁰ FLA. CONST. art. VII, s. 4(i).

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.¹²

Property Tax Exemptions and Assessment Limitations 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.¹³

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 \$26,000.¹⁴

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.¹⁵ 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.”¹⁶ The term

¹¹ FLA. CONST. art. VII, s. 4(j).

¹² FLA. CONST. art. VII, ss. 3 and 6.

¹³ *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).

¹⁴ Florida Department of Revenue, *SJR 838 Analysis* (Nov. 29, 2011) (on file with the Senate Judiciary Committee).

¹⁵ *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.).

¹⁶ Section 196.075(1)(b), F.S.

“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.”¹⁷ In 2010, 59 boards of county commissioners and 206 city commissions had enacted local ordinances granting the additional exemption for seniors.¹⁸

III. Effect of Proposed Changes:

The joint resolution amends Article VII, section 6 of the Florida Constitution, to authorize the Legislature, by general law and subject to conditions set forth in the general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for not less than 20 years, who has attained age 65, and whose household income does not exceed \$15,000. The general law must allow counties and municipalities to grant this additional exemption by ordinance and must provide for periodic adjustment of the household income limitation of \$15,000 for changes in the cost of living.

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 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.

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

¹⁷ Section 196.075(1)(a), F.S.

¹⁸ 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).

purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”¹⁹

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 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.²⁰

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters 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. The amendment would become effective on January 8, 2013.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

See Government Sector Impact.

B. Private Sector Impact:

Qualified low-income senior homeowners may benefit from reduced ad valorem taxes if this joint resolution is approved by the voters, and counties or municipalities subsequently adopt an ordinance granting the additional homestead exemption.

C. Government Sector Impact:

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.²¹

According to the Department of Revenue (DOR), the joint resolution would have an operational impact on the agency related to rulemaking and forms. DOR deems this fiscal impact as insignificant.²²

The Revenue Estimating Conference (REC) discussed the provisions of SJR 1740 at their meeting on January 5, 2012. The REC adopted an indeterminate negative impact should the electorate approve the joint resolution and all the individual jurisdictions pass the necessary ordinances. Due to the overlapping nature of this exemption with existing

¹⁹ *Roberts v. Doyle*, 43 So. 3d 654, 659, citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

²⁰ Department of State, *SJR 314 Analysis* (Oct. 31, 2011) (on file with the Senate Judiciary Committee). SJR 314 also proposes a Constitutional amendment.

²¹ *Id.*

²² Florida Department of Revenue, *SJR 1740 Analysis* (Jan. 17, 2012) (on file with the Senate Judiciary Committee).

authorized additional homestead exemptions for seniors, the EDR identified various scenarios for measuring the impact.²³

Based on a state-wide average of 10.9 mills, 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:

SB 1738 provides a general law to implement the provisions of this joint resolution.

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.

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

²³ Office of Economic and Demographic Research, The Florida Legislature, *Low Income Tenure Based Senior Exemption*, (Jan. 5, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact0106.pdf>. Possible impact scenarios 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.