

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

CS/CS/HB 357 (CS/SB 1738)

BILL #:

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Finance & Tax Committee, Oliva
and others

115 Y's 0 N's

COMPANION CS/SB 1738
BILLS:

GOVERNOR'S ACTION: Pending

SUMMARY ANALYSIS

CS/CS/HB 357 passed the House on February 23, 2012, and subsequently passed the Senate on March 9, 2012. The bill implements the amendment to the Florida Constitution proposed by CS/HJR 169, if approved by the voters. The bill authorizes counties and municipalities by general law to grant an additional homestead tax exemption to certain low income seniors equal to the assessed value of homestead property.

To be eligible for the additional homestead exemption, the following conditions must be met:

- the county or municipality must have granted the exemption by ordinance that is authorized by a super majority (a majority plus one) vote of the members of the governing body of the county or municipality granting such exemption;
- the property must have a just (market) value of less than \$250,000;
- the owner must have title to the property and must have maintained his or her permanent residence thereon for at least 25 years;
- the owner must be aged 65 years or older; and
- the owner's annual household income must be less than \$27,030, adjusted for inflation in the future.

The bill provides a nonrecurring General Revenue appropriation of \$93,403 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 169 in newspapers in each county as required by law.

The bill takes effect upon approval by the voters of the amendment proposed by CS/HJR 169 at the general election to be held in November 2012. Though the bill states that it first applies to the 2013 tax roll, the amendment proposed by CS/HJR 169, if approved by the voters, will not become effective until January 8, 2013, which may prevent application of CS/CS/HB 357 until the 2014 tax roll.

The Revenue Estimating Conference has estimated that, if the constitutional amendment proposed by CS/HJR 169 is approved by the voters, and if all counties and municipalities offering the current low-income senior exemption authorized by Article VII, section 6 of the Florida Constitution also pass the required ordinances to offer the additional homestead exemption authorized by the constitutional amendment, a negative revenue impact on local governments of \$9.1 million in FY 2014-15 and \$9.4 million in FY 2015-16, **assuming current millage rates.**

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Property Taxation in Florida

Local governments, including counties, school districts and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.¹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem taxes are capped by the state constitution as follows:²

- 10 mills for county purposes;
- 10 mills for municipal purposes;
- 10 mills for school purposes;
- a millage fixed by law for a county furnishing municipal services; and
- a millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.³

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county and distributes the taxes to each taxing authority.⁴

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.⁵ Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.⁶

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁷ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.⁸

The Florida Constitution grants property tax relief in the form of certain valuation differentials,⁹ assessment limitations,¹⁰ and exemptions,¹¹ including the homestead exemptions.

¹ Article VII, s. 9, Fla. Const.

² A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

³ Section 200.001(7), F.S.

⁴ Section 197.383, F.S.

⁵ Section 195.002, F.S.

⁶ Chapter 195, F.S.

⁷ Article VII, s. 2, Fla. Const.

⁸ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. Dist. Ct. App. 4th Dist. 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁹ Article VII, s. 4, Fla. Const., authorizes valuation differentials, which are based on character or use of property.

Homestead Exemption

The Homestead Exemption provides an exemption from all ad valorem taxes on the first \$25,000 of assessed value for owners of homestead property, provided that the tax roll in their county has been approved.¹² An additional \$25,000 exemption is provided for assessed values between \$50,000 and \$75,000; however, this exemption does not apply to school taxes.¹³

Save Our Homes

The “Save Our Homes” provision in s. 4, Art. VII of the Florida Constitution limits the amount a homestead’s assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).¹⁴ Homestead property owners who establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to that homestead.¹⁵

Section 193.155, Florida Statutes

In 1994, the Legislature implemented the “Save Our Homes” amendment in s. 193.155, F.S. The legislation required all homestead property to be assessed at just value by January 1, 1994. Starting on January 1, 1995, or the year after the property receives a homestead exemption (whichever is later), property receiving a homestead exemption must be reassessed annually on January 1 of each year. As provided in the constitution, s. 193.155, F.S., requires that any change resulting from the reassessment may not exceed the lesser of three percent or the growth in the CPI. Pursuant to s. 193.155(2), F.S., if the assessed value of the property exceeds its just value, the assessed value must be lowered to the just value of the property.

Low-Income Seniors

Counties and cities may allow an additional homestead exemption of up to \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by the percentage change in the average cost-of-living index.¹⁶ The exemption only applies to taxes levied by the county or city enacting the exemption.¹⁷

Under the Homestead Property Tax Deferral Act, any homesteader 65 years or older who would qualify for the exemption would also qualify to defer all ad valorem taxes.¹⁸ All senior homesteaders may defer

¹⁰ Article VII, s. 4(c), Fla. Const., authorizes the “Save Our Homes” property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the “Granny Flats” assessment limitation.

¹¹ Article VII, s. 3, Fla. Const., provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

¹² Article VII, s. 6, Fla. Const.

¹³ *Id.* See also Am. C.S. for S.J.R. 2-D, 2007.

¹⁴ Article VII, s. 4(d), Fla. Const.

¹⁵ *Id.*

¹⁶ Article VII, s. 6, Fla. Const. See also s. 196.075, F.S. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012)

¹⁷ Section 196.075(4), F.S.

¹⁸ Section 197.243, F.S.

the portion of their tax levy exceeding three percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70 percent. Deferred tax and interest up to seven percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

Proposed Changes

The bill implements the amendment to the Florida Constitution proposed by CS/HJR 169, if approved by the voters. The bill authorizes counties and municipalities by general law to grant an additional homestead tax exemption to certain low income seniors equal to the assessed value of homestead property.

To be eligible for the additional homestead exemption, the following conditions must be met:

- the county or municipality must have granted the exemption by ordinance that is authorized by a super majority (a majority plus one) vote of the members of the governing body of the county or municipality granting such exemption;
- the property must have a just (market) value of less than \$250,000;
- the owner must have title to the property and must have maintained his or her permanent residence thereon for at least 25 years;
- the owner must be aged 65 years or older; and
- the owner's annual household income must be less than \$27,030.¹⁹

The bill provides that it takes effect upon approval by the voters of the amendment proposed by CS/HJR 169 at the general election to be held in November 2012 or at an earlier special election specifically authorized by law for that purpose and first applies to the 2013 tax roll. Though the bill states that it first applies to the 2013 tax roll, the amendment proposed by CS/HJR 169, if approved by the voters, will not become effective until January 8, 2013, which may prevent application of CS/CS/HB 357 until the 2014 tax roll.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides a nonrecurring General Revenue appropriation of \$93,403 to the Department of State to publish the proposed constitutional amendment in CS/HJR 169.

¹⁹CS/HJR 169 provides that the income limitation is the same as the limitation for the current additional homestead exemption for low income seniors authorized in Article VII, s. 6, Fla. Const. The income limitation for that exemption is set by general law in s. 196.075(3), F.S. Under that provision the household income limitation is set at \$20,000 as of January 1, 2001, and adjusted annually by the percentage change in the average cost-of-living index issued by the United States Department of Labor. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012)

A. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the revenue impacts of the bill. However, if the constitutional amendment proposed by CS/HJR 169 is approved by the voters, this bill, which was approved by both houses of the Legislature by the required three-fifths majority, implements the amendment by general law. If all counties and municipalities offering the current low-income senior exemption authorized by Article VII, section 6 of the Florida Constitution also pass the required ordinances to offer the additional homestead exemption authorized by the constitutional amendment, the Revenue Estimating Conference estimates a negative revenue impact on local governments of \$9.1 million in FY 2014-15 and \$9.4 million in FY 2015-16.

2. Expenditures:

None.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could reduce property taxes for certain qualifying seniors. Such a reduction in the property tax base could result in a corresponding shift in property tax burden to other property tax owners.

C. FISCAL COMMENTS:

None.