

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 838

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Homestead Assessment Limitation/Low-income Senior Citizens

DATE: February 8, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.	White	Cibula	JU	Pre-meeting
3.			BC	
4.				
5.				
6.				

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, low-income senior citizens. The assessments will be limited 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 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

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).

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. 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. 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

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 made to accommodate parents or grandparents who are 62 years of age or older.⁹

² In 2011, 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 FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(e).

⁹ FLA. CONST. art. VII, s. 4(f).

- 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

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

Tax Exemptions and Assessment Limitations for Homesteads

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.¹³

Homestead Exemption

Article VII, section 6 of the Florida Constitution 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 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 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 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 certain 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

¹⁰ FLA. CONST. art. VII, s. 4(i).

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).

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 “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

Homestead Assessment Limitation: 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).¹⁹ 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.

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 is not self-executing, but rather it requires implementation by general law. 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 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.

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.

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).

¹⁹ FLA. CONST. art. VII, s. 4(d).

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

If approved by electors in the 2012 General Election, the constitutional amendment becomes effective on Tuesday, January 8, 2013.

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

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 purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²⁰

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

²⁰ *Roberts v. Doyle*, 43 So. 3d 654, 659, citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.²¹

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:

None.

B. Private Sector Impact:

Qualified, low-income, senior homeowners may benefit from an ad valorem assessment limit in counties or municipalities that adopt an ordinance granting the limitation contemplated by the amendment to the Florida Constitution proposed by this Senate Joint Resolution.

C. Government Sector Impact:

The Revenue Estimating Conference has not evaluated the potential impact of this joint resolution. However, the resolution, if passed, will only affect a county or municipality that chooses to impose the assessment limit.

The Division of Elections of the Department of State is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. The average cost per word to advertise an amendment is \$106.14.²²

The Department of State normally is the defendant in lawsuits challenging proposed amendments to the Florida Constitution. The cost for defending these lawsuits has ranged from \$10,000 to \$150,000, depending on a number of variables.²³

The joint resolution requires that the Legislature designate a state agency to produce a report on average homestead values. If the Department of Revenue (DOR) is named as the agency to produce the report of average homestead value, which must be provided annually to property appraisers, DOR indicates it can generate this document by making a small adjustment to an existing report DOR provides annually to the Governor's office.²⁴

²¹ Department of State, *SJR 314 Analysis* (Oct. 31, 2011) (on file with the Senate Judiciary Committee).

²² *Id.*

²³ *Id.*

²⁴ Florida Department of Revenue, *SJR 838 Analysis* (Nov. 29, 2011) (on file with the Senate Judiciary Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The ballot summary states that, “Currently, counties and municipalities may grant an additional homestead exemption to a person who is 65 years of age or older and who has a household income of \$20,000 or less.”

Given that the \$20,000 income limitation is adjusted annually, the current senior low income exemption is around \$26,000 according to the DOR.²⁵

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.

²⁵ *Id.*