

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 Committee on Community Affairs

BILL: SJR 652

INTRODUCER: Senator Flores

SUBJECT: Homestead Tax Exemption/Persons 65 or Older

DATE: March 4, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Pre-meeting
2.			FT	
3.			RC	

I. Summary:

SJR 652 resolves to amend Article VII, section 6 of the Florida Constitution, to clarify the timeframe for determining the just value of real estate under one of the two “additional homestead tax exemptions” that exist for certain low-income senior citizens. If approved by the voters and implemented by the Legislature, the additional homestead exemption in s. 196.075(2)(b), F.S., may be granted to anyone 65 or older who owns real estate with a just value less than \$250,000, as determined at the time the property owner first applies for the exemption.¹

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:

Property Valuation in Florida

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.”² 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

¹ Other requirements include permanent residence on the property for at least 25 years, and a household income threshold.

² FLA. CONST. art. VII, s. 2.

market value, or what a willing buyer would pay a willing seller for the property in an arms-length transaction.³

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.⁴ 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.⁵ Land used for conservation purposes must be assessed solely on the basis of character or use.⁶ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁷ 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 or older.⁸ 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.⁹ Certain working waterfront property is assessed based upon the property's current use.¹⁰

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.¹¹

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).¹² 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.

³ 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).

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

⁵ FLA. CONST. art. VII, s. 4(a).

⁶ FLA. CONST. art. VII, s. 4(b).

⁷ FLA. CONST. art. VII, s. 4(e).

⁸ FLA. CONST. art. VII, s. 4(f).

⁹ FLA. CONST. art. VII, s. 4(i).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art. VII, ss. 3 and 6.

¹² FLA. CONST. art. VII, s. 4(d).

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.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 Exemptions for Qualified Senior Citizens

Since 1999, cities and counties have been authorized to offer an additional homestead exemption of up to \$50,000 to persons who are 65 or older and who satisfy certain low-income requirements. Section 196.075(2)(a), F.S., is the general law enacted to allow counties and municipalities to grant this additional homestead exemption.¹⁴ This additional exemption applies to any person who has legal and equitable title to real estate, 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 each year on January 1 according to changes in the consumer price index, the current household income threshold for the senior low income exemption is \$28,448.¹⁵

In November 2012, the voters approved a constitutional amendment that authorized the Legislature to allow cities and counties to grant an additional homestead exemption for persons 65 or older.¹⁶ Amendment 11 allowed for an exemption equal to the assessed value of homestead property when the just value is less than \$250,000. The owner is still required to be 65 or older and maintain a permanent residence on the property; however, the owner must have maintained a permanent residence thereon for a minimum of 25 years. The same income limitations apply to both exemptions.

The county or municipality can grant either or both of the additional exemptions, and must do so by ordinance, adopted by a supermajority vote of the county or municipal governing body pursuant to the procedures prescribed in chapters 125 or 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unit of government granting

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 Article VII, section 6(d)(1) 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.

¹⁵ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Feb. 25, 2015).

¹⁶ Amendment 11, 2012 General Election. The amendment originated as CS/HJR 169 (2012). The text of the amendment can be found on the website of the Florida Department of State at <http://election.dos.state.fl.us/initiatives/fulltext/pdf/10-89.pdf>.

the exemption.¹⁷ 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.”¹⁸ 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.”¹⁹ The Florida Revenue Estimating Conference estimates that the 2014-2015 revenue impact of the s. 196.075(2)(a), F.S., exemption to be \$56.3 million, and \$2.4 million for the s. 196.075(2)(b), F.S., exemption.²⁰

III. Effect of Proposed Changes:

The joint resolution proposes to amend Article VII, section 6 of the Florida Constitution, to further specify a condition of the additional homestead tax exemption for persons 65 and older, found in s. 196.075(2)(b), F.S. Upon consideration of a given application for the homestead exemption, the county or municipal tax authority would be required to consider the just value of the real estate at the time the property owner first applies for the exemption. If the just value of the real estate is less than \$250,000 at the time the property owner first applied for the exemption, and all other statutory conditions are met, then the homestead exemption would equal the assessed value of the property. Presumably, by specifying that the determination be made in this timeframe, the tax benefits of the exemption may confer to applicants who otherwise would have lost, or been denied the exemption due to a quickly appreciating or volatile real estate market.

If approved by 60 percent of voters, the proposed constitutional amendment will be effective “on the first Tuesday after the first Monday in January,”²¹ after the next general election, or at an earlier special election specifically authorized by law for this purpose.

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.

¹⁷ 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. *See* s. 196.075, F.S.

¹⁸ Section 196.075(1)(b), F.S.

¹⁹ Section 196.075(1)(a), F.S.

²⁰ These figures represent revenue lost, not the taxable value. Florida Revenue Estimating Conference, *2014 Florida Tax Handbook*, at 205 (2014).

²¹ FLA. CONST. art. XI, s. 5(e).

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.’”²²

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 estimates that the costs for advertising the proposed constitutional amendment will be approximately \$135 per word, for a total publishing cost of approximately \$132,707.²³

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 after the next general election or at an earlier special election specifically authorized by law for that purpose.

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

The proposed amendment, if approved by the voters, and implemented by the Legislature, would clarify the criteria of the homestead exemption for low-income seniors, found in s. 196.075(2)(b), F.S. By establishing the time for determining the real estate’s just value as “at the time of the owner’s initial application for exemption,” the tax benefits of the exemption may confer to applicants who would otherwise have been denied the exemption due to a quickly appreciating or volatile real estate market.

B. Private Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, and local governments grant the exemption, low-income seniors could receive property tax relief.

²² *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

²³ Phone conversation with Department of State staff (Feb. 24, 2015).

C. Government Sector Impact:

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 estimates that the costs for advertising the proposed constitutional amendment will be approximately \$135 per word, for a total publishing cost of approximately \$132,707.²⁴

VI.**VII. Technical Deficiencies:**

None.

VIII. Related Issues:

As noted by the Department of Revenue (DOR),²⁵ the joint resolution does not address any future changes, additions, improvements, or deletions made to the homestead property. It is unclear whether an increase in just value of the homestead, due to improvements made to the property by the owner, or someone acting on the owner's behalf, would affect the exemption.²⁶

Additionally, the DOR recommends that language on lines 68-69, be replaced with, "in the year the exemption is first granted," because county property appraisers determine just value as of January 1 each year, not any other day. Property appraisers would not have the information necessary to determine a just value on any every possible specific date that the application is made. Relatedly, an owner may have filed and been denied the exemption for not meeting other criteria, prior to receiving the exemption for a subsequent application. In this case, it is unclear why the just value of the property should be taken at the time of first application.

IX. Statutes Affected:

No statutes are affected, however, the amendment proposed by this joint resolution, if approved by the electorate and implemented by the Legislature, would amend Article VII, section 6 of the Florida Constitution.

X. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

²⁴ *Id.*

²⁵ Dep't of Revenue, Legislative Bill Analysis of SJR 652, at 5 (2015).

²⁶ For examples of how changes, additions, improvements, or deletions have been addressed, see ss. 193.155, 193.1554, and 193.1555, F.S.

B. Amendments:

None.

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