HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 277 County and Municipality Property Tax Exemption
SPONSOR(S): Finance & Tax Committee; Avila and others
TIED BILLS: HJR 275 **IDEN./SIM. BILLS:** SB 488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 1 N, As CS	Dugan	Langston
2) Local Government Affairs Subcommittee	9 Y, 0 N	Monroe	Miller
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The bill implements CS/HJR 275, which proposes to amend article VII, section 6(d) of the Florida Constitution. This section authorizes legislation allowing county and municipal governments the option to create an additional homestead exemption on the assessed value of property with a just value under $250,000 owned by certain low-income, long-time residents. Specifically, the joint resolution proposes to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

Section 196.075, F.S., authorizes counties and municipalities to grant an additional homestead exemption equal to the assessed value of property to any person who:

- has the legal or equitable title to real estate with a just value less than $250,000,
- has maintained thereon the permanent residence of the owner for not less than 25 years,
- has attained age 65, and
- whose household income does not exceed $20,000.

Currently, if the property's just value rises above $250,000, the person no long qualifies for the additional exemption. Increases in the just value of homesteaded property usually occur because of changes in market conditions or because of additions or improvements made to the property.

The bill amends s. 196.075(2), F.S., to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption. In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above $250,000, may regain the exemption if they are otherwise still qualified (the legislation operates retroactively). Finally, individuals who received the exemption prior to the effective date of the bill may apply to the tax collector for a refund for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than $250,000.

On October 16, 2015, the Revenue Estimating Conference determined the bill has an indeterminate revenue impact on counties and municipalities, reflecting the need for approval of CS/HJR 275 by the voters and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

The bill will take effect January 1, 2017, if CS/HJR 275 or a similar joint resolution having substantially the same specific intent and purpose is approved by the electors at the general election to be held in November 2016. Further, the bill operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.[1] The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.[2] The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,[3] and provides for specified assessment limitations, property classifications, and exemptions.[4] After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.[5]

Exemptions

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.[6]

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional $25,000 homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding school district levies.

Counties and municipalities, if authorized by general law, may grant either or both of the following additional homestead exemptions for purposes of their own property tax levies:

- An exemption not exceeding $50,000 to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, and who has attained age 65, and whose household income, as defined by general law, does not exceed $20,000;[7] or
- An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than $250,000, and who has maintained thereon the permanent residence of the owner for not less than 25 years, and who has attained age 65, and whose household income does not exceed $20,000.[8]

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[1] Art. VII, s. 1(a), Fla. Const..
[2] Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[3] Art. VII, s. 4, Fla. Const.
[4] Art. VII, ss. 3, 4, and 6, Fla. Const.
[5] Section 196.031, F.S.
[6] *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).
[7] Art. VII, s. 6(d)(1), Fla. Const.
[8] Art. VII, s. 6(d)(2), Fla. Const.

The Legislature implemented these provisions in general law,[9] allowing counties and municipalities the discretion to grant the exemptions. Counties and municipalities may grant either or both of these exemptions through the adoption of an ordinance.[10]

The $20,000 income limitation is annually adjusted for changes in cost of living,[11] and the income limitation in 2015 is $28,448. The statute defines "household income" as the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code,[12] of all members of a household,[13] and requires that a taxpayer claiming the exemption annually submit to the property appraiser a sworn statement, with supporting documentation, of household income on a form prescribed by the Department of Revenue.[14]

For 2015, there are 21 counties that grant the low income, long-time resident assessed value exemption, totaling $451,574,217 in exempt taxable value; in addition, 13 counties contain at least one municipality that granted the exemption for 2015, totaling $179,894,174 in exempt taxable value.[15] The table below illustrates the number of exemptions and exempt taxable value.

County	County Exemption		Municipal Exemptions[16]	
	Count	Value	Count	Value
Bay	162	$ 9,280,441	16	$ 905,558
Broward		not authorized	475	$ 19,337,090
Clay		not authorized	25	$ 1,749,144
Columbia	35	$ 1,868,732		
Miami-Dade	7,834	$ 225,040,488	9,552	$ 110,750,383
Escambia	426	$ 13,377,459	57	$ 1,971,205
Flagler	100	$ 6,838,060		
Gilchrist	91	$ 3,375,107		
Gulf	11	$ 347,459		
Hernando	208	$ 8,114,775		
Hillsborough	3,338	$ 107,063,281	1,228	$ 31,333,626
Jackson	5	$ 445,624		
Lake	128	$ 4,145,690		
Lee	233	$ 7,302,100		
Leon	347	$ 12,899,214	406	$ 6,336,193
Madison	18	$ 1,028,706		
Manatee	0	$0	1	$ 109,302
Monroe	33	$ 1,056,766	8	$ 115,872
Nassau	37	$ 3,838,427		
Orange	171	$ 10,612,072		
Putnam	716	$ 18,442,634	121	$ 2,203,715
Santa Rosa	31	$ 2,398,682	5	$ 427,564
Volusia	576	$ 14,098,500	144	$ 4,092,780
Walton		not authorized	14	$561,742
Total	**14,539**	**$ 451,574,217**	**12,052**	**$ 179,894,174**

Individuals who previously qualified for the 65 and older, low income, long-term residents exemption will lose the exemption if:

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[9] Section 196.075, F.S.
[10] Section 196.075(4), F.S.
[11] Section 196.075(3), F.S.
[12] 26 U.S.C. s. 62.
[13] Section 196.075(1)(b), F.S.
[14] Section 196.075(4)(d), F.S.
[15] Revenue Estimating Conference, Impact Conference, Homestead Exemption up to $250,000: HJR 275/HB 277 (October 16, 2015).
[16] The municipal exemption column is incomplete because some municipalities did not report the information; also, certain municipalities grant the exemption but no one has applied or is eligible.

- They no longer maintain their homestead on the property,
- Their income exceeds the income limitation, or
- The just value of their homestead increases above the $250,000 cap, either because of changes in the market or because of additions and improvement made to the homestead.

Effect of Proposed Changes

The bill amends s. 196.075(2), F.S., to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption. The effect of the amendment is to allow a 65 or older, low-income, long-time resident to continue receiving the exemption if the homestead's just value rises above $250,000 either due to changes in the market or because of additions or improvements made to the property.

In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above $250,000, may regain the exemption by reapplying for the exemption. The just value determination for such person shall be the just value as determined in the first tax year that the owner applied for and was eligible for the exemption, regardless of the current just value of his or her homestead property.

Individuals who received the exemption prior to the effective date of the bill may apply to the tax collector for a refund, pursuant to s. 197.182, for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than $250,000. The refund for a given year is equal to the difference between the previous tax liability for that year without the exemption and their tax liability with the exemption.

The bill is effective January 1, 2017, if CS/HJR 275 or a similar joint resolution is approved by the voters, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

B. SECTION DIRECTORY:

Section 1. Amends s. 196.075(2), F.S., to limit the just value determination for the exemption.

Section 2. Provides when the just value determination is made for a person who received the exemption under s. 196.075(2)(b), F.S., prior to the effective date of this act.

Section 3. Provides that certain persons may apply to the tax collector for a refund for prior year exemption denials.

Section 4. Provides an effective date and retroactive applicability.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On October 16, 2015, the Revenue Estimating Conference determined the bill has an indeterminate fiscal impact due to the requirement for a statewide referendum to approve CS/HJR 275, and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

However, if CS/HJR 275 is approved in the referendum, and if all counties and municipalities currently allowing the exemption continue to do so, the conference estimated the impact on local government revenues would be -$0.5 million in Fiscal Year 2017-18, growing to -$1.2 million in Fiscal Year 2020-21. If all counties and municipalities in the state were to adopt the exemption as amended by this legislation, the estimated statewide impact (excluding school and special district levies, which are not authorized to grant this exemption) is -$1.6 million in 2017-18, growing to -$4.2 million in 2020-21.[17]

The above estimates assume current millage rates and do not include any impacts of the retroactive provisions of the proposal.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill becomes law, certain long-time residents could maintain property tax relief regardless of increases in the just value of the homestead property due to either changing market conditions or because of additions or improvements made to the property. Further, a resident that lost the exemption (because the just value of his or her property rose above $250,000) may regain the exemption if he or she is otherwise qualified.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 5, 2015, the Finance & Tax Committee adopted a strike all amendment which revised the bill to:

[17] Revenue Estimating Conference, Impact Conference, Homestead Exemption up to $250,000: HJR 275/HB 277 (October 16, 2015).

- clarify the tax year in which the just value of the property is determined,
- provide that the just value determination for a person who received the exemption prior to the effective date of the bill is made when such person first applied for the exemption, regardless of the current just value,
- provide that certain persons may apply to the tax collector for a refund for prior year exemption denials,
- provide an effective date, and
- provide that the bill operates retroactively for any person who received the exemption prior to January 1, 2017.

This analysis is written to CS/HB 277.