

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 Finance and Tax

BILL: CS/SJR 492

INTRODUCER: Finance and Tax Committee and Senator Flores

SUBJECT: Homestead Tax Exemption

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 492 proposes an amendment to the Florida Constitution to provide that for purposes of the property tax exemption for long-term, low-income seniors who have a homestead with a just value less than \$250,000, the \$250,000 limitation is measured at the time the owner first applies and is eligible for the exemption.

CS/SJR 492 will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, CS/SJR 492 will become effective on January 1, 2017, and will operate retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

The Revenue Estimating Conference (REC) has analyzed similar legislation (HJR 275 (2016)), which did not include the retroactive provisions of CS/SJR 492. The REC determined that it has an indeterminate impact because it requires voter approval. If approved by the voters and fully implemented only within the jurisdictions that currently provide the exemption, the legislation would reduce local property taxes by \$500,000 in Fiscal Year 2017-2018, with a recurring impact of \$1.2 million.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Property Tax Exemptions for Homesteads

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. 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).

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ FLA. CONST. art VII, s. 6(a).

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors).¹² The income limitation is adjusted each year according to changes in the consumer price index; the 2015 household income threshold for these exemptions is \$28,448.¹³ The exemptions require the owner to hold legal or equitable title to the real estate and maintain thereon their permanent residence.

\$50,000 Additional Exemption. Since 1999, counties and municipalities have been authorized to grant an additional homestead exemption not exceeding \$50,000 for low-income seniors.¹⁴

Long-term, Low-Income Seniors with Homesteads under \$250,000. Since 2013, counties and municipalities have been authorized to also exempt the entire assessed value of a low-income senior's homestead with a just value less than \$250,000 if the low-income senior has maintained that homestead for not less than 25 years.¹⁵ Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds \$250,000.

A county or municipality may grant either or both of the additional exemptions and must do so by ordinance pursuant to the procedures prescribed in chapter 125 or 166, F.S.¹⁶ The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting 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

III. Effect of Proposed Changes:

CS/SJR 492 amends Article VII, section 6 of the Florida Constitution to provide that for purposes of the long-term, low-income senior exemption for homesteads with a just value under \$250,000, the \$250,000 limitation is measured at the time the property owner first applies and is eligible for the exemption.

¹² Fla. Const. Art. VII, s. 6(d)(1) and (2).

¹³ 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 Jan. 20, 2016).

¹⁴ FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2), F.S.

¹⁵ Fla. Const. art. VII, s. 6(d)(2).

¹⁶ Section 196.075(4)(a), F.S.

¹⁷ Because the exemption applies only to taxes levied by the county or municipality that enacts the exemption, it does not apply to taxes levied by 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.

If approved by 60 percent of voters at the November 2016 general election, the proposed constitutional amendment will be effective on January 1, 2017, and is retroactive to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

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 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.’”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 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$132,570.²¹

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,

²⁰ *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).

²¹ The Department of State made this determination based on the cost to advertise a constitutional amendment during the 2014 general election. E-mail from Christie Burrus, Director of Legislative Affairs, Florida Department of State (Oct. 29, 2015).

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 Revenue Estimating Conference (REC) has analyzed similar legislation (HJR 275 (2016)), which did not include the retroactive provisions of CS/SJR 492. The REC determined that it has an indeterminate impact because it requires voter approval. If approved by the voters and fully implemented only within the jurisdictions that currently provide the exemption, the legislation would reduce local property taxes by \$500,000 in Fiscal Year 2017-2018, with a recurring impact of \$1.2 million. If all counties and municipalities choose to grant the exemption, the legislation will reduce local property taxes by \$1.6 million in Fiscal Year 2017-2018, with a recurring impact of \$4.2 million.

B. Private Sector Impact:

None.

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 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$132,570.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

CS/SJR 492 substantially amends the following articles of the Florida Constitution: Article VII, section 6; Article XII.

²² *Id.*

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on January 25, 2016:

The CS:

- Clarifies that the \$250,000 limitation is measured at the time that a person applies and is eligible for the exemption.
- Changes the effective date from January 3, 2017, to January 1, 2017, and makes the amendment retroactive to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

- B. **Amendments:**

None.

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