

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 Rules

BILL: HB 7107

INTRODUCER: Ways and Means Committee and Representative La Rosa

SUBJECT: Homestead Exemption Implementation

DATE: April 27, 2017

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Present	Phelps	RC	Pre-meeting

I. Summary:

HB 7107 implements the amendment to Article VII, Section 6(a) of the State Constitution, as proposed in HJR 7105, which increases the additional homestead property tax exemption from all taxes, other than school district taxes, by up to \$25,000, by exempting assessed value greater than \$75,000 and up to \$100,000.

The bill changes statutory dollar thresholds for the additional homestead exemption in order to conform with those in the constitutional amendment. Additionally, the bill provides that the rolled back rate used by local governments in Fiscal Year 2019-2020 must be calculated as if the tax base had not been reduced by the increased homestead exemption. This provision also applies to the calculation of higher millage rates that may be levied with either a two-thirds or unanimous vote by a local governing board.

The bill also directs the Legislature to appropriate funds to offset ad valorem tax revenue losses in fiscally constrained counties, as defined in s. 218.67(1), F.S., attributable to the reduction in property tax base caused by the increased homestead exemption. There are presently 28 fiscally constrained counties within the state.

The bill takes effect on the same day that the constitutional amendment in HJR 7105 or similar legislation takes effect, which is January 1, 2019.

II. Present Situation:

Calculating Ad Valorem Taxes

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 Ad valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the “just” or fair market value of real and tangible property as determined by

¹ Fla. Const. art. VII, s. 1(a).

county property appraisers on January 1 of each year.² Fair market value is then adjusted by any applicable exceptions to the just value requirement such as the annual “Save our Homes” limitation on homestead property assessment increases.³ The value arrived at after accounting for just value exceptions is known as the assessed value. Property appraisers then calculate taxable value by reducing the assessed value in accordance with any applicable exemption(s), such as the exemptions for homestead property.⁴ Each year, local governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

The homestead exemption is specified in Article VII, Section 6 of the Florida Constitution, which provides that every person who holds legal or equitable title to real estate and uses said real estate as a permanent residence for themselves or a legal or natural dependent is entitled to exemption from taxes on the first \$25,000 in assessed value.⁵ In 2008, Florida voters amended this provision to include an additional \$25,000 exemption from all taxes other than school district taxes on assessed value greater than \$50,000.⁶ The constitution also vests the Legislature with authority to enact general law establishing the manner in which individuals qualify for exemption. Accordingly, s. 196.031(1)(b), F.S., automatically grants the additional, non-school homestead exemption to every individual who qualifies for the initial homestead exemption on the first \$25,000 in assessed value.

Calculating Millage Rates

The “rolled back rate” is the millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year’s total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.^{7,8}

² See Fla. Const. art. VII, s. 4.

³ See s. 193.155(3), F.S.

⁴ See generally, s. 196.031, F.S.

⁵ Fla. Const. art. VII s. 6.

⁶ *Id.*

⁷ Pursuant to s. 200.001(h), F.S., “dedicated increment value” means the proportion of the cumulative increase in taxable value within a defined geographic area used to determine a tax increment amount to be paid to a redevelopment trust fund pursuant to s. 163.387(2)(a) or to be paid or applied pursuant to an ordinance, resolution, or agreement to fund a project or to finance essential infrastructure. Upon creating any obligation for payment to a redevelopment trust fund or otherwise pursuant to an ordinance, resolution, or agreement to fund a project or to finance essential infrastructure based on an increase in assessed value, the taxing authority shall certify to the property appraiser the boundaries of the designated geographic area and the date of the most recent assessment roll used in connection with the taxation of such property prior to creation of the obligation. If the increment amount payment is not based on a specific proportion of the cumulative increase in taxable value within a defined geographic area, such value shall be reduced by multiplying by a proportion calculated by dividing the payment in the prior year, if any, by the product of the millage rate in the prior year and the cumulative increase in taxable value within the defined geographic area in the prior year. For tax years beginning on or after January 1, 2008, information provided to the property appraiser after May 1 of any year may not be used for the current year’s certification.

⁸ Section 200.065(1), F.S.

Florida law utilizes the rolled back rate as a benchmark for determining whether a proposed millage rate is considered a tax increase. Local governing boards that choose to set their annual millage rate higher than the roll back rate must advertise the new rate as a tax increase.⁹

Section 200.065, F.S., provides criteria for determining the maximum millage rates that may be levied by a county, municipality, special district or municipal service taxing unit. The maximum rate that may be levied by simple majority vote is the rolled back rate that would have been attained had the board levied the highest millage rate allowed in the prior year, adjusted for change in per capita Florida personal income. Local governing boards may exceed this amount by up to 10 percent with consent from two-thirds of board members, or an amount greater than 10 percent with consent from all board members. Boards who wish to exceed the rolled-back rate by any amount must provide notice and comment to affected taxpayers before taking a vote on the issue.¹⁰

Fiscally Constrained Counties

Fiscally constrained counties are counties entirely within a Rural Opportunity Area or where a 1 mill levy would raise no more than \$5 million in annual tax revenue.¹¹ A rural opportunity area is a rural community¹² or region, that has been adversely affected by an extraordinary economic event, severe distress, natural disaster or that presents a unique economic development opportunity of regional impact, as designated by the Governor.¹³ Florida's fiscally constrained counties are: Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla and Washington.¹⁴ Under current law, the legislature annually appropriates money to these counties to offset ad valorem tax revenue reductions caused by various amendments in the Florida Constitution.¹⁵ In order to receive an offset distribution, fiscally constrained counties must annually provide the Department of Revenue with an estimate of the expected reduction in ad valorem tax revenues that are directly attributable to specified revisions of Article VII of the state constitution.¹⁶ This legislation is designed to prevent various constitutional amendments related to property tax from negatively impacting fiscally constrained county tax revenues.

III. Effect of Proposed Changes:

Section 1 amends s. 196.031, F.S., to implement the proposed constitutional amendment in HJR 7105 by increasing the additional homestead exemption amount from \$25,000 to \$50,000 on the assessed value greater than \$50,000 for all taxes other than school district taxes.

⁹ Section 200.065(3)(g), F.S.

¹⁰ See s. 200.065,(2)-(3), F.S.

¹¹ Section 218.67(1), F.S.

¹² A "rural community" as the term relates to counties means a county with a population of 75,000 or fewer, or a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer. See s. 288.0656(1)(e), F.S.

¹³ Section 288.0656(1)(d), F.S.

¹⁴ Florida Department of Revenue, List of Fiscally Constrained Counties, <http://floridarevenue.com/dor/property/cofficials/fiscalc/pdf/fcco081210.pdf> (last visited 03/30/2017).

¹⁵ See generally s. 218.125, F.S.

¹⁶ Section 218.125(2), F.S.

Section 2 amends s. 200.065, F.S., to provide that taxable values used in the calculation of rolled-back rates for purposes of the 2019 tax roll shall be increased by an amount equal to the reduction in taxable value that will occur if the amendment is adopted. Consequently, rolled back rates used by local governments in their Fiscal Year 2019-2020 tax rate determinations will not automatically increase in response to the tax base reductions associated with the higher homestead exemption.

Section 3 amends s. 218.125, F.S., to require the Legislature, beginning in Fiscal Year 2019-2020, to annually appropriate funds to fiscally constrained counties for the purpose of offsetting the decrease in ad valorem tax revenues they would otherwise experience as a result of the amendment to Article VII, Section 6(a) of the Florida Constitution. The method for applying and calculating distributions is the same as that used in s. 218.125, F.S.

Section 4 provides that the bill shall take effect on the same date as the effective date of the amendment to the state constitution proposed by HJR 7105, which is January 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, subsection 18(b), of the Florida Constitution may apply because this bill will reduce certain statutory maximum millage rates, above which a local government may not levy property tax except by extraordinary votes of the governing board. It is unclear whether this constitutes a reduction of revenue raising authority as contemplated by subsection 18(b). If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that if the voters approve the constitutional amendment in HJR 7105, non-school property tax revenues could be reduced by -\$794.9 million annually, assuming current tax rates.

B. Private Sector Impact:

Taxpayers may experience lower taxes if HJR 7105 is approved, and the tax burden will be shifted among taxpayers.

C. Government Sector Impact:

If the bill becomes effective and the Legislature makes appropriations as directed by the bill, staff estimates that state expenditures sufficient to fully offset the impacts to fiscally constrained counties of the higher homestead exemption will be approximately \$15 million annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 196.031, 200.065, and 218.125.

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

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

None.

B. Amendments:

None.