

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 454

INTRODUCER: Senator Brandes

SUBJECT: Limitations on Homestead Assessments

DATE: December 4, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	<b>Pre-meeting</b>
2.			AFT	
3.			AP	

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**I. Summary:**

SB 454 is the implementing bill for SJR 452 which proposes an amendment to the Florida Constitution to extend from 2 to 3 years the “portability” period during which a Florida citizen has the ability to transfer up to \$500,000 of accumulated Save our Homes Cap Benefits from an existing or prior homestead property to a new homestead property.

**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.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

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<sup>1</sup> Both real property and tangible personal property are 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.

<sup>2</sup> 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).

<sup>3</sup> See s. 192.001(2) and (16), F.S.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> 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;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### **Save Our Homes Assessment Limitation and Portability**

In 1992, Florida voters approved an amendment to the Florida Constitution known as the Save Our Homes amendment.<sup>11</sup> Article VII, section 4(d) of the Florida Constitution limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).<sup>12</sup> The accumulated difference between the assessed value and the just value is the Save Our Homes Benefit. The assessed value may increase even if the value of the home decreases, but only by this limited amount. In addition, the assessed value of a homestead property will never be more than the 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.<sup>13</sup> This amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued benefit to the new homestead. To transfer the Save Our Homes benefit, you must establish a homestead exemption for the new home within 2 years of January 1 of the year you abandoned the old homestead (not 2 years after the sale).<sup>14</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 193.155, F.S., to extend from 2 to 3 years the "portability" period during which a Florida citizen has the ability to transfer up to \$500,000 of accumulated Save our Homes Cap Benefits from an existing or prior homestead property to a new homestead property.

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<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155, F.S.

<sup>12</sup> FLA. CONST. art. VII, s. 4(d).

<sup>13</sup> The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155(8), F.S.

<sup>14</sup> See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure at <http://floridarevenue.com/dor/property/brochures/pt112.pdf>.

**Section 2** provides that this act applies beginning with the 2019 tax roll.

**Section 3** provides that the act shall take effect on the effective date of the amendment to the Florida Constitution proposed by SJR 452 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the Florida Constitution is approved at the general election held in November 2018.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference adopted a zero/negative indeterminate fiscal impact due to the requirement for a state referendum. If the constitutional amendment does not pass, the impact is zero. However, if approved, the Revenue Estimating Conference adopted a recurring fiscal impact of negative \$6.8 million in ad valorem revenues. Specifically, there will be a recurring reduction of \$2.7 million in school taxes and \$4.1 million in non-school taxes.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, homeowners will have an additional year to transfer their existing homestead Save Our Homes benefit to a new homestead property.

C. Government Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors, local governments may receive less ad valorem tax revenue.

If the proposed amendment is approved by a 60 percent vote of the electors, the Department of Revenue would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH; and Rule 12D-8.0065(2)(a), F.A.C. However, the department will implement those changes with existing fiscal resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 193.155 of the Florida Statutes.

**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.