

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: CS/SB 562

INTRODUCER: Community Affairs Committee and Senator Diaz

SUBJECT: Homestead Assessments

DATE: March 6, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 562 is the implementing bill for CS/SJR 344 which proposes an amendment to the Florida Constitution to prohibit increases in the assessed value of homestead property for school district levy purposes to a person who is at least 65 years of age, has held legal or equitable title to the property, and has maintained permanent residence on the property for at least 25 years.

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 assessed or “just value”² of property within the taxing authority and then applies relevant exclusions, assessment

¹ 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.

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).

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

Major Property Tax Exemptions Available to Seniors and Assessment Limitations

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.

Additional Homestead Exemptions for Certain Persons 65 years of Age or Older

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant two 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 2019 household income threshold for these exemptions is \$30,174.¹³ The exemptions require the owner to hold

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).

¹² FLA. CONST. art. VII, s. 6(d)(1) and (2).

¹³ Florida Department of Revenue, *Two Additional Homestead Exemptions for Persons 65 and Older* (Revised January 2019) available at <http://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited Feb. 20, 2019).

legal or equitable title to the real estate and maintain thereon their permanent residence.¹⁴ The two additional exemptions are:

\$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.¹⁵

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.¹⁶

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 chapters 125 and 166, F.S.¹⁷ The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.¹⁸

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."¹⁹ 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."²⁰

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.²¹ 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).²² 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.²³ 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

¹⁴ Section 196.075(8), F.S., provides that a spouse may receive the amount of either additional homestead exemption if title is held jointly with right of survivorship.

¹⁵ FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2), F.S.

¹⁶ FLA. CONST. art. VII, s. 6(d)(2).

¹⁷ Section 196.075(4)(a), F.S.

¹⁸ 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.

¹⁹ Section 196.075(1)(b), F.S.

²⁰ Section 196.075(1)(a), F.S.

²¹ The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155, F.S.

²² FLA. CONST. art. VII, s. 4(d).

²³ The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155(8), F.S.

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).²⁴

Improperly Granted Homestead Exemptions

Section 196.161, F.S., provides a mechanism for recovery of taxes from persons improperly granted a homestead exemption. Section 196.161(1)(b), F.S., provides that if the property appraiser determines that a person was not entitled to a homestead exemption for any time within the prior 10 years, then the property appraiser must record a tax lien against the property. In addition to the property being liable for all taxes exempt, there is a penalty of 50 percent of the unpaid taxes for each year, plus 15 percent interest per year. However, penalties and interest are not due when the exemption was improperly granted as a result of a clerical error or an omission by the property appraiser.

School District Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes.²⁵ The levy of nonvoted ad valorem tax levies for school purposes is restricted to ten mills.²⁶ The voted levies, which are constitutionally available to counties and municipalities as well as school districts, do not count toward the ten-mill cap. School district millage rates are composed of five categories:²⁷

- Nonvoted required school operating millage necessary to meet Required Local Effort (RLE) is determined by the Commissioner of Education and set by the school board. For operating purposes, it is imposed pursuant to s. 1011.60(6), F.S., and reflects the minimum financial effort required for support of the Florida Education Finance Program (FEFP) as prescribed in the current year's General Appropriations Act.
- Nonvoted discretionary school operating millage is the rate set by the school board for operating purposes other than the RLE millage rate imposed pursuant to s. 1011.60(6), F.S., and the nonvoted capital improvement millage rate imposed pursuant to s. 1011.71(2), F.S. The Legislature annually prescribes in the General Appropriations Act the maximum amount of millage a district may levy.²⁸
- Nonvoted district school capital improvement millage is the rate set by the school board for capital improvements as authorized in s. 1011.71(2), F.S. General law limits the maximum rate at 1.5 mills.²⁹ However, a district school board is authorized to levy an additional millage of up to 0.25 mills for fixed capital outlay under certain circumstances.³⁰

²⁴ See Florida Department of Revenue, *Save Our Homes Assessment Limitation and Portability Transfer* (July, 2018), available at <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Mar. 6, 2019).

²⁵ FLA. CONST. art. VII, s. 1(a).

²⁶ FLA. CONST. art. VII, s. 9(b). Counties, municipalities, and school districts may levy taxes in excess of the ten-mill limit to pay bonds or for periods no longer than two years when authorized by a vote of the electorate, pursuant to FLA. CONST. art. VII, s. 9(b). In addition, statutorily authorized voted millage lasting no more than four years may be levied under the ten-mill limitation, pursuant to s. 1011.71(9), F.S.

²⁷ Section 200.001(3), F.S.

²⁸ Section 1011.71(1), F.S.

²⁹ Section 1011.71(2), F.S.

³⁰ Section 1011.71(3), F.S.

- Voted district school operating millage is the rate set by the school board for current operating purposes as authorized by a vote of the electors pursuant to Article VII, section 9(b) of the Florida Constitution.
- Voted district school debt service millage is the rate set by the school board as authorized by a vote of the electors pursuant to Article VII, section 12 of the Florida Constitution.

The Florida Department of Education's *2017-18 Funding for Florida School Districts* provides an overview of school district funding and discussion of school district millages.³¹ According to the report, school districts in Fiscal Year 2015-16 received 40.39 percent of their financial support from state sources, 48.00 percent from local sources (including the RLE portion of the FEFP) and 11.61 percent from federal sources.³²

III. Effect of Proposed Changes:

Section 1 creates s. 193.626, F.S., to provide a homestead assessment limitation for school district levy purposes for a person 65 years or older. For purposes of school district levies, the assessed value of homestead property shall not increase above the assessed value on the January 1 immediately following the date the property owner becomes eligible. Eligible property owners are those who are at least 65 years old, have held legal or equitable title to the property and have maintained permanent residence on the property for at least 25 years. If title is held jointly with rights of survivorship, the person entitled to the assessment limitation may receive the entire assessment limitation.

Consequences for an assessment limitation improperly granted are provided in a manner similar to those found in s. 196.161, F.S., for improperly granted statewide homestead exemptions. Specifically, if a property appraiser determines that a person received an unentitled assessment limitation within the previous 10 years, the property appraiser must serve a notice of tax lien against any property owned by that person in the county. Any of the taxpayer's property in the state is subject to taxes limited by the improper assessment limitation, plus a penalty of 50 percent of the unpaid taxes for each year and a 15 percent interest rate per year. Improperly granted assessment limitations caused by a property appraiser's clerical error or omission are not subject to the penalty and interest. An owner has 30 days to pay the taxes, penalties and interest before a lien may be filed subject to the procedures in s. 196.161(3), F.S. The assessment limitation created by the bill first applies to the 2021 property tax roll.

Section 2 provides that the bill shall take effect on the effective date of the amendment to the State Constitution proposed by SJR 344 or a similar joint resolution approved at the general election held in November 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³¹ Florida Department of Education, *2017-18 Funding for Florida School Districts*, available at <http://fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> (last visited Feb.20, 2019).

³² *Id.* at 2.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference has not yet determined the impact of CS/SJR 344.

B. Private Sector Impact:

If the proposed amendment in CS/SJR 344 is approved by a 60 percent vote of the electors, qualifying homestead property owners will have their assessed values frozen for school district levy purposes.

C. Government Sector Impact:

If the proposed amendment in CS/SJR 344 is approved by a 60 percent vote of the electors, local school districts will receive less ad valorem tax revenue.

If the proposed amendment is approved by a 60 percent vote of the electors, the Department of Revenue may need to amend certain forms. However, it is likely the department could implement those changes with existing fiscal resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the section 196.626 of the Florida Statutes.

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 Community Affairs on March 5, 2019:

Provides a homestead assessment limitation for school district levy purposes for certain persons age 65 year or older which first applies to the 2021 property tax roll.

- B. **Amendments:**

None.