

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: SB 148

INTRODUCER: Senator Brandes

SUBJECT: Limitations on Homestead Assessments

DATE: October 29, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 148 is the implementing bill for SJR 146, which proposes an amendment to the Florida Constitution to extend from two to three years the “portability” period during which a person may transfer up to \$500,000 of accumulated Save our Homes benefit from an existing or prior homestead property to a new homestead property. The bill first applies to the 2021 tax roll.

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.

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).

³ See s. 192.001(2) and (16), F.S.

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

Save Our Homes Assessment Limitation and Portability

In 1992, Florida voters approved the Save Our Homes amendment to the Florida Constitution.¹¹ The Save Our Homes amendment 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.¹² 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; however, the assessed value of a homestead property will never be more than the just value.

In 2008, Florida voters further amended the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation.¹³ This amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued Save Our Homes benefit to the new homestead. To transfer the Save Our Homes benefit, the homestead owner must establish a new homestead within 2 years of January 1 of the year he or she abandoned the old homestead (not 2 years after the sale).¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 193.155, F.S., to extend from two to three years the "portability" period during which a person has the ability to transfer up to \$500,000 of accumulated Save Our Homes benefit from a prior homestead property to a new homestead property. The section also removes obsolete provisions pertaining to the 2008 homestead property assessments.

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

¹² FLA. CONST. art. VII, s. 4(d).

¹³ FLA. CONST. art VII, s. (4)(d)(8). The Florida Legislature implemented the Portability amendment in s. 193.155(8), F.S.

¹⁴ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure *available at* <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Mar. 24, 2019).

Section 2 provides that the act applies beginning with the 2021 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 146 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 election¹⁵ held in November 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

As of this date, the Revenue Estimating Conference (REC) has not met to consider the proposed fiscal impact of SB 148. During the 2019 Legislative Session, the REC determined that a similar bill on Save Our Homes portability timeframes, SB 324, would have zero impact if the electors did not approve the related joint resolution. However, if approved, the REC determined that SB 324 (2019) would reduce local property taxes by \$2.1 million, beginning in Fiscal Year 2021–2022, with a recurring reduction of \$6.5 million. The fiscal impact included a \$0.8 million reduction in school taxes, beginning in Fiscal Year 2021–2022, with a \$2.4 million recurring reduction.

¹⁵ Section 97.012(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

B. Private Sector Impact:

If the proposed amendment is approved by a 60 percent vote of the electors,¹⁶ 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.

According to the Florida Department of Revenue (DOR), if SJR 146 and the implementing language in SB 148 are approved, DOR would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH, and amend Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C.¹⁷

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.

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

¹⁶ 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, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

¹⁷ Florida Department of Revenue, *SJR 146 Agency Analysis* (Oct. 8, 2019) (on file with the Senate Committee on Community Affairs).