

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HJR 1377 Limitation on Assessment of Real Property Used for Residential Purposes

**SPONSOR(S):** Chaney and others

**TIED BILLS:** CS/CS/HB 1379 **IDEN./SIM. BILLS:** SJR 1182

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**FINAL HOUSE FLOOR ACTION:** 118 Y's 0 N's **GOVERNOR'S ACTION:** N/A

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### SUMMARY ANALYSIS

HJR 1377 passed the House on April 21, 2021, and subsequently passed the Senate on April 26, 2021.

Local governments impose and collect ad valorem taxes on real and tangible personal property within Florida. All property in Florida is subject to taxation and must be assessed at just value unless the Florida Constitution authorizes an exemption or exception.

The Florida Constitution authorizes the Legislature to prohibit the consideration of certain changes to real property for purposes of determining the property's assessed value. Specifically, the Legislature may prohibit the consideration of:

- Any change or improvement to residential real property made to improve the property's resistance to wind damage; or
- The installation of a solar or renewable energy device.

The joint resolution proposes an amendment to the Florida Constitution to authorize the Legislature to prohibit the consideration of any change or improvement to real property used for residential purposes made to improve the property's resistance to flood damage.

The joint resolution will be considered by the electorate at the next general election in November 2022. If adopted at the 2022 general election, the resolution would take effect January 1, 2023.

The Revenue Estimating Conference estimated that the joint resolution would not have an impact on state or local government revenue as the amendment it proposes is subject to voter approval and is not self-executing.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

The joint resolution is not subject to the Governor's veto powers.

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### Background

#### Property Taxes

The Florida Constitution reserves ad valorem taxation on real and tangible personal property to local governments and prohibits the state from levying ad valorem taxes on such property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires all property to be assessed at just value for ad valorem tax purposes<sup>3</sup> and provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

Unless expressly exempted from taxation, all real and personal property and leasehold interests in the state are subject to taxation.<sup>6</sup> The Florida Constitution limits the Legislature's authority to grant an exemption from taxes,<sup>7</sup> and any modifications to existing ad valorem tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>8</sup>

Article VII, section 4 of the Florida Constitution authorizes the Legislature to prohibit the consideration of certain changes to real property for purposes of determining the property's assessed value. Specifically, the Legislature may prohibit the consideration of:

- Any change or improvement to residential real property made to improve the property's resistance to wind damage; or
- The installation of a solar or renewable energy device.

#### Flood Damage

Hurricanes and other storms that result in flooding have caused billions of dollars in damage across all parts of Florida. Local jurisdictions throughout the state recognize, plan for, and manage development in flood hazard areas. An area's resistance to flood damage can be increased through mitigation strategies such as large structural public works projects, including dams, seawalls, and levees, as well as improvements made to individual properties, such as elevating structures, filling basements, and waterproofing.<sup>9</sup> Mitigation can also include non-structural improvements, such as the maintenance of

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<sup>1</sup> Art. VII, s. 1(a), Fla. Const.

<sup>2</sup> Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> Section 196.031, F.S.

<sup>6</sup> Section 196.001, F.S.; see also *Sebring Airport Authority v. McIntyre*, 642 So. 2d 1072, 1073 (Fla. 1994), noting exemptions are strictly construed against the party claiming them.

<sup>7</sup> *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978).

<sup>8</sup> *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am Fi Inv. Corp v. Kinney*, 360 So. 2d 415 (Fla. 1978); see also *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>9</sup> Beverly Cigler, *U.S. Floods: The Necessity of Mitigation*, State and Local Government Review, Vol. 49 Issue 2 (Sept. 2017), available at [https://www.napawash.org/uploads/Standing\\_Panel\\_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf](https://www.napawash.org/uploads/Standing_Panel_Blogs/cigler-floods-and-mitigation-Sept.-20172.pdf) (last visited Mar. 9, 2021).

land to allow for stormwater runoff, waterproofing basements, installing check valves capable of preventing water backup, and elevating furnaces, heaters, and electrical panels.<sup>10</sup>

### **Effect of the Bill**

The joint resolution proposes an amendment to Article VII, section 4(i) of the Florida Constitution to authorize the Legislature to prohibit, for purposes of determining the assessed value of real property, the consideration of any change or improvement to real property used for residential purposes made to improve the property's resistance to flood damage.

The joint resolution will be considered by the electorate at the next general election in November 2022. If adopted at the 2022 general election, the resolution will take effect January 1, 2023.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

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 sixth week immediately preceding the week the election is held. The statewide average cost for the Division of Elections (division) within the Department of State to advertise constitutional amendments, in English and Spanish,<sup>11</sup> in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document. The division stated that the publication costs for advertising the constitutional amendments in 2020 was \$351,834.45; however, accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from the newspapers.<sup>12</sup>

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The Revenue Estimating Conference estimated that the joint resolution would not have an impact on local government revenue as the amendment it proposes is subject to voter approval and is not self-executing.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

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<sup>10</sup> *Id.*

<sup>11</sup> Section 203 of the Federal Voting Rights Act requires the Department of State (DOS) to publish a Spanish version of the amendment in addition to an English version.

<sup>12</sup> See Email from Brittany N. Dover, Legislative Affairs Director, DOS, "RE: HJR 1377 Cost to Advertise" (Mar. 9, 2021) (on file with the Environment, Agriculture & Flooding Subcommittee).

None.