

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 973 Homestead Property Tax Assessment Limitations and Tax Exemptions for Certain Low-income Elderly Persons

SPONSOR(S): Borrero

TIED BILLS: HB 975 **IDEN./SIM. BILLS:** SJR 1278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	18 Y, 0 N	Darden	Miller
2) Ways & Means Committee	15 Y, 0 N	Davis	Aldridge
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, district school boards, and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable limitations and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

The joint resolution:

- Amends art. VII, s. 4 of the Florida Constitution to authorize the Legislature to prohibit increases in the assessed value of homestead property owned by low-income seniors;
- Revises the existing additional homestead exemption for low-income seniors to allow counties or municipalities to choose between exempting \$50,000 of the assessed value of the property or exempting the entire assessed value of the property; and
- Creates a new homestead exemption, for all levies other than school district levies, for the entire assessed value of the property for low-income seniors who have maintained permanent resident on a property for at least 20 years that has a just value of less than \$300,000 in the first year the owner applies for the exemption.

The joint resolution also requires the just value limitation be adjusted each year to account for the effect of inflation. Additionally, the joint resolution adds a new section to art. XII of the Florida Constitution providing that the amendments to art. VII, ss. 4 and 6, take effect January 1, 2023.

Each chamber of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. The joint resolution provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

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

A joint resolution proposing an amendment to the State Constitution must be passed by three-fifths of the membership of each house of the Legislature.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Ad Valorem Taxation

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 personal property as determined by county property appraisers on January 1 of each year.² The just value may be subject to limitations, such as the “save our homes” limitation on homestead property assessment increases.³ The value determined after accounting for applicable limitations is known as the assessed value. Property appraisers then calculate taxable value by reducing the assessed value in accordance with any applicable exemptions, 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.

Property Tax Assessment Limitations Exemptions Available to Seniors

Homestead Exemption

Every person having legal and equitable title to real estate 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.⁵ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This additional exemption does not apply to ad valorem taxes levied by school districts.

Additional Homestead Exemption for Low-Income Seniors

The Florida Constitution authorizes the Legislature to allow counties and municipalities, by general law, to grant an additional homestead exemption to persons aged 65 or older with a household income that does not exceed \$20,000 (low-income seniors).⁶ The income limitation is adjusted each year to reflect changes in the consumer price index.⁷ For 2022, the income threshold for this exemption is \$32,561.⁸ An owner must hold legal or equitable title to the property and maintain it as his or her permanent residence to qualify for the exemption.⁹ If title to the property is held jointly with a right of survivorship, the exemption may be claimed if one of the owners is residing on the property and would otherwise qualify.¹⁰ Under this section of the Constitution, a county or municipality may grant either (or both) of following exemptions:

- An additional \$50,000 of homestead exemption for all low-income seniors;¹¹ or

¹ Art. VII, s. 1(a), Fla. Const.

² Art. VII, s. 4, Fla. Const.

³ S. 193.155(1), F.S.

⁴ S. 196.031, F.S.

⁵ Art. VII, s. 6(a), Fla. Const.

⁶ Art. VII, s. 6(d), Fla. Const.

⁷ S. 196.075(3), F.S.

⁸ Fla. Dept. of Revenue, *Two Additional Homestead Exemptions for Persons 65 and Older (Revised January 2022)*, available at <http://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited Feb. 2, 2022).

⁹ Art. VII, s. 6(d), Fla. Const.

¹⁰ S. 196.075(8), F.S.

¹¹ Art. VII, s. 6(d)(1), Fla. Const.

- The entire assessed value of the homestead property, if the just value is less than \$250,000 in the year the low-income senior owner applies for the exemption, and the owner has maintained a permanent residence on the property for at least 25 years.¹²

The exemption authorized under this section only applies to ad valorem taxes levied by the county or municipality granting the exemption.¹³ This includes taxes levied by dependent special districts or municipal service taxing units of the government granting the exemption.

Save Our Homes Assessment Limitation and Portability

The Florida Constitution limits the amount of change in the assessed value of a homestead property as of each January 1 to the lesser of three percent or the percentage change in the Consumer Price Index (CPI).¹⁴ This cap on the change in the assessed value is called the Save Our Homes (SOH) assessment limitation and the accumulated difference between the assessed value and the just value is the SOH benefit.¹⁵

If there is a change in ownership¹⁶ and a new homestead is established, the property must be assessed at just value as of January 1 of the year following the change unless the new owner transfers a SOH benefit from a previous homestead to the new homestead.¹⁷ The ability to transfer the SOH benefit is known as portability. A homestead property owner may transfer up to \$500,000 of the SOH benefit to the new homestead if the owner received a homestead exemption as of January 1 in any of the immediately preceding three years.¹⁸ Beginning January 1, 2017, an owner of homestead property that was significantly damaged or destroyed as the result of a hurricane or tropical storm may elect to abandon his or her homestead as of the date of the storm, even if a homestead exemption was received in the following year, and transfer the SOH benefit to a new homestead within three years of the storm.¹⁹

Effect of Proposed Changes

The joint resolution proposes amending art. VII, s. 4 of the Florida Constitution to authorize the Legislature to prohibit increases in the assessed value of homestead property owned by low-income seniors.

The joint resolution revises the existing additional homestead exemption for low-income seniors to allow counties or municipalities to choose between exempting \$50,000 of the assessed value of the property or exempting the entire assessed value of the property.

The joint resolution creates a new homestead exemption, for all levies other than school district levies, for low-income seniors who have maintained permanent resident on a property for at least 20 years. The exemption would apply to the entire assessed value of the property. The property must have a just value of less than \$300,000 in the first year the owner applies for the exemption, adjusted annually to reflect the rate of inflation, as determined by general law. The joint resolution also states this exemption applies to all low-income seniors who received the existing additional exemption for low-income seniors with property with an assessed value of less than \$250,000 in 2022, regardless of the just value of the exempted property.

¹² Art. VII, s. 6(d)(2), Fla. Const.

¹³ S. 196.075(4)(b), F.S.

¹⁴ Art. VII, s. 4(d)(1), Fla. Const. and s. 193.155, F.S.

¹⁵ See Fla. Dept. of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure, <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Feb. 2, 2022).

¹⁶ A change of ownership is any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person. See s. 193.155(3), F.S.

¹⁷ Art. VII, s. 4(d)(3), Fla. Const.

¹⁸ Art. VII, s. 4(d)(8), Fla. Const.; s. 193.155(8), F.S. The three-year timeframe is calculated from the time the old homestead exemption is abandoned and not the sale of the old homestead. See *supra* note 15.

¹⁹ S. 193.155(8)(m), F.S.

Additionally, the joint resolution adds a new section to art. XII of the Florida Constitution providing that the amendments to art. VII, ss. 4 and 6, take effect January 1, 2023.

The joint resolution must pass each chamber with a three-fifths vote before it may be placed on the ballot. Thereafter, it must be approved by at least 60 percent of the electors voting on the measure.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Art. XI, s. 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Division of Elections within the Department of State must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the amendment will appear on the ballot. The Division must also provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.²⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated that the joint resolution will 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:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The mandates provision applies only to general laws, not to a joint resolution proposing to amend the state Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The joint resolution neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES