

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 975 Homestead Exemptions for Low-income Seniors

**SPONSOR(S):** Borrero

**TIED BILLS:** HJR 973 **IDEN./SIM. BILLS:** SB 1280

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 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 bill implements the amendments to ss. 4 and 6, art. VII of the Florida Constitution, proposed by HJR 973, by:

- Providing that assessed value of homestead property owned by a low-income senior may not exceed the assessed value as of the January 1 on the year the property owner applied for and became eligible for the limitation;
- Revising an existing optional additional homestead exemption for low-income seniors that may be provided by a county or municipality from taxes levied by that government to give those governments the option of exempting either up to \$50,000 of the assessed value or the entire assessed value of the property; and
- Creating a new additional homestead exemption for low-income seniors who have lived in their homestead for at least 20 years and the homestead has a just value of less than \$300,000 at the time the application for the exemption is filed.

The Revenue Estimating Conference estimated that if the constitutional amendment is approved by the voters, that the bill would have a recurring negative impact on local government revenues of \$44.2 million per year (\$9.8 million in school funds and \$34.4 million in non-school funds).

This bill takes effect on the same day that the constitutional amendment proposed by HJR 973, or a similar joint resolution, takes effect if approved by the voters, which is January 1, 2023.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

# 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.<sup>1</sup> 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.<sup>2</sup> The just value may be subject to limitations, such as the “save our homes” limitation on homestead property assessment increases.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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).<sup>6</sup> The income limitation is adjusted each year to reflect changes in the consumer price index.<sup>7</sup> For 2022, the income threshold for this exemption is \$32,561.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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;<sup>11</sup> or

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

<sup>2</sup> Art. VII, s. 4, Fla. Const.

<sup>3</sup> S. 193.155(1), F.S.

<sup>4</sup> S. 196.031, F.S.

<sup>5</sup> Art. VII, s. 6(a), Fla. Const.

<sup>6</sup> Art. VII, s. 6(d), Fla. Const.

<sup>7</sup> S. 196.075(3), F.S.

<sup>8</sup> 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).

<sup>9</sup> Art. VII, s. 6(d), Fla. Const.

<sup>10</sup> S. 196.075(8), F.S.

<sup>11</sup> 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.<sup>12</sup>

The exemption authorized under this section only applies to ad valorem taxes levied by the county or municipality granting the exemption.<sup>13</sup> 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).<sup>14</sup> 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.<sup>15</sup>

If there is a change in ownership<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

### Improperly Granted Homestead Exemptions

Florida provides several property tax exemptions for homestead property.<sup>20</sup> Since Florida's homestead tax exemptions require that the property owner use the homestead property as a permanent residence, a property owner can only have one exempt homestead.

If a property appraiser determines that for any year or years within the prior 10 years a property owner was granted a homestead exemption, but was not entitled to it, the property appraiser must send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.<sup>21</sup> The property owner has 30 days to pay the taxes owed, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. If not paid within 30 days of notice, the property appraiser may file a tax lien.<sup>22</sup> The tax lien remains on the property until it is paid or until it expires after 20 years.<sup>23</sup>

<sup>12</sup> Art. VII, s. 6(d)(2), Fla. Const.

<sup>13</sup> S. 196.075(4)(b), F.S.

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

<sup>15</sup> 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).

<sup>16</sup> 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.

<sup>17</sup> Art. VII, s. 4(d)(3), Fla. Const.

<sup>18</sup> 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.

<sup>19</sup> S. 193.155(8)(m), F.S.

<sup>20</sup> See, e.g., ss. 196.031, 196.071, 196.075, 196.081, and 196.091, F.S.

<sup>21</sup> Ss. 196.011(9)(a), 196.075(9), and 196.161(1)(b), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> S. 95.091(1)(b), F.S.

If a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption shall not be assessed penalty and interest.<sup>24</sup>

### **Effect of Proposed Changes**

The bill implements the proposed constitutional amendment in HJR 973.

#### **Homestead Assessment Limitation for Low-Income Seniors**

The bill provides that the assessed value of homestead property owned by a low-income senior may not exceed the assessed value as of January 1 of the year the property owner applied for and became eligible for the limitation. If title of the homestead property is held jointly with a right of survivorship, a person residing on the property who meets the requirements may receive the entire amount of the limitation and the limitation carries over to a surviving spouse who uses the property as a homestead and meets the requirements of the statutory section.

The bill provides procedures if a property appraiser determines the property owner was granted the limitation, but was not entitled to it, which parallel the procedures and penalties for improperly granted homestead exemptions.

#### **Additional Homestead Exemption for Low-Income Seniors**

The bill provides that the governing body of a county or municipality may adopt an ordinance to allow an additional homestead exemption for low-income seniors of either up to \$50,000 of the assessed value of the property or the entire assessed value of the property. If the county or municipality provides an exemption equal to the entire assessed value of the property, that exemption does not apply to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12 of art. VII of the Florida Constitution.

The bill creates a new homestead exemption for low-income seniors. This exemption applies to the entire assessed value of the property and applies to all ad valorem levies other than school district levies. To qualify for the exemption, the low-income seniors must own a homestead property with a just value of less than \$300,000 in the year the application for the exemption is filed and must have maintained their permanent residence at the homestead for at least 20 years. The bill provides that, beginning January 1, 2024, and annually thereafter, the \$300,000 just value limitation must be adjusted to reflect the percentage change in the All-Transactions House Price Index for Florida, not seasonally adjusted, for the most recent four-quarter period ending September 30 of the prior year.

The bill provides that any low-income senior who received in 2022 the county or municipal additional homestead exemption based on residency and just value repealed by HJR 973 and other provisions of the bill qualifies for the new homestead exemption based on residency and just value on January 1, 2023, regardless of the just value of that homestead on January 1, 2023.

The bill states that if a county or municipality elects to increase the additional homestead exemption for low-income seniors from \$50,000 of assessed value to the entire assessed value, the county or municipality may grant the new exemption to existing recipients of the old exemption without requiring a new application.

The bill provides that the changes made by the bill first apply to the 2023 tax roll.

#### **B. SECTION DIRECTORY:**

Section 1: Creates s. 193.626, F.S., providing homestead assessment limitations for certain persons aged 65 or older.

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<sup>24</sup> Ss. 196.011(9)(a), 196.075(9), and 196.161(1)(b), F.S.  
**STORAGE NAME:** h0975c.WMC  
**DATE:** 2/17/2022

- Section 2: Amends s. 196.075, F.S., concerning an additional homestead exemption for persons aged 65 or older.
- Section 3: Authorizes the Department of Revenue to adopt emergency rules to administer the act.
- Section 4: Provides that the amendments made to s. 196.075, F.S., and the creation of s. 193.626, F.S. shall first apply to the 2023 tax roll.
- Section 5: Provides that the bill shall take effect on the effective date of the amendment to the Florida Constitution proposed by HJR 973, or a similar joint resolution having substantially the same specific intent and purpose, if such amendment is approved at the next general election or at an earlier special election specifically authorized by law for that purpose.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference (REC) determined that the revenue impact of the bill on local governments is zero/negative indeterminate because the bill is contingent upon passage of the constitutional amendment proposed by HJR 973. If the constitutional amendment does not pass, the impact of the bill is zero. If the constitutional amendment is approved by the voters, the REC estimated that the bill would have a recurring negative impact on local government revenues of \$44.2 million per year (\$9.8 million in school funds and \$34.4 million in non-school funds).

2. Expenditures:

None.

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

If HJR 973 is approved by at least 60 percent of voters, and this bill therefore goes into effect, low-income seniors will realize lower property taxes than would otherwise occur.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, subsection 18(b), of the Florida Constitution may apply because this bill will create an additional ad valorem homestead exemption which may

reduce the authority of municipalities and counties to raise revenue. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill authorizes the Florida Department of Revenue to adopt emergency rules to administer the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**