

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: SJR 126

INTRODUCER: Senator Avila

SUBJECT: Homestead Tax Exemption for Certain Senior, Low-income, Long-term Residents

DATE: February 13, 2023 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SJR 126 proposes an amendment to the Florida Constitution to raise the eligible real estate value for the optional full homestead exemption on long-term, low-income seniors from \$250,000 to \$300,000.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2024.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2025.

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

Property Tax Exemptions for Homesteads

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 \$75,000.¹² This exemption does not apply to ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors).¹³ That income limitation is adjusted each year according to changes in the consumer price index. The 2020 household income threshold for these exemptions is \$31,100.¹⁴ Qualifying seniors must hold legal or equitable title to the real estate and maintain thereon their permanent residence.

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) and s. 196.031, F.S.

¹² Section 196.031(1)(b), F.S.

¹³ FLA. CONST. Art. VII, s. 6(d)(1) and (2).

¹⁴ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited January 20, 2022).

Section 196.075, F.S., implements those constitutional amendments approved by voters in 1999 and 2012 allowing local governments to grant low-income seniors these additional homestead exemptions. The first additional homestead exemption so authorized,¹⁵ approved by voters in 1999, is an additional homestead exemption not exceeding \$50,000 in home value for any low-income senior. The second additional homestead exemption,¹⁶ approved by voters in 2012, exempts the entire assessed value of a low-income senior's homestead with a just value less than \$250,000 if he or she has maintained that homestead for not less than 25 years.¹⁷ A county or municipality may choose to instate one or both of these additional homestead exemptions by passing an ordinance subject to certain statutory requirements.

As of 2023, 28 of Florida's 67 counties and 67 municipalities have adopted the additional full exemption for low-income long-term seniors.

Penalties for Failure to Notify and Tax Liens

Under s. 196.075, F.S., if the property appraiser determines that for any year within the last ten years the taxpayer received an exemption for which they were not entitled, the taxpayer shall be subject to the taxes exempted as a result of such failure and a penalty of 50 percent of the taxes exempted plus 15 percent interest per annum. If such penalty is not paid in 30 days, the property appraiser must record a notice of tax lien against any property in the county owned by that person, or property in other counties if that person no longer owns property in the appraiser's county.

This penalty, its valuation and lien provision, is equivalent to the penalty associated with receiving a general homestead exemption to which a taxpayer was not entitled.¹⁸

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to raise the eligible real estate value for the optional full homestead exemption on long-term, low-income seniors from \$250,000 to \$300,000. Such exemption must be authorized by the legislature, which would be enacted simultaneously by the associated SB 124, if passed.

If adopted by the Legislature, the proposed amendment will be submitted to Florida's electors for approval or rejection at the next general election in November 2024.

If approved by at least 60 percent of the electors, the proposed amendment will take effect January 1, 2025.

¹⁵ Implementing FLA. CONST. art. VII, s. 6(d)(1).

¹⁶ Implementing FLA. CONST. art. VII, s. 6(d)(2).

¹⁷ Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds \$250,000.

¹⁸ Section 193.155(10), F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The mandate provisions in Article VII, section 18 of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article XI, s. 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, s. 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election¹⁹ held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Constitutional amendments submitted to the electors must be printed in clear and unambiguous language on the ballot.²⁰

Article XI, s. 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 6th week immediately preceding the week the election is held.

Article XI, s. 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 on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

¹⁹ Section 97.021(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.

²⁰ Section 101.161(1), F.S.

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

The Revenue Estimating Conference adopted a zero impact because this is a joint resolution proposing an amendment to be submitted to the voters, which is not self-executing.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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 in the 10th week and again in the 6th week immediately preceding the week the election is held.

The Division of Elections (division) within the Department of State pays for publication costs to advertise all constitutional amendments in both English and Spanish,²¹ typically paid from non-recurring General Revenue funds.²² 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 newspapers.

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the division has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

Substantially amending the constitutional provision authorizing full exemptions for long-term, low-income seniors may call into question the validity of those ordinances which currently authorize such exemption and would, therefore, no longer be in accord with the language of the

²¹ Pursuant to *Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503)*.

²² *See* Ch. 2020-111, Specific Appropriation 3132, Laws of Fla.

²³ Section 100.371(13)(e)4., F.S. *See also* Ch. 2019-64, s. 3, Laws of Fla.

Florida Constitution and related Statutes. Local governments wishing to continue to offer such exemption at the new, higher real estate value limit may be required to amend and re-instate ordinances to that effect before continuing to offer the exemption.

VIII. Statutes Affected:

This resolution substantially amends section 6, Article VII of the Florida Constitution.

This resolution also creates a new section in Article XII of the Florida Constitution.

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.
