

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 Community Affairs Committee

BILL: SJR 532

INTRODUCER: Senator Lynn

SUBJECT: Rental Property Assessment/Homestead Exemption

DATE: March 10, 2009

REVISED: 03/17/09

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Molloy	Yeatman	CA	Fav/1 amendment
2.		FT	
3.		EA	
4.		WPSC	
5.		RC	
6.			

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... ☐ Statement of Substantial Changes
B. AMENDMENTS..... ☐ Technical amendments were recommended
☐ Amendments were recommended
☒ Significant amendments were recommended

I. Summary:

This joint resolution proposes an amendment to sections 4 and 6, Article VII, of the State Constitution, to create an additional homestead exemption for first-time homebuyers and to create an assessment limitation for commercial or residential rental property that is limited to the greater of five percent or the annual average percentage of growth in revenues derived from the property during the preceding three years if ownership of the property has not changed.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature.

II. Present Situation:

Just Value— Section 4, Art. VII, State Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Since 1965, the settled law in Florida has been that “just valuation” is synonymous with “fair market value,” and is defined as what a willing buyer and willing seller would agree upon as a transaction for the property.¹

¹ *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dad County*, 275 So.2d 4 (Fla. 1973)

The Florida Constitution authorizes certain alternatives to the just value standard for specific types of property. Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use.² Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted.³ Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character and use.⁴ Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.⁵

Taxable Value— The taxable value of real and tangible personal property is the just value (fair market value) of the property, adjusted for exclusions (agricultural lands, etc.), differentials (Save Our Homes), or exemptions (homestead) allowed by the constitution or by state law as authorized in the constitution.

Homestead Exemption— Section 6, Art. VII, State Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains the permanent residence of the owner is eligible for a \$25,000 homestead exemption applicable to all ad valorem tax levies, including school districts, and an additional \$25,000 homestead exemption on the assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

Save Our Homes— Section 4(d), Art. VII, State Constitution, as amended in January 2008, provides the assessment limitation popularly known as "Save Our Homes." The limitation provides that each year, the assessed value of homestead property may only increase by a rate of 3 percent or the Consumer Price Index (CPI), whichever is lower. In 2008, Florida's voters approved an amendment to section 4(d), Art. VII, State Constitution, to provide for the portability of the accrued "Save Our Homes" benefit. When a homestead property owner relocates to a new homestead, up to \$500,000 of the "Save Our Homes" accrued benefit may be transferred to the new homestead.

Additional Assessment Limitations— Sections 4(g) and (h), Art. VII, State Constitution, were created in January 2008, when Florida's electors voted to provide an assessment limitation for residential real property containing nine or fewer units, and for all real property not subject to other specified classes or uses.⁶ For all levies other than school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer

² Art. VII, section 4(a) of the State Constitution.

³ Art. VII, section 4(c) of the State Constitution.

⁴ Art. VII, section 4(e) of the State Constitution.

⁵ Art. VII, section 4(f) of the State Constitution.

⁶ The other specified classes or limitations are an agricultural use classification, a conservation lands use classification, the valuation or exemption of tangible personal property held for sale as stock in trade and livestock, the Save Our Homes Assessment limitation, an historic use classification, an assessed value reduction for homestead property that provides living quarters for parents or grandparents of the owner of the property or the owner's spouse, or residential rental property of nine or fewer units.

units **must** be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature **may** provide by law that such property shall be assessed at just value after a change of ownership or control.

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to section 4, Art. VII, State Constitution, to provide the following:

Assessment Limitation – creates subsection (k) in s.4, Art. VII, State Constitution

- Increases in the assessment of commercial property and residential rental property may be limited to the greater of 5 percent or the average annual growth in revenues derived from the property over the preceding three years if ownership of the property has not changed.
 - This assessment limitation is pursuant to general law and subject to the conditions specified in such law.

Additional Homestead Exemption for First-time Homebuyers – creates new subsection (c) in s. 4, Art. VII, State Constitution

- Each person who establishes the right to a homestead exemption under s. 6(a), Art. VII, State Constitution, within one year after purchasing the homestead property and who has not previously owned property eligible for a homestead exemption, is entitled to an additional homestead exemption of 50 percent of the just value of the homestead property as of January 1 of the year the homestead is established.
 - The amount of the initial additional exemption is reduced by 20 percent on January 1 of each year after the additional exemption is granted.
- The additional exemption is not available to anyone who has previously owned property to which a homestead exemption applied.

1st -Time Homebuyer with Initial Just Value over \$100,000							
Year of Ownership	Just Value	Assessed Value	SOH Accrued Value	Homestead Exemption (except schools)	Additional Homestead Exemption	Taxable Value – Others	Taxable Value – Schools
Year 1	\$600,000	\$600,000	-0-	\$50,000	\$300,000	\$250,000	\$275,000
Year 2	\$630,000	\$618,000	\$12,000	\$50,000	\$240,000	\$328,000	\$353,000
Year 3	\$650,000	\$630,360	\$29,600	\$50,000	\$180,000	\$400,360	\$425,360
Year 4	\$670,000	\$630,990	\$39,010	\$50,000	\$120,000	\$460,990	\$485,990
Year 5	\$675,000	\$631,621	\$43,379	\$50,000	\$60,000	\$521,621	\$546,621
Year 6	\$680,000	\$632,252	\$47,748	\$50,000	-0-	\$582,252	\$607,252

1st -Time Homebuyer with Initial Just Value less than \$100,000							
Year of Ownership	Just Value	Assessed Value	SOH Accrued Value	Homestead Exemption (except schools)	Additional Homestead exemption	Taxable Value – Others	Taxable Value – Schools
Year 1	\$95,000	\$95,000	-0-	\$50,000	\$47,500	-0-	\$22,500
Year 2	\$100,000	\$97,850	\$2,250	\$50,000	\$38,000	\$9,850	\$34,850
Year 3	\$105,000	\$100,785	\$5,785	\$50,000	\$28,500	\$22,285	\$47,285
Year 4	\$110,000	\$103,808	\$6,192	\$50,000	\$19,000	\$34,808	\$59,808
Year 5	\$120,000	\$106,922	\$13,078	\$50,000	\$9,500	\$47,422	\$72,422
Year 6	\$125,000	\$110,129	\$14,871	\$50,000	-0-	\$60,129	\$85,129

If approved by Florida's electorate, the proposed amendment will take effect on the first Tuesday after the first Monday in January following the general election in November 2010, and will first apply to assessments in January 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions of s. 18, Art. VII, State Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 1, Art. X, State Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office, or at a special election held for that purpose.

Section 5(e), Art. XI, State Constitution, requires 60 percent voter approval for a constitutional amendment to take effect. An approved amendment will be effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

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

If adopted by the voters, the joint resolution will provide ad valorem tax relief to first-time homebuyers, and owners of specified residential rental and commercial real property will experience further reduction in tax assessments due to the 5 percent assessment limitation.

B. Private Sector Impact:

First-time homebuyers will experience reductions in ad valorem taxes, and other property owners may pay higher taxes if a local government decides to adjust the millage rate to accommodate the loss to the tax base. Owners of residential rental and commercial real property will experience additional property tax savings.

C. Government Sector Impact:

Local governments will experience a reduction in the ad valorem tax base if the joint resolution is approved by voters. Public school funding is tied to property taxes through the required local effort which is the amount of taxes which must be levied by the district to participate in the Florida Education Finance Program (FEFP). School districts are not exempt from the additional homestead exemption provisions of the joint resolution.

Section 5(d), Art. XI, State Constitution, requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held. The Department of State, Division of Elections, estimated the average non-recurring per word cost of publication⁷ for this joint resolution to be \$245,482, and noted that there is no appropriation associated with the joint resolution at this time.

The Revenue Estimating Conference met on March 14, 2009, and estimated the following impacts to local governments if the proposed joint resolution is approved by voters:

Reduce assessment cap for nonhomestead property to 5% from 10%⁸

FY 2010-2011 (\$100.1 million)	FY 2011-2012 (\$185.2 million)	FY 2012-2013 (\$266.4 million)
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First-time homesteads additional exemption – effect on nonschool levies

FY 2011-2012 (\$67 million)	FY 2012-2013 (\$129 million)	FH 2013-2014 (\$172 million)
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⁷ The Department of State provided an average per word cost of \$92.01 for every proposed amendment to the State Constitution for this fiscal year. The calculated cost is the cost of full publication.

⁸ School levies are exempt from this assessment limitation and will continue to be exempt.

First-time homesteaders additional exemption – effect on schools

FY 2011-2012
(\$53 million)

FY 2012-2013
(\$100 million)

FY 2013-2014
(\$133 million)

VI. Technical Deficiencies:

This joint resolution proposes to create a new subsection (k) in s. 4, Art. VII, State Constitution, to limit an annual increase in the assessment of residential rental property and commercial property to not more than 5 percent. Sections 4(g) and (h), Art. VII, State Constitution, provides a 10 percent assessment limitation on similar properties.

VII. Related Issues:

This joint resolution proposes an amendment to the State Constitution to provide an additional homestead exemption for qualified first-time homebuyers. The exemption is equal to 50 percent of the just value of the property at the time the owner receives a homestead exemption under s. 6(a), Art. VII, State Constitution. The value of the additional exemption is not capped except that it is limited to 50 percent of just value. The sponsor of the joint resolution is expected to offer an amendment that will address this issue.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 886910 by Community Affairs on March 17, 2009:

This “delete all” amendment provides that s. 4(g) and (h), Art. VII, State Constitution, are amended to reduce the assessment limitation on nonhomestead property to 5 percent from 10 percent, and new subsection (k) in the proposed resolution is deleted. The additional homestead exemption for first-time homestead property owners is revised to provide that in the first year, the additional exemption is equal to 50 percent of the just value of the property up to \$250,000. In years two through four, the additional exemption is reduced by 20 percent of the amount of the initial additional exemption, or by the difference between just value and assessed value, whichever is greater. In year six and after, the additional exemption no longer applies.

If approved by the voters, the revisions to the assessment limitation on nonhomestead property will take effect on January 1, 2011. The additional exemption for first-time homestead property owners will take effect on January 1, 2010, and shall apply to properties purchased on or after January 1, 2010.(WITH TITLE AMENDMENT)