

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 Finance and Tax Committee

BILL: CS/SJR 532

INTRODUCER: Finance and Tax Committee and Senator Lynn

SUBJECT: Rental Property Assessment/Homestead Exemption

DATE: April 15, 2009

REVISED: _____

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

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | 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 allow the Legislature to provide 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.

The Revenue Estimating Conference has not estimated the likely impacts of these provisions on property tax revenue.

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

Assessed Value--- 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 Land used for conservation purposes is to be classified by general law and assessed solely on the basis of character or use.³ 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.⁴ Counties and municipalities may also authorize historic properties to be assessed solely on the basis of character and use.⁵ Counties may provide for a reduction in the assessed value of homestead property improvements made to accommodate parents or grandparents in an existing homestead.⁶ The legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.⁷ Certain working waterfront property is assessed based upon its current use.⁸

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. 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 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. Section 27, Art. XII, State Constitution provides that the amendments creating a limitation on annual assessment increases are repealed effective January 1, 2019, and that the Legislature must propose an

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)

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

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

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

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

⁶ Art. VII, section 4(f) of the State Constitution.

⁷ Art. VII, section 4(i) of the State Constitution

⁸ Art. VII, section 4(j) of the State Constitution

amendment abrogating the repeal which shall be submitted to the voters for approval or rejection on the general election ballot in 2018.

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.

Other Exemptions--- Section 3 Art. VII, State Constitution, as amended in November 2008, provides for other specific exemption from property tax. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.⁹ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.¹⁰ A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon approval of the voters.¹¹ A county or municipality may grant an historic preservation property tax exemption against its own millage to owners of historic property.¹² Tangible personal property is exempt up to \$25,000 of its assessed value,¹³ and the Legislature must grant an exemption for real property dedicated in perpetuity for conservation purposes.¹⁴

Taxable Value— The taxable value of real and tangible personal property is the assessed value of the property less all applicable exemptions.

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 by general law 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.
- This joint resolution does not amend s. 27, Art. XII, which provides for repeal of the assessment limitation.

⁹ Art. VII, section 3(a) of the Florida Constitution

¹⁰ Art. VII, section 3(b) of the Florida Constitution

¹¹ Art. VII, section 3(c) of the Florida Constitution

¹² Art. VII, section 3(d) of the Florida Constitution

¹³ Art. VII, section 3(e) of the Florida Constitution

¹⁴ Art. VII, section 3(f) of the Florida Constitution

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 owned a primary residence in the preceding 10 years, is entitled to an additional homestead exemption of 25 percent of the just value of the homestead property as of January 1 of the year the homestead is established.
 - The additional exemption is capped at \$100,000, and
 - The amount of the initial additional exemption is reduced by 20 percent of its initial value, or the home's Save Our Homes differential, whichever is greater, on January 1 of each year after the additional exemption is granted.
- The additional exemption is not available to anyone who has owned, or whose spouse has owned, a primary residence in the preceding 10 years.

The following examples show the taxable value for schools and other local governments for homestead properties eligible for this exemption, assuming that the market value of homestead property grows 5 percent each year and the Save Our Homes assessment cap is 3 percent.

1st -Time Homebuyer with Initial Just Value over \$100,000							
Year of Ownership	Just Value	Assessed Value	SOH Accrued Differential	Homestead Exemption (except schools)	Additional Homestead Exemption	Taxable Value – Others	Taxable Value – Schools
Year 1	\$400,000	\$400,000	-	\$50,000	\$100,000	\$250,000	\$275,000
Year 2	\$420,000	\$412,000	\$8,000	\$50,000	\$80,000	\$282,000	\$307,000
Year 3	\$441,000	\$424,360	\$16,640	\$50,000	\$60,000	\$314,000	\$339,000
Year 4	\$463,050	\$437,091	\$25,959	\$50,000	\$40,000	\$347,000	\$372,000
Year 5	\$486,203	\$450,204	\$35,999	\$50,000	\$20,000	\$396,000	\$421,000
Year 6	\$510,513	\$463,710	\$46,803	\$50,000	\$-	\$413,000	\$438,000

1st -Time Homebuyer with Initial Just Value less than \$100,000							
Year of Ownership	Just Value	Assessed Value	SOH Accrued Differential	Homestead Exemption (except schools)	Additional Homestead exemption	Taxable Value – Others	Taxable Value – Schools
Year 1	\$95,000	\$95,000	\$-	\$50,000	\$23,750	-0-	\$22,500
Year 2	\$99,750	\$97,850	\$1,900	\$50,000	\$19,000	\$9,850	\$34,850
Year 3	\$104,738	\$100,786	\$3,952	\$50,000	\$14,250	\$22,286	\$47,286
Year 4	\$109,974	\$103,809	\$6,165	\$50,000	\$9,500	\$34,809	\$59,809
Year 5	\$115,473	\$106,923	\$8,550	\$50,000	\$4,750	\$47,423	\$72,423
Year 6	\$121,247	\$110,131	\$11,116	\$50,000	\$-	\$60,131	\$85,131

If approved by Florida's electorate, the proposed amendment will take effect on January 4, 2011 (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. Homes purchased on or after January 1, 2010 will be eligible for the additional homestead exemption.

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 who purchase homes in 2010 and thereafter will experience temporary reductions in ad valorem taxes. The value of the reduction will decrease by one-fifth each year and will disappear in the sixth year after the homestead is established. During this period, the ad valorem taxes levied on the homestead will increase significantly each year. Other property owners in the taxing jurisdiction will pay higher taxes if the jurisdiction adjusts the millage rate to offset the loss to the tax base.

Owners of existing residential rental and commercial real property may experience property tax savings and will not see their taxes increase significantly in a single year. To the extent that local taxing authorities' budgets are not reduced, the tax burden on other

properties will increase to offset these tax losses. New properties, or properties that have changed ownership or undergone significant improvements will be assessed at just value, and will be at a competitive disadvantage compared to older properties with respect to their tax burden.

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 publication¹⁵ 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 has not estimated the likely impacts of these provisions on property tax revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Finance and Tax on April 15, 2009:

The committee substitute reduces the first-time homebuyer exemption to 25 percent of the just value of the home, with a maximum exemption of \$100,000, and limits its application to persons who have not owned a primary residence anywhere in the previous 10 years.

B. Amendments:

None.

¹⁵ 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
