

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** CS/SJR 76

**INTRODUCER:** Appropriations Committee (Recommended by Appropriations Subcommittee on Finance and Tax); and Senator Lee and others

**SUBJECT:** Limitations on Property Tax Assessments

**DATE:** April 7, 2017                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<b>Recommend: Fav/CS</b>
2.	<u>Babin</u>	<u>Hansen</u>	<u>AP</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SJR 76 proposes an amendment to the Florida Constitution to remove the scheduled January 1, 2019, repeal of the 10-percent assessment limitation on non-homestead property. If approved by at least 60 percent of the electors, the 10-percent assessment limitation will continue.

The Revenue Estimating Conference (REC) has determined that the joint resolution has an indeterminate fiscal impact because it must be approved by the electors before it takes effect. If approved, the REC estimates that the joint resolution will reduce property taxes, other than property taxes for schools, by \$688.1 million, beginning in Fiscal Year 2019-2020.<sup>1</sup> The Department of State expects to incur costs of \$38,916 to advertise the constitutional amendment.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax (property tax) is levied annually by counties, cities, school districts, and some special districts. Taxing jurisdictions impose their tax on the taxable value of property as of

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<sup>1</sup> See infra, Section V, Fiscal Impact Statement.

January 1 of each year.<sup>2</sup> The property appraiser annually determines the “just value”<sup>3</sup> of property and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>4</sup> Tax collectors mail tax bills in November of each year based on the previous January 1 valuation. Payment is due before April 1.<sup>5</sup> The Florida Constitution prohibits the state from levying ad valorem taxes<sup>6</sup> and requires property valuations to be at just value, unless a lesser valuation is expressly authorized.<sup>7</sup>

### **The Save Our Homes Assessment Limitation for Homestead Property**

Property assessment limitations limit the annual increase in a property’s value for tax purposes, regardless of the property’s increase in fair market value. For example, even though a property’s market value may increase by 15 percent in a given year, an assessment limitation will limit the increase in assessed value to a lesser amount for tax purposes.

Voters approved Florida’s first property assessment limitation, known as Save Our Homes (SOH) in 1992, and it became effective for homestead assessments as of January 1, 1995.<sup>8</sup> The SOH limitation limits the annual increase in the assessed value of homesteads to the lesser of three percent or the percentage change in the consumer price index (CPI).<sup>9</sup> The CPI often limits the increase to below three percent. For example, the change in CPI resulted in a SOH limitation of 0.7 percent<sup>10</sup> in 2016 and 2.1 percent<sup>11</sup> in 2017.

### **The 10-Percent Assessment Limitation for Non-homestead Property**

In 2007, the Legislature passed a joint resolution,<sup>12</sup> which, among other things, proposed a 10-percent assessment limitation for non-homestead property. The limitation does not apply to property taxes levied by school districts.<sup>13</sup> The voters approved the constitutional amendment in the primary election held on January 29, 2008. It first applied to assessments as of January 1, 2009.

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<sup>2</sup> Both real property and tangible personal property can be subject to the 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.

<sup>3</sup> 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).

<sup>4</sup> *See* s. 192.001(2) and (16), F.S.

<sup>5</sup> Section 197.333, F.S.

<sup>6</sup> FLA. CONST. art. VII, s. 1(a)

<sup>7</sup> *See* FLA. CONST. art. VII, s. 4

<sup>8</sup> *See* FLA. CONST. art. VII, s. (4)(d); s. 193.155, F.S.

<sup>9</sup> Section 193.155(1), F.S.

<sup>10</sup> Department of Revenue, Property Tax Valuation and Income Limitation Rates, *available at* [www.floridarevenue.com/dor/property/resources/limitations.html](http://www.floridarevenue.com/dor/property/resources/limitations.html) (last visited Feb. 13, 2017).

<sup>11</sup> *Id.*

<sup>12</sup> SJR 2-D (2007, Special Session D)

<sup>13</sup> *See* FLA. CONST. art. VII, s. 4(g) & (h); ss. 193.1554 and 193.1555, F.S.

## **Recapture**

An administrative rule requires the property appraiser to increase the assessed value of a homestead property that is benefitting from the SOH limitation even though the just (or fair market) value of the property has remained the same, decreased, or increased less than the applicable SOH limit.<sup>14</sup> Pursuant to SOH, the increase is limited to the lesser of 3 percent or the percentage change in the CPI, but the assessed value can never exceed the just value.

For an example of the rule's operation, assume that in year 1 a homestead property has a just value of \$250,000 and an assessed value of \$200,000. The assessed value is lower than the just value because the property has received the benefit of the SOH limitation for a few years. In year 2, assume that the applicable SOH percentage is 3 percent, but that the real estate market is flat and the property's just value remains at \$250,000. In this situation, the property appraiser must increase the assessed value to \$206,000. This treatment is also required for the 10-percent limitation for non-homestead property.

## **Repeal of the 10-Percent Assessment Limitation**

The 2008 constitutional amendment included a repeal of the 10-percent assessment limitation, effective January 1, 2019. However, it also provided that the “[L]egislature shall by joint resolution propose an amendment abrogating the repeal..., which shall be submitted to the electors of the state for approval or rejection at the general election of 2018....”<sup>15</sup>

### **III. Effect of Proposed Changes:**

The bill amends the State Constitution to remove the repeal of the 10-percent assessment limitation for non-homestead property scheduled for January 1, 2019. If approved by at least 60 percent of the electors, the 10-percent assessment limitation will continue.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

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

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>14</sup> Rule 12D-8.0062(5), F.A.C.

<sup>15</sup> FLA. CONST. art. XII, s. 27

**D. Other Constitutional Issues:**

A joint resolution must be passed by three-fifths of the membership of each house of the Legislature. It must be submitted to the electors at the next general election held more than 90 days after the joint resolution proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing.<sup>16</sup> To pass, a proposed constitutional amendment must be approved by at least 60 percent of the electors voting on the measure, and if passed, it becomes effective as an amendment 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 or revision.<sup>17</sup>

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

The Revenue Estimating Conference (REC) has determined that CS/SJR 76 has an indeterminate fiscal impact because it must be approved by the electors before it takes effect. If approved, the joint resolution will reduce the non-school property tax base beginning in Fiscal Year 2019-2020, but the tax impact will depend upon the Fiscal Year 2019-2020 millage rates. Applying current statewide average millage rates, the REC estimates that the joint resolution will reduce non-school property taxes by \$688.1, beginning in Fiscal Year 2019-2020.

**B. Private Sector Impact:**

If the voters approve the amendment in the 2018 general election, some owners of non-homestead property will pay less property tax.

**C. Government Sector Impact:**

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment is submitted to the electors.<sup>18</sup> The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. The cost to advertise constitutional amendments for the 2016 general election was \$117.56 per word. Using 2016 rates, the Division estimates that the cost to advertise this amendment for the 2018 general election will be at least \$38,916.

**VI. Technical Deficiencies:**

None.

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<sup>16</sup> FLA. CONST. art. XI, s. 5(a).

<sup>17</sup> FLA. CONST. art. XI, s. 5(e).

<sup>18</sup> FLA. CONST. art. XI, s. 5(d).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends Article XII, section 27 of the State Constitution.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Appropriations on April 6, 2017:**

The committee substitute clarifies that, if approved by the voters, the constitutional amendment becomes effective on January 1, 2019.

- B. **Amendments:**

None.