SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 184

SPONSOR: Fiscal Resource Committee, Senators Diaz-Balart and Horne

SUBJECT: Additional Homestead Exemption

DATE: February 18, 1999 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier	Wood	FR	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

On November 3, 1998, the electors of Florida approved Amendment 3 to the Florida Constitution. This amendment authorizes the Legislature to enact a general law to allow counties or municipalities the authority to grant an additional homestead exemption of up to $25,000 to persons 65 years old or older whose total household income does not exceed $20,000.

This bill provides statutory implementation of Amendment 3, and prescribes the procedure by which local governments may adopt ordinances granting an additional homestead exemption to certain property owners.

This bill creates the following section of the Florida Statutes: Section 196.075.

II. Present Situation:

Current Law on Homestead Exemptions - Article VII, s. 4 of the State Constitution requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value. Section 4 provides exceptions for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property which is held as inventory may be assessed at a specified percentage of its value or totally exempted.

Article VII, s. 6 of the State Constitution authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another legally or naturally dependent upon the owner. The value of the homestead exemption is currently $25,000 of the assessed value of the real estate. The State Constitution requires that this provision be implemented pursuant to general law.

Section 196.031, F.S., primarily implements the homestead exemption, although other statutory sections provide specific procedures and conditions, i.e., procedures for application for the exemption (s. 196.011, F.S.), the extent of the exemption (s. 196.041, F.S.), and the effect of rental of homestead property. Additionally, three sections of chapter 196 provide for an exemption from taxation of the homesteads of the following classes of individuals: s. 196.081, F.S., exempts the homesteads of certain permanently and totally disabled veterans and surviving spouses of certain veterans; s. 196.091, F.S., exempts the homesteads of disabled veterans confined to wheelchairs; and s. 196.101, F.S., exempts the homesteads of quadriplegics. Section 196.131(2), F.S., provides that providing false information to obtain a homestead exemption is a third degree misdemeanor, and s. 196.161, F.S., provides for a tax lien against property for which a homestead exemption was claimed improperly.

"Save Our Homes" Homestead Property Assessment Limitation - All homesteads are shielded from rising tax assessments by the Save Our Homes initiative which was enacted in 1995. That initiative resulted in an amendment to Art. VII, s. 4, State Constitution, which caps the annual assessment of homestead property to the lesser of either 3 percent of the prior year's assessment or the percent change in the consumer price index.

Homestead Property Tax Deferral Act - Section 197.242, F.S., establishes the "Homestead Property Tax Deferral Act." Section 197.252, F.S., implements the act and provides for deferral of ad valorem taxes for qualified individuals. Ad valorem tax deferral is available to any homeowner whose tax burden is greater than 5 percent of household income, and homeowners over 70 years of age whose tax burden is greater than three percent of household income. Social security income is not included in this calculation. Participation in the tax deferment plan varies by county.

Other States - According to the National Conference of State Legislatures, four states currently provide, by general law, for local option ad valorem exemptions or deferrals for seniors.

- Delaware authorizes municipalities to exempt, by local ordinance, the realty of persons 65 or older.
- Virginia authorizes local governments to exempt the homesteads of persons 65 or older whose income does not exceed the greater of either $30,000 or the HUD income limit by family size for qualifying for federal housing assistance, excluding the first $6,500 of any relative of the owner, other than a spouse, and whose combined net worth does not exceed $75,000.
- New York authorizes cities to grant persons 65 or older an exemption not to exceed 50 percent of the assessed value of homestead property, and allows the municipality to set an income limitation between $3,000 and $17,500.
- Utah authorizes counties to defer or abate up to $300 (but not more than 50 percent of the total tax assessed for the current year) of the property taxes of persons age 65 or older whose total household income does not exceed the maximum income certified for the homeowner's property tax credit.

The New Constitutional Provision - On November 3, 1998, the electors of Florida approved Amendment 3 to the Florida Constitution. This amendment authorizes the Legislature to enact a general law to allow counties or municipalities the authority to grant an additional homestead exemption of up to $25,000 to persons 65 years old or older whose total household income does not exceed $20,000.

The constitutional reads as follows:

> Article VII, s. 6
> SECTION 6. Homestead exemptions.--
> (f) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding twenty-five thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

III. Effect of Proposed Changes:

This proposed committee substitute creates s. 196.075, F.S., to implement Article VII, s. 6(f) of the State Constitution, which allows counties or municipalities the authority to grant an additional homestead exemption of up to $25,000 to persons 65 years old or older whose total household income does not exceed $20,000.

Section 1
Subsection 196.075(1), F.S., defines “Household” as a person or group of persons living together in a room or group of rooms as a housing unit. However, the term does not include persons boarding in or renting a portion of the dwelling. “Household income” is defined as the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of the household. These definitions are consistent with the definition in s. 197.243, F.S., which is used to qualify persons for the tax deferral program.

Subsection 196.075(2), F.S., allows the counties and municipalities the authority to adopt an ordinance to grant an additional homestead exemption of up to $25,000 for any person 65 years old or older who has the legal or equitable title to real estate and maintains it as his or her permanent residence, and whose household income does not exceed $20,000.

Subsection 196.075(3), F.S., specifies that beginning January 1, 2001, the income limitation will be increased by the percentage change in the Consumer Price Index, as reported by the U.S. Department of Labor.

Subsection 196.075(4), F.S., outlines the requirements the ordinance must meet to implement the exemption. The ordinance must be adopted pursuant to the procedures for adoption of a non-emergency ordinance specified in chapter 125 (for counties) and chapter 166 (for municipalities). The ordinance must specify that the exemption only applies to taxes levied by the unit of government granting the exemption. Unless otherwise specified, the exemption will apply to all tax levies of the county or city granting the exemption. The ordinance must specify the amount of the exemption, up to $25,000. The ordinance must require the taxpayer claiming the exemption annually to submit to the property appraiser, by March 1 of the year for which the exemption is sought, a sworn statement of household income on a form prescribed by the Department of Revenue (DOR).

In Subsection 196.075(5), F.S., DOR is charged to require, by rule, that the filing of this statement be supported by copies of any federal income tax returns for the prior year, any wage and earnings statements, and any other documents it deems necessary, for each member of the household. The taxpayer is required to attest to the accuracy of these copies. Finally, the property appraiser is prohibited from granting the exemption without the required documents. There are no specific penalties prescribed in the proposed committee substitute for claiming an additional homestead exemption to which the property owner is not entitled, but these homestead exemptions will be subject to

Subsection 196.075(6), F.S., requires the county or municipal governing authority to deliver a copy of any ordinance adopted granting or repealing this exemption by December 1 of the year prior to the year the exemption will take effect.

Subsection 196.075(7), F.S., provides that property owners eligible for the homestead exemption under s. 196.031 may apply for and receive the additional homestead exemption, and that the provisions of s. 196.131, F.S, which provides that providing false information to obtain a homestead exemption is a third degree misdemeanor, and s.196.161, F.S., which provides for a tax lien against property for which a homestead exemption was claimed improperly, apply to the additional homestead exemption.

Subsection 196.075(8), F.S., provides that one spouse may receive the entire amount of the additional homestead exemption if title is held jointly with right of survivorship.

Section 2
The bill will take effect on July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill would allow counties and cities the option to grant an additional homestead exemption. As such, the bill does not fall within the purview of Art. VII, s. 18 of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

See Government Sector Impact.

B. Private Sector Impact:

Qualified elderly homeowners could benefit from reduced ad valorem taxes. The additional $25,000 exemption could lower their annual tax bill by up to $500.

C. Government Sector Impact:

If all counties and municipalities in this state enact an ordinance granting the additional homestead exemption of $25,000 to qualified elderly homeowners, the Office of Economic and Demographic Research estimates that the total revenue loss for cities and counties would be $97.65 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.