

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 Judiciary Committee

BILL: SJR 808

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Homestead Exemption/Senior Citizens

DATE: April 22, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	Munroe	Maclure	JU	Pre-meeting
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The joint resolution proposes an amendment to the Florida Constitution to authorize counties to exempt the homesteads of eligible senior citizens from increases in ad valorem taxation and to provide an exception from the uniformity requirement for the exemption.

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

This joint resolution amends Article VII, sections 2 and 6 of the Florida Constitution.

II. Present Situation:

Property Valuation

A.) Just Value

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹

¹ 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).

B.) Assessed Value

Section 4 also provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.

The “Save Our Homes” provision in Article VII, section 4(d) of the Florida Constitution, limits the amount that a homestead’s assessed value can increase annually to the lesser of 3 percent or the Consumer Price Index (CPI).² If there is a change in ownership, the property is assessed at its just value on the following January 1. The value of changes, additions, reductions, or improvements to the homestead property is assessed as provided by general law. In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution, to provide for the portability of the accrued “Save Our Homes” benefit. This amendment allows homestead property owners that relocate to a new homestead to transfer up to \$500,000 of the “Save Our Homes” accrued benefit to the new homestead.

C.) Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to: homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.³

D.) Uniformity Requirement

Article VII, section 2 of the Florida Constitution, provides that “all ad valorem taxation shall be at a uniform rate within each taxing unit. . .” with certain specified exceptions for taxes on intangible personal property.⁴

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁵

A.) Homestead Exemption

Article VII, section 6(a) of the Florida 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 tax exemption applicable to all ad valorem tax levies including school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

² FLA. CONST. art. VII, s. 4(d).

³ FLA. CONST. art. VII, ss. 3 and 6.

⁴ See FLA. CONST. art. VII, s. 2.

⁵ *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978). See also, *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

B.) Additional Homestead Exemption for Certain Senior Citizens

Article VII, section 6(d) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000 for any person with legal and equitable title to real estate and who maintains the permanent residence of the owner, who has attained the age of 65, and whose household income, as defined by general law, does not exceed \$20,000 adjusted annually for inflation. The county or municipality must grant this additional exemption by ordinance, which must be adopted pursuant to the procedures prescribed in chapters 125 and 166, F.S., and must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.⁶

Section 196.075(1)(b), F.S., defines “household income” to mean “the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.”

III. Effect of Proposed Changes:

This joint resolution amends Article VII, section 2 of the Florida Constitution, to provide that the uniformity requirement does not apply to the ad valorem taxation of a homestead owned by an eligible person which is exempt from increases in ad valorem taxation pursuant to Article VII, section 6, subsection (f) of the Florida Constitution (as created in this bill).

This joint resolution amends Article VII, section 6 of the Florida Constitution, to create a new subsection (f), which allows a county to adopt an ordinance to exempt homesteads of eligible persons from increases in the combined amount of the ad valorem taxes that may be levied by the county and the school district, municipalities, water management district, and other special districts in the county.

The joint resolution defines the term “eligible person” to mean individuals who receive the homestead exemption under Article VII, section 6(a) of the Florida Constitution; are 65 years of age or older; and whose household income, as defined by general law, is \$50,000 per year or less, as adjusted for inflation pursuant to general law.

This joint resolution provides no effective date for the constitutional amendment. In accordance with Article XI, section 5 of the Florida Constitution, it would take effect on the first Tuesday after the first Monday in January following the election at which it was approved by the electorate.

The joint resolution also provides a ballot summary that provides an explanation of the proposed amendments to the Florida Constitution.

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.

⁶ See s. 196.075, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments

Section 1, Article XI of the Florida 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, or at a special election held for that purpose.

Section 5(d), Article XI 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 tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

Section 5(e), Article XI of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes 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 approved by the voters, this joint resolution will authorize counties by ordinance, to exempt specified homestead owners who are 65 years or older and whose household income is \$50,000 per year or less, from increases in ad valorem tax levied by the county and all taxing districts within the county.

B. Private Sector Impact:

If approved by the voters, this joint resolution will authorize counties by ordinance, to exempt specified homestead owners who are 65 years or older and whose household income is \$50,000 per year or less, from increases in ad valorem tax levied by the county and all taxing districts within the county.

C. Government Sector Impact:

If approved by the voters, certain counties will be authorized to adopt an ordinance that exempts homesteads of eligible persons from increases in ad valorem taxes.

Section 5(d), Article XI 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 tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.⁷ The division has not estimated the full publication costs to advertise this constitutional amendment at this time.

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.)

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.

⁷ Florida Department of State, *Senate Joint Resolution 390 Fiscal Analysis* (Jan. 28, 2011) (on file with the Senate Committee on Community Affairs).