

**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 Community Affairs Committee

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BILL: SJR 838

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Homestead Assessment Limitation/Low-income Senior Citizens

DATE: January 22, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Pre-meeting</b>
2.			JU	
3.			BC	
4.				
5.				
6.				

**I. Summary:**

The joint resolution proposes an amendment to the Florida Constitution to allow the Legislature, by general law, to authorize counties and municipalities to limit the assessments of the homesteads of eligible senior citizens. The assessments would be limited to the assessed value of the property in the prior year if the just value of the property is equal to or less than 150 percent of the average just value of homestead property in the respective county or municipality. The general law must allow counties and municipalities to provide this limitation by ordinance in a manner prescribed by general law. The general law must designate a state agency to annually provide the average just value of homestead property based on the prior year's tax roll to each property appraiser.

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, section 4 of the Florida Constitution.

**II. Present Situation:**

**Property Valuation in Florida**

***Just Value***

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at 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.<sup>1</sup>

### ***Assessed Value***

The Florida Constitution authorizes certain exceptions to the just valuation 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 may be assessed solely on the basis of their character or use.<sup>2</sup>
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.<sup>3</sup>
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.<sup>4</sup>
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.<sup>5</sup>
- 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.<sup>6</sup>
- Certain working waterfront property is assessed based upon the property's current use.<sup>7</sup>

### ***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.<sup>8</sup>

### ***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.<sup>9</sup>

### **Tax Exemptions and Assessment Limitations for Homesteads**

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.<sup>10</sup>

<sup>1</sup> 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>2</sup> Fla. Const. art. VII, s. 4(a).

<sup>3</sup> Fla. Const. art. VII, s. 4(c).

<sup>4</sup> Fla. Const. art. VII, s. 4(e).

<sup>5</sup> Fla. Const. art. VII, s. 4(f).

<sup>6</sup> Fla. Const. art. VII, s. 4(i).

<sup>7</sup> Fla. Const. art. VII, s. 4(j).

<sup>8</sup> Fla. Const. art. VII, ss. 3 and 6.

<sup>9</sup> See FLA. CONST. art. VII, s. 2.

***Homestead Exemption***

Article VII, section 6 of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon 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.

***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. This additional exemption applies to any person with legal and equitable title to real estate who maintains a property as a permanent residence, 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. The county or municipality must specify that the exemption applies only to taxes levied by the unity of government granting the exemption.<sup>11</sup>

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.”

***Homestead Assessment Limitation: Save Our Homes***

The *Save Our Homes* assessment limitation was amended into the Florida Constitution in 1992. 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 three percent or the percentage increase in the Consumer Price Index (CPI).<sup>12</sup> In addition, no assessment may exceed just value.

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 who relocate to a new homestead to transfer up to \$500,000 of the *Save Our Homes* accrued benefit to the new homestead.

**III. Effect of Proposed Changes:**

This joint resolution amends Article VII, section 4 of the Florida Constitution, to authorize the Legislature, by general law, to allow counties or municipalities to limit ad valorem tax assessments on homestead property of low income seniors to the previous year’s assessed value of the property.

To be eligible for the limitation on assessment, the property must qualify for the low-income senior exemption under section 6(d) of the Florida Constitution and the value of the homestead

<sup>10</sup>*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).

<sup>11</sup> See s. 196.075, F.S.

<sup>12</sup> Fla. Const. art. VII, s. 4(d).

property must be equal to or less than 150 percent of the average just value of homestead property within the respective county or municipality.

The joint resolution further provides that the general law implementing the constitutional provision must allow counties and municipalities to provide, by ordinance in a manner prescribed by general law, the additional limitation on the assessed value of the property. The general law must specify the state agency that will calculate the average just value of homestead property within each county and municipality based on the prior year's tax roll of each county.

The general law must provide that the state agency will annually supply the information on the average just value of homestead property to each property appraiser.

#### **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.

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

None.

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

None.

##### **D. Other Constitutional Issues:**

##### **Constitutional Amendments**

Article XI, section 1 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.

Article XI, section 5(d) 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.

Article XI, section 5(e) 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.

Article XI, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”<sup>13</sup>

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

Qualified low-income senior homeowners could benefit from an ad valorem assessment limit if counties or municipalities adopt an ordinance granting the limitation.

### C. Government Sector Impact:

The Revenue Estimating Conference has not evaluated the potential impact of this joint resolution. However, the resolution, if passed, would only affect a county or municipality that chose to impose the assessment limit.

The joint resolution requires that the Legislature designate a state agency to produce a report on average homestead values. If the Department of Revenue (DOR) is named as the agency to produce the report of average homestead value which must be provided annually to property appraisers, DOR indicates it can generate this document by making a small adjustment to an existing report DOR provides annually to the Governor’s office.<sup>14</sup>

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

The ballot summary states that, “Currently, counties and municipalities may grant an additional homestead exemption to a person who is 65 years of age or older and who has a household income of \$20,000 or less.”

Given that the \$20,000 income limitation is adjusted annually, the current senior low income exemption is around \$26,000 according to the DOR.<sup>15</sup>

<sup>13</sup> *Roberts*, 43 So. 3d at 659, citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

<sup>14</sup> Florida Department of Revenue, *SJR 838 Analysis* (Nov. 29, 2011) (on file with the Senate Committee on Community Affairs).

<sup>15</sup> *Id.*

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

None.

- B. **Amendments:**

None.

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

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