

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 Committee on Judiciary

BILL: SJR 1142

INTRODUCER: Senator Gaetz

SUBJECT: Ad Valorem Taxation

DATE: April 14, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	Favorable
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

SJR 1142 proposes an amendment to the Florida Constitution which expands the authority of the Legislature to regulate ad valorem taxes. Under the amendment, the Legislature may prohibit increases in the assessed value of a person’s homestead when the market value of the homestead is decreasing.

Because of the Save-Our-Homes Amendment to the Florida Constitution, the assessed value of a homestead may become significantly less than its market value. However, as implemented, the SOH amendment also annually increases the assessed value of a homestead by the lesser of 3 percent or the inflation rate as long as the market value of the homestead exceeds its assessed value.

This joint resolution must be approved by a three-fifths vote of the membership of each house of the Legislature before it may be submitted to the electors for adoption.

II. Present Situation:

Ad Valorem Taxation Generally

Every year on January 1, the value of a person’s home is assessed by a property appraiser for the purposes of ad valorem taxation. The term “ad valorem” is a Latin term meaning “according to the value.”¹ Thus, an ad valorem tax on a person’s real property is a tax that is proportional to the value of the person’s property.² In general, the greater the value of the property, the greater the amount of the tax.

¹ BLACK’S LAW DICTIONARY (10th ed. 2014).

² *Id.*

Under the tax structure established by the Florida Constitution, an ad valorem tax may be imposed only by counties, municipalities, school districts, and special districts.³ Ad valorem taxes provide approximately 50 percent of the funding for public schools and 30 percent of the funding for local governments.⁴

If imposed, the Florida Constitution requires that ad valorem taxes be at a uniform rate within each taxing unit.⁵ The maximum tax rate is limited to 10 mills each (1 percent of value) for counties, municipalities, and school districts.⁶ Other limitations may apply to taxes imposed by special districts. For 2014, the total millage rates from all taxing authorities in Florida's counties ranged from a low of 9.92 mills in Monroe County to a high of nearly 24 mills in Alachua County.⁷ The average total millage rate from all taxing authorities in Florida's counties was 17.4 mills.

The general rule for ad valorem taxation is that property taxes apply to a property's just or market value.⁸ However, many assessment benefits and exemptions from taxation apply to a wide variety of properties. These assessment benefits and tax exemptions and their resulting reductions in taxable values or properties are described in the table below.

Assessment Benefits and Exemptions	Value
Save-Our-Homes Differential	\$130.78 billion
10% Non-Homestead Assessment Increase Cap	\$46.28 billion
Agricultural Classification	\$51.86 billion
Pollution Control Devices	\$3.78 billion
Conservation Lands	\$0.10 billion
Working Waterfronts	\$0.18 billion
\$25K Homestead Exemption	\$106.25 billion
Additional \$25K Homestead Exemption	\$81.34 billion
\$25K Tangible Personal Property Exemption	\$7.78 billion
Government Property Exemption	\$160.59 billion
Institutional Property Exemption	\$58.82 billion
Other Exemptions	\$15.22 billion
Total Value of Assessment Benefits and Exemptions	\$662.98 billion

³ FLA. CONST. art. VII, s. 9; *see also* FLA. CONST. art. VII, s. 1 (prohibiting state ad valorem taxes).

⁴ Florida Department of Revenue, Information for Taxpayers, <http://dor.myflorida.com/dor/property/taxpayers/> then click Florida's Property Tax System (last visited Apr. 13, 2015).

⁵ FLA. CONST. art. VII, s. 2.

⁶ FLA. CONST. art. VII, s. 9(b).

⁷ Florida Department of Revenue, Florida Property Tax Data Portal <http://dor.myflorida.com/dor/property/resources/data.html>, then click Florida Ad Valorem Valuation and Tax Data, then click 2014, and then click Millage and Taxes Levied Report (last visited Apr. 12, 2015).

⁸ FLA. CONST. art. VII, s. 4.

As a result of the assessment benefits and exemptions, the value of property in Florida otherwise subject to ad valorem taxes by counties was reduced by 23.6 percent in 2014 from \$2.055 trillion to \$1.392 trillion.⁹

The Homestead Exemption

Of the various assessment benefits and exemptions identified in the table above, the most well-known is probably the homestead exemption. Under Article 7, section 6 of the Florida Constitution, every person having legal and equitable title to real estate and who maintains his or her permanent residence on that property is eligible for a \$25,000 homestead exemption. This exemption is applicable to ad valorem tax levies from every taxing authority. An additional \$25,000 homestead exemption applies to homesteads on the assessed value greater than \$50,000 and up to \$75,000. However, the additional exemption does not apply to ad valorem taxes by school districts.

The Save-Our-Homes Amendment

In 1992, the voters adopted the Save-Our-Homes amendment to the State Constitution.¹⁰ That amendment insulates those owning homestead properties from rapid increases in property taxes resulting from the appreciation in the value of their homes. The amendment works by limiting increases in the assessed value of a homestead to the lesser of 3 percent of the assessment for the prior year or the rate of inflation.¹¹ When home values increase faster than these thresholds, homestead owners accrue a Save-Our-Homes differential between the assessed value and the market value.¹² Over time, many homesteads have accrued large assessment differentials, which result in significant savings in property taxes. Additionally, a subsequent amendment to the Florida Constitution, makes the SOH differentials “portable,” meaning that a property owner can apply the differential to a new homestead.¹³

The SOH amendment was codified in Article VII, s. 4(d), Fla. Const., the most relevant provisions of which are reproduced below:

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

⁹ Florida Department of Revenue, County Just, Assessed, & Taxable Value (Dec. 2014) <http://dor.myflorida.com/dor/property/resources/pdf/jat.pdf>.

¹⁰ The amendment is codified as Article VII, section 4(d) of the Florida Constitution.

¹¹ FLA. CONST. art. VII, s. 4(d)1.a. and b.

¹² According to RealtyTrac, increases in the values of residential properties in Jacksonville and the Tampa-St. Petersburg-Clearwater areas, are significantly outpacing the thresholds of the SOH amendment. From February 2014 to February 2015, the value of residential properties in Jacksonville increased by 11 percent. In the Tampa-St. Petersburg-Clearwater area, values increased by 12 percent after increasing by 11 percent the previous year. Darren Blomquist, *Annual Home Price Appreciation Slows in 65 Percent of Major U.S. Metros in February Compared to Year Ago*, RealtyTrac, (Apr. 2, 2015) <http://www.realtytrac.com/news/home-prices-and-sales/feb-2015-home-price-appreciation-analysis/>.

¹³ See FLA. CONST. art. VII, s. 4(d)(8).

- (1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:
 - a. Three percent (3%) of the assessment for the prior year.
 - b. The percent change in the Consumer Price Index
- (2) No assessment shall exceed just value.
- (3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year Thereafter, the homestead shall be assessed as provided in this subsection.
- (4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead That assessment shall only change as provided in this subsection.
- (5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.
- (6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

Revenue Recapture Rule

Because the SOH amendment was clearly intended to limit ad valorem tax increases on homesteads, news articles reported that many were surprised or confused to have increased assessments and increased property taxes as their home values were falling in the mid to late 2000s.¹⁴ These increases are often attributed to the Department of Revenue's "revenue recapture rule," which implements the SOH amendment.^{15, 16} Under the revenue recapture rule, the assessed value of a homestead must increase by the lesser of 3 percent or the inflation rate every year the property's assessed value is less than its market value.¹⁷ Thus, assessment differentials that accrue during periods of rising property values are lost during periods of falling values.

¹⁴ See e.g., Chuin-Wei Yap, *Florida's Save Our Home tax benefit loses luster*, TAMPA BAY TIMES, (Jun. 1, 2008) <http://www.tampabay.com/news/localgovernment/floridas-save-our-homes-tax-benefit-loses-luster/581342>; Mike Bennett, *Rule needed to fix assessment inequity*, SUN SENTINEL, (Oct. 30, 2008) http://articles.sun-sentinel.com/2008-10-30/news/0810290245_1_property-tax-bills-market-value-appraiser; Elizabeth Wright, *Recapture rule will be costly for 95,797 Lee homeowners*, NAPLES NEWS, (Jun. 4, 2008) <http://www.naplesnews.com/business/real-estate/recapture-rule-cost-95797-homeowners-lee>.

¹⁵ Fla. Admin. Code R. 12D-8.0062, F.A.C.

¹⁶ When the revenue recapture rule was proposed for adoption in 1995, Broward County Property Appraiser William Markam challenged it in an administrative proceeding. *William Markham v. Department of Revenue*, 1995 WL 1053056, Fla. Admin. Order (Jun. 21, 1995). Mr. Markham argued that the rule conflicted with the intent of the framers of the SOH amendment and that the rule should prohibit increased assessments when a property's value does not increase. The administrative law judge, however, upheld the rule by concluding that it largely tracked the language of the constitutional amendment. This conclusion was further supported by findings that the limitation sought by Mr. Markham was not addressed in the amendment or its ballot summary.

¹⁷ The relevant portion of the revenue recapture rule, Rule 12D-8.0062(5) of the Florida Administrative Code, states:

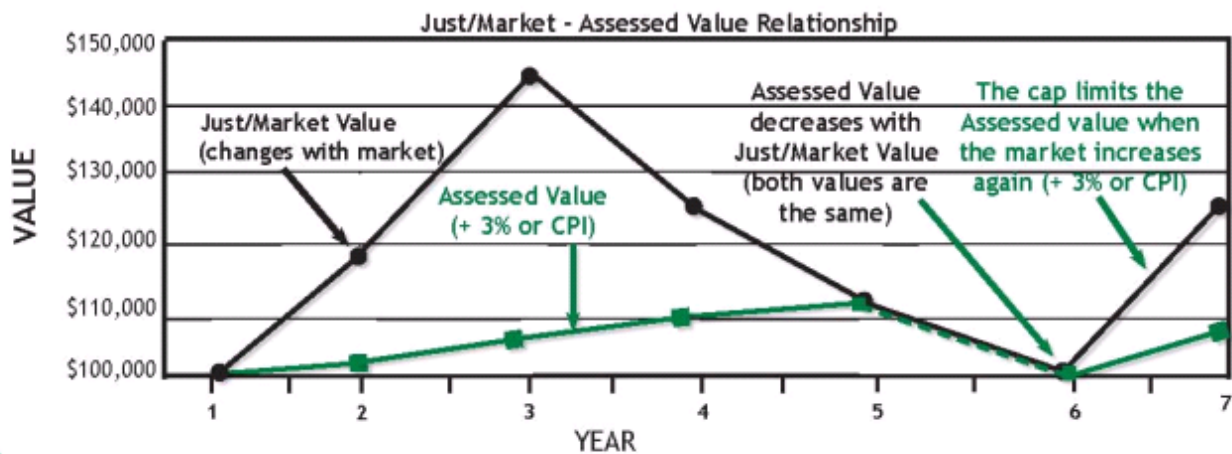
- (5) Where the current year just value of an individual property exceeds the prior year assessed value, the property appraiser is required to increase the prior year's assessed value by the lower of:
 - (a) Three percent; or
 - (b) The percentage change in the Consumer Price Index (CPI)

The interaction between the SOH amendment and the revenue recapture rule is illustrated below.¹⁸

THE SAVE-OUR-HOMES CAP "RECAPTURE" RULE

If you have the Save-Our-Homes cap on your property and your just/market value decreases, your assessed value will still increase by the annual cap rate until it reaches the just/market value. If the just/market value decreases below the assessed value, the assessed value will decrease until the two values are the same. This does not mean that you have lost your Save-Our-Homes cap. The cap is still on the property, and will limit future increases of the assessed value.

The chart below illustrates the relationship between the just / market value and assessed value for a hypothetical property over several years.



Statutory Limitations on Property Tax Increases

Existing statutes impose some procedural restraints on the ability of a taxing authority to increase ad valorem taxes. First, existing law generally deems an ad valorem millage rate resulting in more revenue to a taxing authority as a tax increase even if the rate is lower than the prior year's rate.¹⁹ The threshold which defines whether millage rate is deemed a tax increase is known as the rolled-back rate. The rolled-back rate is the millage rate that will provide the same revenue as was levied during the prior year if applied to the new taxable values of properties taxed in the prior year.²⁰ If a taxing authority proposes a millage that exceeds the rolled-back rate, the taxing authority must advertise a "Notice of Proposed Tax Increase" and make a final decision on the proposed tax increase at a public hearing.

The second procedural restraint on increases in ad valorem taxes are supermajority voting requirements for millage rates exceeding the rolled-back rate.²¹ A millage rate that does not

¹⁸ The chart illustrating the relationship between the SOH amendment and the revenue recapture rule was created by the Pinellas County Property Appraiser's Office and is available on its website at <http://www.pcpao.org/SOH.html>.

¹⁹ Section 200.065(3), F.S.

²⁰ Section 200.065(5), F.S.

²¹ Section 200.065(5), F.S.

exceed 110 percent of the rolled-back rate must be approved by a two-thirds vote of the governing body of the taxing authority. A millage rate that is greater than 110 percent of the rolled-back rate must be approved by a unanimous vote of the governing body or a three-fourths vote if the governing body has at least nine members.

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to the Florida Constitution which expands the authority of the Legislature to regulate ad valorem taxes. Under the amendment, the Legislature may enact a general law prohibiting increases in the assessed value of a person's homestead when the market value of the homestead is decreasing.

Because of the Save-Our-Homes amendment to the Florida Constitution, the assessed value of a homestead may become significantly less than its market value. However, as implemented, the SOH amendment also annually increases the assessed value of a homestead by the lesser of 3 percent or the inflation rate as long as the market value of the homestead exceeds its assessed value.

If this amendment is approved by at least 60 percent of the electors voting on the amendment at the 2016 General Election, it will take effect on January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Before a constitutional amendment that is proposed by the Legislature may be submitted to the electors for approval, it must be approved by at least 60 percent of the membership of each house of the Legislature.²² To take effect, the amendment must be approved by a vote of at least 60 percent of the electors voting on the measure.²³

²² FLA. CONST. art. XI, s. 1.

²³ FLA. CONST. art. XI, s. 5(e).

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

None.

B. Private Sector Impact:

This joint resolution authorizes the expansion of the Save-Our-Homes property tax assessment benefit for homestead properties. If implemented, the resolution will shift the property tax burdens from homestead properties onto other properties.²⁴

During periods of falling home values, taxing authorities may need to increase their ad valorem tax rates if they wish to limit tax revenue shortfalls. Properties such as non-homestead residential property or business properties which have the most value exposed to ad valorem taxation, will carry a proportionally larger share of any tax increase. On the other hand, Florida residents who are long-term owners of homestead properties will receive some insulation from future tax burdens that might otherwise force them to move into less expensive properties.

The Save-Our-Homes tax benefit resulted in similar properties carrying dissimilar tax burdens solely based on the length of ownership.²⁵ The revenue recapture rule reduces these dissimilar burdens when property values fall. This amendment, if implemented, will expand the differences in tax burdens carried by similar properties.

C. Government Sector Impact:

Because this joint resolution, if implemented, will effect ad valorem tax revenues from homestead properties, taxing authorities that are most dependent on ad valorem tax revenue from homestead properties will be the most effected by the amendment.

Article XI, s. 5(b) of the Florida Constitution requires that proposed constitutional amendments be published at least two times in newspapers throughout the state in advance of an election. These costs are unknown, but they are borne by the Secretary of State.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁴ See Office of Economic and Demographic Research, The Florida Legislature, *Florida's Property Tax Study Interim Report: As Required by Chapter 2006-311, Laws of Florida*, <http://edr.state.fl.us/Content/presentations/property-tax-study/EDR-Presentation-on-Interim-Findings.pdf>.

²⁵ *Id.*

VIII. Statutes Affected:

This joint resolution amends section 4 of Article VII of the Florida Constitution and creates section 34, Article XII of the Florida Constitution.

IX. Additional Information:

A. Committee Substitute – Statement of 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.
