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 Appropriations

BILL: CS/CS/SB 488

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senators Flores and Margolis

SUBJECT: County and Municipality Homestead Tax Exemption

DATE: February 29, 2016 REVISED:

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Present | Yeatman | CA | **Fav/CS** |
| 2. | Babin | Diez-Arguelles | FT | **Fav/CS** |
| 3. | Babin | Kynoch | AP | **Pre-meeting** |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

## I. Summary:

CS/CS/SB 488 provides that for purposes of the property tax exemption for long-term, low-income seniors who have a homestead with a just value less than $250,000, the $250,000 limitation is measured at the time the owner first applies and is eligible for the exemption.

The bill is effective on the same date CS/SJR 492 or a similar joint resolution takes effect. If CS/SJR 492 is approved by voters at the November 2016 general election, CS/CS/SB 488 will become effective on January 1, 2017, and will apply retroactively to the 2013 property tax roll for any person who received the exemption before the effective date of the bill.

The Revenue Estimating Conference (REC) has determined that CS/CS/SB 488 has an indeterminate impact because it is contingent on a joint resolution (CS/SJR 492 (2016)), which requires voter approval. If the joint resolution is approved by the voters, CS/CS/SB 488 will reduce local property taxes by $2.3 million in Fiscal Year 2016-2017. If the bill is fully implemented only within the jurisdictions that currently provide the exemption, local property taxes will be reduced by $500,000 in Fiscal Year 2017-2018, with a recurring impact of $1.2 million. If all counties and municipalities choose to grant the exemption, local property taxes will be reduced by $1.6 million in Fiscal Year 2017-2018, with a recurring impact of $4.2 million.

## II. Present Situation:

### General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[1] The property appraiser annually determines the "just value"[2] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[3] Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes[4] and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[5]

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;[6] however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;[7] land used for conservation purposes;[8] historic properties when authorized by the county or municipality;[9] and certain working waterfront property.[10]

### Property Tax Exemptions for Homesteads

#### *Statewide Homestead Exemption*

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.[11] An additional $25,000 exemption applies to homestead property value between $50,000 and $75,000. This exemption does not apply to ad valorem taxes levied by school districts.

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[1] Both real property and tangible personal property are subject to 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.

[2] 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).

[3] *See* s. 192.001(2) and (16), F.S.

[4] FLA. CONST. art. VII, s. 1(a).

[5] *See* FLA. CONST. art. VII, s. 4.

[6] Section 193.011(2), F.S.

[7] FLA. CONST. art. VII, s. 4(a).

[8] FLA. CONST. art. VII, s. 4(b).

[9] FLA. CONST. art. VII, s. 4(e).

[10] FLA. CONST. art. VII, s. 4(j).

[11] FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

***Additional Homestead Exemptions for Qualified Senior Citizens***

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed $20,000 (low-income seniors).[12] The income limitation is adjusted each year according to changes in the consumer price index; the 2015 household income threshold for these exemptions is $28,448.[13] The exemptions require the owner to hold legal or equitable title to the real estate and maintain thereon their permanent residence.

*$50,000 Additional Exemption.* Since 1999, counties and municipalities have been authorized to grant an additional homestead exemption not exceeding $50,000 for low-income seniors.[14]

*Long-term, Low-Income Seniors with Homesteads under $250,000.* Since 2013, counties and municipalities have been authorized to also exempt the entire assessed value of a low-income senior's homestead with a just value less than $250,000 if the low-income senior has maintained that homestead for not less than 25 years.[15] Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds $250,000.

A county or municipality may grant either or both of the additional exemptions and must do so by ordinance pursuant to the procedures prescribed in chapter 125 or 166, F.S.[16] The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.[17]

For purposes of the exemption, "household income" means "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."[18] The term "household" means "a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling."[19]

## III. Effect of Proposed Changes:

**Section 1** amends s. 196.075(2)(b), F.S., to provide that for purposes of the long-term, low-income senior exemption for homesteads with a just value under $250,000, the $250,000 limitation is measured at the time the property owner first applies and is eligible for the exemption.

**Section 2** provides that the just value of property that received the exemption prior to the effective date of the bill, is the just value as determined in the first year that the owner applied

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[12] FLA. CONST. Art. VII, s. 6(d)(1) and (2).
[13] Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates, available at* http://dor.myflorida.com/dor/property/resources/limitations.html (last visited Feb. 26, 2016).
[14] FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2)(a), F.S.
[15] FLA. CONST. art. VII, s. 6(d)(2) and s. 196.075(2)(b), F.S.
[16] Section 196.075(4)(a), F.S.
[17] Because the exemption applies only to taxes levied by the county or municipality that enacts the exemption, it does not apply to taxes levied by school districts or other taxing authorities. *See* s. 196.075, F.S.
[18] Section 196.075(1)(b), F.S.
[19] Section 196.075(1)(a), F.S.

and was eligible for the exemption, and the person may reapply for the exemption in subsequent years, regardless of the current just value of the property.

**Section 3** provides that persons who received the exemption prior to the effective date of the bill, but were denied the exemption in a later year solely because the just value of the property exceeded $250,000, may apply to the tax collector for a refund. The refund is equal to the difference between the previous tax liability for the year or years without the exemption and the tax liability with the exemption.

**Section 4** provides that the bill becomes effective on the same date that CS/SJR 492 or a similar joint resolution becomes effective. If CS/SJR 492 or a similar joint resolution is approved at the November 2016 general election, the bill will become effective on January 1, 2017, and will apply retroactively to the 2013 tax roll, for any person who received the exemption prior to January 1, 2017.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

CS/CS/SB 488 does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities. As such, it does not fall within the mandate provisions of Article VII, section 18 of the Florida Constitution.

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

None.

### C. Trust Funds Restrictions:

None.

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has determined that CS/CS/SB 488 has an indeterminate impact because it is contingent on a joint resolution (CS/SJR 492 (2016)), which requires voter approval. If the joint resolution is approved, CS/CS/SB 488 will reduce local property taxes by $2.3 million in Fiscal Year 2016-2017. If CS/CS/SB 488 is fully implemented only within the jurisdictions that currently provide the exemption, local property taxes will be reduced by $500,000 in Fiscal Year 2017-2018, with a recurring impact of $1.2 million. If all counties and municipalities choose to grant the exemption, local property taxes will be reduced by $1.6 million in Fiscal Year 2017-2018, with a recurring impact of $4.2 million.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends section 196.075 of the Florida Statutes.

## IX. Additional Information:

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

**CS/CS by Finance and Tax on January 25, 2016:**
The CS/CS:
- Clarifies that the $250,000 limitation is measured at the time that a person applies and qualifies for the exemption.
- Changes the effective date from January 3, 2017, to January 1, 2017, and applies the provisions of the bill retroactively to the 2013 property tax roll for any person who received the exemption prior to January 1, 2017.
- Provides refunds for any person who received the exemption prior to the effective date of the bill, but was later denied the exemption solely because the just value of his or her property exceeded $250,000.

**CS by Community Affairs on November 17, 2015:**
Inserts the linked bill, SJR 492, into the effective date of the bill.

B. Amendments:

None.