

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1391 Limitations on Homestead Assessments

**SPONSOR(S):** Grant, J.

**TIED BILLS:** HJR 1389 **IDEN./SIM. BILLS:** CS/SB 324

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	15 Y, 0 N	Rivera	Miller
2) Ways & Means Committee	15 Y, 0 N	Curry	Langston
3) State Affairs Committee			

### SUMMARY ANALYSIS

Local governments impose and collect ad valorem, or property, taxes on real and tangible personal property within Florida. All property in Florida is subject to taxation and must be assessed at just value unless an exemption or exception is authorized by the State Constitution. Under the homestead exemption, persons with legal and equitable title in real property on which they or their dependent permanently reside may have a portion of the just value of their property exempted from taxation.

A homestead property must initially be assessed at just value and may only be increased by up to three percent (3%) every year pursuant to the Save Our Homes (SOH) assessment limitation. The accumulated difference between the just value and the assessed value is the SOH benefit. Homestead property owners may transfer the SOH benefit to a new homestead if they establish a new homestead within 2 years of abandoning their old homestead.

The bill implements the provisions of HJR 1389 by amending s. 193.155, F.S., extending the period to transfer a SOH benefit from a prior homestead to a new homestead by an additional year. The bill also deletes obsolete provisions within the statute.

The Revenue Estimating Conference determined the bill has a zero/negative indeterminate impact because of the need for voter approval of the related joint resolution HJR 1389. If the constitutional amendment does not pass, the impact is zero. However, if approved, the Revenue Estimating Conference determined that the joint resolution will reduce local property taxes by \$2.1 million, beginning in FY 2021-2022, eventually growing to an annual reduction of \$6.5 million. The fiscal impact includes a \$0.8 million reduction in school taxes, beginning in FY 2021–2022, with an eventual \$2.4 million annual reduction.

The bill takes effect on the same date that HJR 1389, or a similar joint resolution, is approved by the electors at the general election to be held in November 2020 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2020, the joint resolution will become effective on January 1, 2021. The changes in the bill will apply to the 2021 tax roll.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation on real and tangible personal property to local governments and prohibits the state from levying ad valorem taxes on such property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes<sup>3</sup> and provides for specified assessment limitations, property classifications and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

###### Property Tax Exemptions

Unless expressly exempted from taxation, all real and personal property and leasehold interests in the state are subject to taxation.<sup>6</sup> The Legislature is without authority to grant an exemption from taxes without a constitutional basis<sup>7</sup> and any modifications to existing ad valorem tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>8</sup> Article VII, sections 3 and 6 of the Florida Constitution, authorize specific tax exemptions, including the Homestead exemption.

###### *Homestead Exemption*

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.<sup>9</sup> Certain classes of Florida residents may receive additional homestead exemptions including veterans who are 65 years or older,<sup>10</sup> surviving spouses of veterans who died in active duty, and first responders suffering total or permanent disability from injuries sustained while on duty.<sup>11</sup>

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<sup>1</sup> Art. VII, s. 1(a), Fla. Const.

<sup>2</sup> S. 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> S. 196.031, F.S.

<sup>6</sup> S. 196.001, F.S.; *See also Sebring Airport Authority v. McIntyre*, 642 So. 2d 1072, 1073 (Fla. 1994), noting exemptions are strictly construed against the party claiming them.

<sup>7</sup> *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978).

<sup>8</sup> *Sebring Airport Auth. V. McIntyre*, 783, So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>9</sup> Art. VII, s. 6(a), Fla. Const. and s. 196.031, F.S.

<sup>10</sup> Art. VII, s. 6(e), Fla. Const. and s.

<sup>11</sup> Art VII, s. 6(f), Fla. Const. and s. 196.081, F.S.

## Save Our Homes Assessment Limitation and Portability<sup>12</sup>

A property receiving a homestead exemption must be assessed at just value as of January 1 of the year the property receives the exemption, with one exception discussed below, and cannot be assessed at more than just value.<sup>13</sup> The State Constitution limits the amount of change in the assessed value of a homestead property as of each January 1 to the lesser of three percent or the percentage change in the Consumer Price Index (CPI).<sup>14</sup> This cap on the change in the assessed value is called the Save Our Homes (SOH) assessment limitation and the accumulated difference between the assessed value and the just value is the SOH benefit.<sup>15</sup>

If there is a change in ownership<sup>16</sup> and a new homestead is established, the property must be assessed at just value as of January 1 of the year following the change unless the new owner transfers a SOH benefit from a previous homestead to the new homestead.<sup>17</sup> The ability to transfer the SOH benefit is known as portability. A homestead property owner may transfer up to \$500,000 of the SOH benefit to the new homestead if the owner received a homestead exemption as of January 1 in either of the immediately preceding two years.<sup>18</sup> Beginning January 1, 2017, owners of homestead property that has been significantly damaged or destroyed as the result of a hurricane or tropical storm may elect to abandon their homestead as of the date of the storm, even if a homestead exemption was received in the following year, and transfer the SOH benefit to a new homestead within 2 years of the storm.<sup>19</sup>

### Effect of Proposed Changes

The bill extends the portability period for homestead property owners to transfer a prior SOH benefit from two years to three years. A homeowner who establishes a new homestead as of January 1 would be able to have the new homestead assessed at less than just value if the homeowner received a prior homestead exemption as of January in any of the immediately preceding three years. The bill also extends the portability period for homeowners of storm-damaged or destroyed homesteads from two to three years. The bill removes obsolete language from the statute applying to homestead exemptions available in 2008. The changes in the bill will begin with the 2021 tax roll.

#### B. SECTION DIRECTORY:

- Section 1. Amends a. 193.155, F.S., extending the portability of the Save Our Homes benefit from two years to three years.
- Section 2. Specifies the bill applies to the 2021 tax rolls.
- Section 3. Provides a contingent effective date.

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<sup>12</sup> In 1992 and 2008, Florida voters approved amendments to the Florida Constitution known as the Save Our Homes amendments which limited the increase in assessed value of homestead property and allowed the accrued benefit to be transferred to a new homestead property within a two-year timeframe.

<sup>13</sup> Art. VII, s. 4(d)(2), Fla. Const. and s. 193.155, F.S.

<sup>14</sup> Art. VII, s. 4(d)(1), Fla. Const.

<sup>15</sup> See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure, <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Mar. 12, 2019).

<sup>16</sup> A change of ownership is any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person. See s. 193.155(3), F.S.

<sup>17</sup> Art. VII, s. 4(d)(3), Fla. Const.

<sup>18</sup> Art. VII, s. 4(d)(8), Fla. Const.; s. 193.155(8), F.S. The two-year timeframe is calculated from the time the old homestead exemption is abandoned and not the sale of the old homestead. See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure, <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Mar. 12, 2019).

<sup>19</sup> S. 193.155(8)(m), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

#### 2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The Revenue Estimating Conference reviewed the identical Senate Joint Resolution 326 and Senate Bill 324 and determined that bill has a zero/negative indeterminate impact because of the need for voter approval of the joint resolution. If the constitutional amendment does not pass, the impact is zero. However, if approved, the Revenue Estimating Conference determined that the joint resolution will reduce local property taxes by \$2.1 million, beginning in FY 2021-2022, eventually growing to an annual reduction of \$6.5 million. The fiscal impact includes a \$0.8 million reduction in school taxes, beginning in FY 2021–2022, with an eventual \$2.4 million annual reduction.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill is approved by the Legislature, an increased number of homestead property owners will be able to port a previous Save Our Homes benefit to a new homestead.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may reduce the authority of local governments to raise revenues in the aggregate; however, an exemption may apply. Laws having an insignificant fiscal impact are exempt from the requirements of Art. VII, section 18, of the Florida Constitution.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES