

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 371 Limitations on Homestead Assessments

SPONSOR(S): Roth and others

TIED BILLS: HJR 369 **IDEN./SIM. BILLS:** CS/SB 148

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 371 passed the House on March 9, 2020, and subsequently passed the Senate on March 11, 2020.

Local governments impose and collect ad valorem 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 Florida 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 be assessed at just value, which may only be increased by up to three percent 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 a SOH benefit to a new homestead if they establish the new homestead by January 1 of the second year subsequent to abandonment of their prior homestead.

HJR 369 (2020) proposes an amendment to the Florida Constitution extending the period to transfer the SOH benefit from a prior homestead to a new homestead by an additional year.

This bill, which is linked to the passage of HJR 369, implements the provisions of the joint resolution by extending the period to transfer a SOH benefit from a prior homestead by an additional year. The bill also deletes obsolete provisions.

The Revenue Estimating Conference (REC) determined the bill had a zero/negative indeterminate impact because of the need for voter approval of the related joint resolution. If the constitutional amendment does not pass, the impact is zero. However, if approved, REC determined the joint resolution would reduce local property taxes by \$1.8 million, beginning in fiscal year 2021-2022, eventually growing to an annual reduction of \$10.2 million.

The bill was approved by the Governor on September 18, 2020, ch. 2020-175, L.O.F., and will become effective on the same date as HJR 369, which is January 1, 2021, if approved by the electors at the general election held in November 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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.¹ 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.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes³ and provides for specified assessment limitations, property classifications, and exemptions.⁴ 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.⁵

Property Tax Exemptions

Unless expressly exempted from taxation, all real and personal property and leasehold interests in the state are subject to taxation.⁶ The Legislature is without authority to grant an exemption from taxes without a constitutional basis⁷ and any modifications to existing ad valorem tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁸ 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. This exemption reduces the taxable value of the property used to calculate 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.⁹ Certain classes of Florida residents may receive additional homestead exemptions, including veterans who are 65 years or older,¹⁰ surviving spouses of veterans who died in active duty, and first responders suffering total or permanent disability from injuries sustained while on duty.¹¹

¹ Art. VII, s. 1(a), Fla. Const.

² Section 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.

³ Art. VII, s. 4, Fla. Const.

⁴ Art. VII, ss. 3, 4, and 6, Fla. Const.

⁵ S. 196.031, F.S.

⁶ 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.

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

⁸ *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).

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

¹⁰ Art. VII, s. 6(e), Fla. Const. and s. 196.082, F.S.

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

A property receiving a homestead exemption must be assessed at just value as of January 1 of the year the property receives the exemption, unless there is a change of ownership, and cannot be assessed at more than just value.¹³ The Florida Constitution limits the amount of change in the assessed value of a homestead property as of each January 1 to the lesser of 3 percent or the percentage change in the Consumer Price Index (CPI).¹⁴ 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.¹⁵

If there is a change in ownership¹⁶ 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.¹⁷ The ability to transfer the SOH benefit is known as portability. A homestead property owner may transfer up to \$500,000 of a SOH benefit to a new homestead if the owner received the homestead exemption as of January 1 in either of the immediately preceding two years.¹⁸ Beginning January 1, 2017, an owner of homestead property significantly damaged or destroyed by a hurricane or tropical storm may abandon his or her homestead as of the date of the storm within two years of the storm, even if a homestead exemption was received in the following year, and transfer the SOH benefit to a new homestead.¹⁹

HJR 369 (2020)

HJR 369 proposes an amendment to Article VII, section 4(d) of the Florida Constitution, to extend the period for a homestead property owner to transfer a prior SOH benefit to a new homestead from two years to three years. If approved by the voters, the joint resolution will be effective on January 1, 2021.

Effect of Proposed Changes

This bill, which is linked to the passage of HJR 369, implements the constitutional amendment. 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 portability period for homeowners of storm-damaged or destroyed homesteads is also extended from two to three years. The bill also deletes obsolete language applying to homestead exemptions available in 2008.

If the joint resolution is approved by the voters, the changes in this bill will begin with the 2021 tax roll.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

¹² 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.

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

¹⁴ Art. VII, s. 4(d)(1), Fla. Const. and s. 193.155, F.S.

¹⁵ See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure, <http://floridarevenue.com/property/Documents/pt112.pdf> (last visited Feb. 12, 2020).

¹⁶ 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.

¹⁷ Art. VII, s. 4(d)(3), Fla. Const.

¹⁸ 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 Feb. 12, 2020).

¹⁹ S. 193.155(8)(m), F.S.

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 (REC) determined the joint resolution had a zero/negative indeterminate impact because of the need for voter approval. If the constitutional amendment does not pass, the impact is zero. However, if approved, REC determined the joint resolution would reduce local property taxes by \$1.8 million, beginning in fiscal year 2021-2022, eventually growing to an annual reduction of \$10.2 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the voters approve HJR 369 and this bill passes, an increased number of homestead property owners will be able to transfer a previous SOH benefit to a new homestead.

D. FISCAL COMMENTS:

None.