

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 Community Affairs

BILL: CS/SB 124

INTRODUCER: Community Affairs Committee and Senator Avila

SUBJECT: Homestead Exemptions for Persons Age 65 and Older

DATE: February 15, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 124 is linked to SJR 126, which proposes an amendment to the Florida Constitution to raise the eligible real estate value for the optional full homestead exemption on long-term, low-income seniors from \$250,000 to \$300,000.

The bill amends the associated statutory provision to conform to the constitutional amendment.

The bill will take effect on the effective date of the amendment proposed by SJR 126 or a similar joint resolution having substantially the same specific intent and purpose. If approved by the electors in the next general election in November 2024, the proposed amendment (SJR 126) and this bill will take effect on January 1, 2025.

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 assessed or “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 taxes⁴ 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 \$75,000.¹² This exemption does not apply to ad valorem taxes levied by school districts.

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.

¹² Section 196.031(1)(b), F.S.

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution 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).¹³ That income limitation is adjusted each year according to changes in the consumer price index. The 2020 household income threshold for these exemptions is \$31,100.¹⁴ Qualifying seniors must hold legal or equitable title to the real estate and maintain thereon their permanent residence.

Section 196.075, F.S., implements those constitutional amendments approved by voters in 1999 and 2012 allowing local governments to grant low-income seniors these additional homestead exemptions. The first additional homestead exemption so authorized,¹⁵ approved by voters in 1999, is an additional homestead exemption not exceeding \$50,000 in home value for any low-income senior. The second additional homestead exemption,¹⁶ approved by voters in 2012, exempts the entire assessed value of a low-income senior's homestead with a just value less than \$250,000 if he or she has maintained that homestead for not less than 25 years.¹⁷ A county or municipality may choose to instate one or both of these additional homestead exemptions by passing an ordinance subject to certain statutory requirements.

As of 2023, 28 of Florida's 67 counties and 67 municipalities have adopted the additional full exemption for low-income long-term seniors.

Penalties for Failure to Notify and Tax Liens

Under s. 196.075, F.S., if the property appraiser determines that for any year within the last ten years the taxpayer received an exemption for which they were not entitled, the taxpayer shall be subject to the taxes exempted as a result of such failure and a penalty of 50 percent of the taxes exempted plus 15 percent interest per annum. If such penalty is not paid in 30 days, the property appraiser must record a notice of tax lien against any property in the county owned by that person, or property in other counties if that person no longer owns property in the appraiser's county.

This penalty, its valuation and lien provision, is equivalent to the penalty associated with receiving a general homestead exemption to which a taxpayer was not entitled.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 196.075, F.S., to conform with the proposed constitutional amendment in SJR 126, which raises the eligible real estate value for the optional full homestead exemption on long-term, low-income seniors from \$250,000 to \$300,000.

¹³ FLA. CONST. Art. VII, s. 6(d)(1) and (2).

¹⁴ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited January 20, 2022).

¹⁵ Implementing FLA. CONST. art. VII, s. 6(d)(1).

¹⁶ Implementing FLA. CONST. art. VII, s. 6(d)(2).

¹⁷ Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds \$250,000.

¹⁸ Section 193.155(10), F.S.

Section 2 provides that this bill will take effect on the effective date of the constitutional amendment proposed by SJR 126.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandates provision does not apply to this bill as it affects an optional exemption, rather than requiring the loss of ability to raise revenue.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference reviewed this bill and adopted a zero/negative indeterminate due to the requirement for a statewide referendum.

B. Private Sector Impact:

If the proposed amendment (SJR 126) is approved by 60 percent of voters in November 2024, additional households will be eligible for full homestead exemptions, where applicable. This will result in an indeterminate positive fiscal impact as homeowners take advantage of ad valorem tax savings.

C. Government Sector Impact:

If the proposed amendment (SJR 126) is approved by 60 percent of voters in November 2024, additional households will be eligible for full homestead exemptions, where

applicable. This will result in an indeterminate negative fiscal impact on local governments as total assessments on homestead property will be reduced.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Substantially amending the constitutional provision authorizing full exemptions for long-term, low-income seniors may call into question the validity of those ordinances which currently authorize such exemption and would, therefore, no longer be in accord with the language of the Florida Constitution and related statutes. Local governments wishing to continue to offer such exemption at the new, higher real estate value limit may be required to amend and re-instate ordinances to that effect before continuing to offer the exemption.

VIII. Statutes Affected:

This bill substantially amends section 196.075, 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 by Community Affairs on February 15, 2023:
The CS makes a technical change to insert the corresponding SJR number.

- B. **Amendments:**

None.