

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 161 Homestead Exemptions for Persons Age 65 and Older

**SPONSOR(S):** Ways & Means Committee, Borrero, Garcia and others

**TIED BILLS:** HJR 159 **IDEN./SIM. BILLS:** CS/SB 124

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	24 Y, 0 N, As CS	McCain	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Mwakyanjala	Darden
3) State Affairs Committee	18 Y, 0 N	Mwakyanjala	Williamson

### SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (market value) as of January 1 of each year for purposes of ad valorem taxation. Ad valorem assessments are used to calculate property taxes that fund counties, municipalities, district school boards, and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable limitations and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

Article VII, s. 6(d) of the Florida Constitution authorizes the Legislature to allow counties and municipalities to grant an additional homestead exemption to certain persons aged 65 or older who have lived in their home for 25 years and have a household income that does not exceed a specified amount. The Legislature has implemented that specific provision through s. 196.075(2)(b), F.S., which allows counties and municipalities to fully exempt the homestead of long-term, low-income seniors for property with a just value less than \$250,000 in the year the owner first applies for the exemption.

The bill implements the amendment to art. VII, s. 6 of the Florida Constitution, proposed by HJR 159, which increases the allowable just value of a home from \$250,000 to \$300,000 in the year the owner applies for the exemption. The bill amends s. 196.075, F.S., to increase the just value limitation for the existing exemption from \$250,000 to \$300,000 to align with the constitutional amendment.

The bill provides that counties and municipalities with an ordinance authorizing the existing exemption that wish to continue to offer the exemption with the new just value limitation must amend such ordinance or adopt a new ordinance to comport with the increased just value limitation amount, and provides timing and administrative provisions related to that process.

The bill specifies that persons receiving the exemption for the 2024 tax year will not need to reapply to continue to receive the exemption for the 2025 tax year so long as all other conditions are met.

The Revenue Estimating Conference adopted an impact of zero/negative indeterminate for the bill due to the requirement for a statewide referendum on the constitutional amendment. If the constitutional amendment does not pass, the impact of this bill is zero. If approved by the voters, the Conference assumed there would be no change in the jurisdictions offering the exemption and that this bill would have a recurring negative impact on local government revenues of \$5.7 million per year.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Ad Valorem Taxation

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> Ad valorem taxes are annual taxes levied by counties, cities, school districts, and certain special districts. These taxes are based on the just or fair market value of real and tangible personal property as determined by county property appraisers on January 1 of each year.<sup>2</sup> The just value may be subject to limitations, such as the “save our homes” limitation on homestead property assessment increases.<sup>3</sup> The value determined after accounting for applicable limitations is known as the assessed value. Property appraisers then calculate taxable value by reducing the assessed value in accordance with any applicable exemptions, such as the exemptions for homestead property.<sup>4</sup> Each year, local governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

##### Property Tax Assessment Limitations Exemptions Available to Seniors

###### *Homestead Exemption*

Every person having legal and equitable title to real estate 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.<sup>5</sup> An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This additional exemption does not apply to ad valorem taxes levied by school districts.

###### *Additional Homestead Exemption for Low-income Seniors*

The Florida Constitution authorizes the Legislature to allow counties and municipalities, by general law, to grant an additional homestead exemption to persons aged 65 or older with a household income that does not exceed \$20,000 (low-income seniors).<sup>6</sup> The income limitation is adjusted each year to reflect changes in the consumer price index.<sup>7</sup> For 2023, the income threshold for this exemption is \$35,167.<sup>8</sup> An owner must hold legal or equitable title to the property and maintain it as his or her permanent residence to qualify for the exemption.<sup>9</sup> If title to the property is held jointly with a right of survivorship, the exemption may be claimed if one of the owners is residing on the property and would otherwise qualify.<sup>10</sup>

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

<sup>2</sup> Art. VII, s. 4, Fla. Const.

<sup>3</sup> S. 193.155(1), F.S.

<sup>4</sup> S. 196.031, F.S.

<sup>5</sup> Art. VII, s. 6(a), Fla. Const.

<sup>6</sup> Art. VII, s. 6(d), Fla. Const.

<sup>7</sup> S. 196.075(3), F.S.

<sup>8</sup> Fla. Dept. of Revenue, *Two Additional Homestead Exemptions for Persons 65 and Older (Revised January 2023)*, available at <http://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited Mar. 10, 2023).

<sup>9</sup> Art. VII, s. 6(d), Fla. Const.

<sup>10</sup> S. 196.075(8), F.S.

Under this section of the Constitution, a county or municipality may grant either (or both) of the following exemptions:

- An additional homestead exemption of up to \$50,000 for all low-income seniors;<sup>11</sup> or
- The entire assessed value of the homestead property, if the just value is less than \$250,000 in the year the low-income senior owner applies for the exemption, and the owner has maintained a permanent residence on the property for at least 25 years.<sup>12</sup>

The exemption authorized under this section only applies to ad valorem taxes levied by the county or municipality granting the exemption.<sup>13</sup> This includes taxes levied by dependent special districts or municipal service taxing units of the government granting the exemption.

The Legislature implemented this provision of the Constitution through s. 196.075, F.S., which authorizes counties and municipalities to grant these low-income senior exemptions consistent with the Constitution. That section provides ordinance requirements for local governments and provides for an annual increase in the income limitation, among other administrative provisions. Specifically, s. 196.075(6), F.S., provides that the board of county commissioners or governing body of the municipality must deliver a copy of the ordinance to the property appraiser no later than December 1 of the year prior to the year the exemption will take effect.<sup>14</sup> The board must also notify the property appraiser if the exemption is repealed no later than December 1 of the year prior to the year in which the exemption expires.<sup>15</sup>

An applicant for the exemption must submit a sworn statement of household income to the property appraiser by March 1.<sup>16</sup> This statement must be on a form prescribed by the Department of Revenue and must be submitted the first time the taxpayer claims the exemption.<sup>17</sup>

### **Effect of Proposed Changes**

The bill implements the proposed constitutional amendment in HJR 159, increasing the just value limitation for the existing additional homestead exemption for low-income, long-term resident seniors. The just value limit of the property in the first year the owner is eligible for and applies for the exemption is increased from \$250,000 to \$300,000 .

The bill provides that counties and municipalities with an ordinance authorizing the existing exemption that wish to continue to offer the exemption with the new just value limitation must amend such ordinance or adopt a new ordinance to comport with the increased just value limitation amount. Counties and municipalities may prospectively amend or adopt an ordinance changing the just value limitation, contingent upon voter approval of the amendment. Alternatively, an existing ordinance may be updated by amending the ordinance or adopting a new ordinance after the election at any time through December 31, 2024. An ordinance adopted after the election must be delivered to the property appraiser by January 15, 2025. All ordinances under this provision will be effective January 1, 2025, if voters approve the constitutional amendment proposed by HJR 159. Any prior ordinance not updated to the new just value limitation by December 31, 2024, becomes null and void beginning January 1, 2025.

The bill also provides that persons who received the exemption for the 2024 tax year do not need to reapply in order to receive the exemption for the 2025 tax year so long as all other conditions are met and their county or municipality adopted or amended their ordinance to comport with the increased just value limitation amount.

The section of the bill dealing with local ordinances and application requirements is effective July 1, 2023, and is repealed December 31, 2025.

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<sup>11</sup> Art. VII, s. 6(d)(1), Fla. Const.

<sup>12</sup> Art. VII, s. 6(d)(2), Fla. Const.

<sup>13</sup> S. 196.075(4)(b), F.S.

<sup>14</sup> S. 196.075(6), F.S.

<sup>15</sup> S. 196.075(6), F.S.

<sup>16</sup> S. 196.075(4)(d), F.S.

<sup>17</sup> S. 196.075(4)(d), F.S.

**B. SECTION DIRECTORY:**

- Section 1: Amends s.196.075, F.S., increasing the property value limit for the long-term, low-income senior exemption.
- Section 2: Provides the process for a county or municipality to amend an existing local ordinance or to adopt a new ordinance to incorporate the new just value limitation, and preserves existing exemptions for residents receiving the exemption in 2024 in jurisdictions that continue the exemption at the higher just value limitation for 2025 and thereafter. This section of the bill is effective July 1, 2023, and is repealed December 31, 2025.
- Section 3: Provides that, except as otherwise provided, the bill takes effect on the effective date of the amendment to the Florida Constitution proposed by HJR 159, or a similar joint resolution having substantially the same specific intent and purpose, if such amendment is approved at the next general election or at an earlier special election specifically authorized by law for that purpose.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:  
None.
2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
The Revenue Estimating Conference (REC) determined that the revenue impact of the bill on local governments is zero/negative indeterminate because the bill is contingent upon passage of the constitutional amendment proposed by HJR 159. If the constitutional amendment does not pass, the impact of the bill is zero. If the constitutional amendment is approved by the voters and all local governments currently granting the exemption continue to grant the increased exemption, the REC estimated that the bill would have a recurring negative impact on local government non-school revenues of \$5.7 million per year.
2. Expenditures:  
None.

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

If HJR 159 is approved by at least 60 percent of voters, and this bill therefore goes into effect, more low-income, long-term resident seniors may realize lower property taxes than would otherwise occur.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

Not applicable. This bill does not require counties or municipalities to spend funds or take action requiring the expenditures 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.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 14, 2023, the Ways & Means Committee adopted an amendment that specified actions required by counties and municipalities that currently offer the low-income, long-term senior resident exemption must take to continue offering such exemption if the constitutional amendment in HJR 159 is approved by the voters. The amendment provided:

- Local governments could
  - prospectively amend or adopt an ordinance to update the just value limitation from \$250,000 to \$300,000, contingent upon voter approval of the amendment; or
  - amend, update, or repeal their ordinance after the election, at any time through December 31, 2024. If a local government uses this option, the local government must notify the property appraiser of the ordinance by January 15, 2025 (extended from the standard December 1 requirement).
- Either of these options would take effect January 1, 2025, and any ordinance not updated to comply with the constitutional amendment by December 31, 2024 becomes null and void January 1, 2025.
- Any homeowner receiving the exemption in 2024 will continue to receive the exemption in 2025 without the need for an additional application if the relevant jurisdiction adopts or amends their ordinance under this section and the homeowner otherwise qualifies for the exemption.

The analysis is drafted to the bill as amended by the Ways & Means Committee.