

2012 Florida Constitutional Amendment 4: Property Tax Limitations; Property Value Decline; Reduction for Nonhomestead Assessment Increases, Delay of Scheduled Repeal¹

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Preface

This document is one in a series of six fact sheets intended to provide information on proposed constitutional amendments having direct individual or government tax impacts. As some details of the proposed changes may not have been discussed due to space limitations, the series should not be considered an all-inclusive assessment of the proposed constitutional changes, and any opinions, findings, conclusions, or recommendations expressed herein are those of the author and do not necessarily reflect the views of University of Florida. These fact sheets are not intended as a replacement for personal knowledge about actual or proposed changes but are a guide to inform the public on the issues.

Introduction

In addition to 2012 being a presidential election year, Florida voters also will be asked to vote on a number of proposed amendments to their state constitution. Many voters remain either unaware or less informed regarding the effects and impacts of the proposed constitutional amendments.

Adoption of the constitutional amendment requires a vote in favor of the amendment by a minimum of 60 percent of

those voting. Voters are reminded, however, that because the proposed amendments are subject to legal challenges by various individuals, groups, and organizations, they could still possibly be removed from the ballot if challenged successfully.

The intent and purpose of this fact sheet is to present information on the proposed 2012 Florida Constitutional Amendment No. 4 in order to help voters make informed decisions on Election Day.

Proposed Constitutional Amendment 4

When people go to their polling place in November 2012, they will see information on the amendment, references to the portion of the constitution that will be altered, sponsor of the amendment, the ballot title, and the ballot summary. The information for Amendment 4 will be similar or identical to the following and the ballot title and ballot summary are direct quotes from the Florida Department of State website:

- *Proposed Constitutional Amendment: No. 4*

1. This is EDIS document FE909, a publication of the Food and Resource Economics Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida, Gainesville, FL. Published July 2012. Please visit the EDIS website at <http://edis.ifas.ufl.edu/>
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- *Reference: Article VII, Sections 4, 6 & Article XII, Sections 27, 32, 33*
- *Sponsor: The Florida Legislature*
- *Ballot Title: Property Tax Limitations; Property Value Decline; Reduction for Nonhomestead Assessment Increases; Delay of Scheduled Repeal*
- *Ballot Summary: (1) This would amend Florida Constitution Article VII, Section 4 (Taxation; assessments) and Section 6 (Homestead exemptions). It also would amend Article XII, Section 27, and add Sections 32 and 33, relating to the Schedule for the amendments. (2) In certain circumstances, the law requires the assessed value of homestead and specified nonhomestead property to increase when the just value of the property decreases. Therefore, this amendment provides that the Legislature may, by general law, provide that the assessment of homestead and specified nonhomestead property may not increase if the just value of that property is less than the just value of the property on the preceding January 1, subject to any adjustment in the assessed value due to changes, additions, reductions, or improvements to such property which are assessed as provided for by general law. This amendment takes effect upon approval by the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or if approved at the 2012 general election, shall take effect January 1, 2013. (3) This amendment reduces from 10 percent to 5 percent the limitation on annual changes in assessments of nonhomestead real property. This amendment takes effect upon approval of the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or if approved at the 2012 general election, takes effect January 1, 2013. (4) This amendment also authorizes general law to provide, subject to conditions specified in such law, an additional homestead exemption to every person who establishes the right to receive the homestead exemption provided in the Florida Constitution within 1 year after purchasing the homestead property and who has not owned property in the previous 3 calendar years to which the Florida homestead exemption applied. The additional homestead exemption shall apply to all levies except school district levies. The additional exemption is an amount equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The additional homestead exemption may not exceed an amount equal to the median just value of all homestead property within the county where the property at issue is located for the calendar year immediately preceding*

January 1 of the year the homestead is established. The additional exemption shall apply for the shorter of 5 years or the year of sale of the property. The amount of the additional exemption shall be reduced in each subsequent year by an amount equal to 20 percent of the amount of the additional exemption received in the year the homestead was established or by an amount equal to the difference between the just value of the property and the assessed value of the property determined under Article VII, Section 4(d), whichever is greater. Not more than one such exemption shall be allowed per homestead property at one time. The additional exemption applies to property purchased on or after January 1, 2011, if approved by the voters at a special election held on the date of the 2012 presidential preference primary, or to property purchased on or after January 1, 2012, if approved by the voters at the 2012 general election. The additional exemption is not available in the sixth and subsequent years after it is first received. The amendment shall take effect upon approval by the voters. If approved at a special election held on the date of the 2012 presidential preference primary, it shall operate retroactively to January 1, 2012, or if approved at the 2012 general election, takes effect January 1, 2013. (5) This amendment also delays until 2023, the repeal, currently scheduled to take effect in 2019, of constitutional amendments adopted in 2008 which limit annual assessment increases for specified nonhomestead real property. This amendment delays until 2022 the submission of an amendment proposing the abrogation of such repeal to the voters.

The Effects and Impacts of Amendment 4

Constitutional Amendment No. 4 has several potential changes recommended:

1. For homestead properties, the proposed amendment allows the legislature by general law to prohibit an increase in the tax assessment of the homestead if the just value is less than the just value assessed the prior year, except in cases where there were changes, additions, reductions, or improvements to the property.
2. For non-homestead properties, the proposed constitutional amendment limits the annual assessment increase in a year to five (5) percent (rather than 10 percent) on non-homesteaded property. The change also allows the legislature by general law to prohibit an increase in the assessment of the non-homestead property if the just value is less than the just value assessed the prior year.

3. The third component allows for an additional homestead tax exemption under the conditions that the owner is entitled to the homestead exemption within one year of the property purchase, has not owned property in the three (3) previous calendar years, and has not received a homestead exemption. The additional exemption is applied to all taxing units except for school district tax levies.

If passed, the additional exemption allowed by the amendment is equal to 50 percent of the homesteaded property just value in the year the homestead was established. The additional exemption cannot exceed the median just value of homesteaded property in the county and the additional exemption is applied for a period of five (5) years or until the property is sold. The additional exemption decreases over the five-year timeframe by 20 percent annually of the initial exemption, or the difference between the just and assessed value, whichever is larger. Only one exemption is allowed per homesteaded property and the proposed changes are only applicable for property purchased on or after January 1, 2012. The effective date of the amendment is identified as January 1, 2013.

Amendment 4, if passed, would have impacts that would be felt at the local level of government (county, city, school board, and special districts) and at the individual taxpayer level. The state estimates (at current millage rates) that statewide impacts would range from a decrease in tax revenue of \$156.2 million in state fiscal year (FY) 2013–2014 to a decrease of \$565.8 million in FY 2015–2016. In addition, the state estimates additional tax impacts from the “recapture provision” (point 1 above) would be an additional decrease of \$6.2 million for school property tax revenues beginning in FY 2013–2014, with a recurring (yearly) impact of \$17.7 million, and for non-school property tax revenue a decrease of \$10.3 million in FY 2013–2014, with a recurring impact of \$32.5 million.

Units of local government and individuals concerned with the quantity and quality of local government services might argue that this amendment results in further inability to provide needed services at the levels desired. Local governments also might suggest that they have had several years of declining property values that impact local revenues to fund local services, coupled with increased federal and state mandates they have been required to fund, and they cannot continue to operate effectively with continued financial stress.

Some Floridians may believe changes proposed in this amendment represent a “classic example” of problems with

the state’s current property tax structure: piecemeal policy changes that are not fair, that provide “tax breaks” to special interest groups, and although made for short-term problems, have long-term impacts. Owners of non-homesteaded property may see changes proposed in this amendment differently since the amendment lowers the annual assessment increase allowed. Relative to the existing law, this could potentially lower their tax bill if property values rise rapidly at some point in the future.

It may be assumed that any property owner who had been impacted by the “recapture provision” that resulted in his/her property’s market/just value declining but his/her assessed value for tax purposes increasing is supportive of this amendment. In the popular press, it is clear that a group of individuals championing passage of the amendment is involved in the real estate industry. Naturally, these individuals are concerned with the poor performance and unemployment conditions that have existed in the industry during the recession and still linger post-recession. They would argue that anything to stimulate the real estate and housing industries is beneficial and necessary. However, other individuals believe that the real estate sector is slowly improving like most other sectors of the economy and it should continue that recovery without government intervention that carries with it a long-term fiscal impact.

Finally, it needs to be recognized that the state analysis on revenue change is based on the assumption that units of local government would not change the current millage rate level. However, if local governments did change the tax millage rate to offset the changes proposed in this constitutional amendment, those not eligible to benefit from the proposed changes would have higher local property tax bills because of a shift in the relative tax burden.

Summary

Voters in Florida have the opportunity to change the state constitution during the 2012 general election. Adoption of the constitutional amendment requires a vote in favor of the amendment by a minimum of 60 percent of those voting.

The intent and purpose of the information contained in this fact sheet on Amendment 4 is not to tell individuals how to vote. Rather, the fact sheet is provided to help voters become more informed. Informed voters need to be more knowledgeable of the ballot issue and what they are voting on, rather than just reading a ballot title and ballot summary. Ballot titles and summaries do not inform voters in significant detail, or inform voters on policy implications of

what a ye or nay vote implies. It is thought that informed voters make informed public policy decisions.

As the November election gets closer, expect to see increased information on the proposed amendments in the media and popular press, and on the Internet. Some of this information will be from groups advocating or opposing the specific amendments. Other information will be put forth by groups not associated with advocacy or opposition of the amendments. Read this information, but be aware of the source of the information and the role of the organization supplying the information.

Your challenge as a voter is to become informed, understand the issues, learn the particulars, know the stakes, and then, by casting your ballot, make your values and preferences known.

References

Florida House of Representatives. Online resource available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0381z1.FTC.DOCX&DocumentType=Analysis&BillNumber=0381&Session=2011>

Florida Department of State, Division of Elections. *Initiatives / Amendments / Revisions*, Online resource available at <http://election.dos.state.fl.us/initiatives/initiativelist.asp?year=2012&initstatus=ALL&MadeBallot=Y&ElecType=GEN>