

Regular Session, 2004

SENATE BILL NO. 806 (Substitute for Senate Bill No. 158 by Senator Dupre)

BY SENATOR DUPRE

TAX EXEMPTIONS. Constitutional amendment to provide for the application of the homestead exemption to certain people, certain land, to property occupied by a surviving spouse, by certain trusts, to certain property where a usufruct has been granted for a lifetime, and property under bond for deed contracts. (2/3-CA13s1(A))

A JOINT RESOLUTION

Proposing to amend Section 20(A) of Article VII of the Constitution of Louisiana, relative to the homestead exemption from ad valorem property taxes; to provide persons eligible for the homestead exemption and for the valuation of land which is the homestead; to provide for the homestead exemption for homesteads owned in indivision and for fields in which there is timber; to provide for the application of the exemption to the surviving spouse, testamentary or irrevocable trusts, usufructuaries, and to property occupied by a buyer under a bond for deed contract under certain conditions; to prohibit more than one exemption for any person; and to specify an election for submission of the proposition to electors and provide a ballot proposition.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 20(A) of the Constitution of Louisiana, to read as follows:

§20. Homestead Exemption

Section 20.(A) Homeowners.

(1) The bona fide homestead, consisting of a tract of land or two or more

1 tracts of land with a residence on one tract and a field **with or without timber on it,**
2 pasture, or garden on the other tract or tracts, not exceeding one hundred sixty acres,
3 buildings and appurtenances, whether rural or urban, owned and occupied by any
4 person **or persons owning the property in indivision if such persons are blood**
5 **relatives, related by adoption, or are spouses,** shall be exempt from state, parish,
6 and special ad valorem taxes to the extent of seven thousand five hundred dollars of
7 the assessed valuation. **Beginning April 16, 2004, when applying the homestead**
8 **exemption to all or a portion of the land which the taxpayer claims as his**
9 **homestead in the manner provided by law, the calculation of the assessed value**
10 **for such land shall be based upon its fair market value and not its use value.**
11 **However, any homestead exemption granted prior to April 16, 2004 which was**
12 **based on use value on any property occupied upon the effective date of this**
13 **Paragraph shall remain valid if requested by the taxpayer.** The same homestead
14 exemption shall also fully apply to the primary residence, including a mobile home,
15 which serves as a bona fide home and which is owned and occupied by any person **or**
16 **persons owning the property in indivision if such persons are blood relatives,**
17 **related by adoption, or are spouses,** regardless of whether the homeowner owns the
18 land upon which the home or mobile home is sited; however, this homestead
19 exemption shall not apply to the land upon which such primary residence is sited if the
20 homeowner does not own the land.

21 (2)The homestead exemption shall extend **and apply fully** to the surviving
22 spouse ~~or minor children of a deceased owner and shall apply~~ when the homestead is
23 occupied as such **by the surviving spouse** and title to it is in ~~either the husband or~~
24 ~~wife~~ **the name of (a) the surviving spouse as owner of any interest, (b) the**
25 **surviving spouse as usufructuary for life, or (c) a testamentary trust established**
26 **for the benefit of the surviving spouse and the descendants of the deceased**
27 **spouse or surviving spouse,** but not to more than one homestead owned by **either**
28 the husband or wife, **or both.**

1 **(3) The homestead exemption shall extend to property owned by an**
2 **irrevocable trust when the principal beneficiary or beneficiaries of the trust are**
3 **the settlor or settlors of the trust and were the immediately prior owners of the**
4 **homestead, and the homestead is occupied as such by a principal beneficiary.**
5 **The provisions of this Subparagraph shall apply only to property which was**
6 **eligible for the homestead exemption immediately prior to transfer, conveyance,**
7 **or donation in trust, or which would have been eligible for the homestead**
8 **exemption if such property were not owned in trust.**

9 **(4) The homestead exemption shall extend to property where the usufruct**
10 **of the property has been granted for the lifetime of no more than two**
11 **usufructuaries who were the immediately prior owners of the homestead, and**
12 **the homestead is occupied as such by a usufructuary, and the grant of the**
13 **usufruct has been made by a person or persons either in the direct ascending or**
14 **descending line of the usufructuary. The provisions of this Subparagraph shall**
15 **apply only to property which was eligible for the homestead exemption**
16 **immediately prior to the granting of such lifetime usufruct, or which would have**
17 **been eligible for the homestead exemption if such usufruct had not been**
18 **granted.**

19 **(5) The homestead exemption shall extend only to a natural person or**
20 **persons and to an irrevocable trust created by a natural person or persons in**
21 **which the beneficiaries of the trust are a natural person or persons provided**
22 **that the provisions of this Paragraph are otherwise satisfied.**

23 **(6) Except as otherwise provided for in this Paragraph, the homestead**
24 **exemption shall apply to property owned in indivision, but shall be limited to**
25 **the pro rata ownership interest of that person or persons occupying the**
26 **homestead.**

27 **(7) No homestead exemption shall be granted on bond for deed property.**
28 **However, any homestead exemption granted prior to June 20, 2003 on any**
29 **property occupied upon the effective date of this Paragraph by a buyer under**

1 **a bond for deed contract shall remain valid as long as the circumstances giving**
2 **rise to the exemption at the time the exemption was granted remain applicable.**

3 **(8) Notwithstanding any provision of this Paragraph to the contrary, in**
4 **no event shall more than one homestead exemption extend or apply to any**
5 **person in this state.**

6 ~~(9)~~**(9)** This exemption shall not extend to municipal taxes. However, the
7 exemptions shall apply (a) in Orleans Parish, to state, general city, school, levee, and
8 levee district taxes and (b) to any municipal taxes levied for school purposes.

9 * * *

10 Section 2. Be it further resolved that this proposed amendment shall be submitted to
11 the electors of the state at an election to be held on November 2, 2004.

12 Section 3. Be it further resolved that on the official ballot to be used at the election
13 there shall be printed a proposition, upon which the electors of the state shall be permitted to
14 vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall read
15 as follows:

16 To provide that homestead exempt property is limited to property owned and
17 occupied by persons who are blood relatives, related by adoption, or are
18 spouses; to require that, beginning April 16, 2004, the assessed value for land
19 which the taxpayer claims as his homestead be based upon its fair market
20 value and not its use value except for land which was granted an exemption
21 based on such value prior to that date; to provide that a field which qualifies
22 for a homestead exemption may have timber on it; to prohibit granting the
23 homestead exemption to bond for deed property unless granted before June
24 20, 2003; to explicitly prohibit more than one homestead exemption applying
25 to any person; and to require the homestead exemption to extend to the
26 following:

27 (1) The surviving spouse when the homestead is occupied by the
28 surviving spouse and title to it is in her name as owner of any interest
29 or as usufructuary for life, or in the name of a testamentary trust

- 1 established for her or the descendants benefit.
- 2 (2) Property owned by an irrevocable trust when the principal beneficiary
- 3 or beneficiaries are the settlor or settlors of the trust and they were the
- 4 immediately prior owners of the homestead, and the homestead is
- 5 occupied as such by a principal beneficiary.
- 6 (3) Property occupied by no more than two lifetime usufructuaries
- 7 granted by persons in the direct ascending or descending line if the
- 8 usufructuaries were the immediately prior owners of the homestead.
- 9 (4) A natural person or persons and to an irrevocable trust created by a
- 10 natural person or persons in which the beneficiaries of the trust are a
- 11 natural person or persons if the criteria above is otherwise satisfied.
- 12 (5) Property owned in indivision, limited to the pro rata ownership
- 13 interest of the person occupying the homestead unless provided
- 14 otherwise above. (Amends Article VII, Section (A))

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Riley Boudreaux.

Dupre (SB 806)

DIGEST

Present constitution provides that a "bona fide homestead" consisting of a tract of land or two or more tracts of land up to 160 acres with a residence on one tract and a field, pasture, or garden on the other, buildings and appurtenances, "owned and occupied by any person" is exempt from state, parish, and special ad valorem taxes to the extent of \$7500 of the assessed valuation.

Proposed constitutional amendment provides that the field may have timber on it.

Proposed constitutional amendment provides that the homestead may be owned and occupied by more than one person who owns the property in indivision if such persons are blood relatives, related by adoption, or are spouses.

Proposed law provides that the homestead exemption shall apply to property owned in indivision; however, (except in the case of a surviving spouse) the exemption is limited to the pro rata ownership interest of the person or persons occupying the homestead.

Present constitution defines "use value" as bona fide agricultural, horticultural, marsh, and timber lands.

Proposed constitutional amendment provides that, beginning April 16, 2004, when applying the homestead exemption to land which the taxpayer claims as his homestead in the manner provided by law, the calculation of the assessed value for such land shall be based upon its fair

market value and not its use value. However, provides that any exemption granted prior to such date which was based on use value on property occupied on the effective date of the proposed law remains valid if requested by the taxpayer.

Present constitution extends the homestead exemption to the surviving spouse or minor children of a deceased owner when the homestead is occupied as such and title to it is in either husband or wife but not to more than one homestead owned by the husband or wife.

Proposed constitutional amendment requires the homestead exemption to extend and "apply fully" to the surviving spouse (but not the minor children) when the surviving spouse occupies the homestead and title to it is in the name of (a) the surviving spouse as owner of any interest, (b) the surviving spouse as usufructuary for life, or (c) a testamentary trust established for the benefit of the surviving spouse and the descendants of the deceased spouse or surviving spouse, but not to more than one homestead owned by either the husband or wife, or both.

Proposed constitutional amendment requires the homestead exemption to extend to the following:

- (1) To property owned by an irrevocable trust when the principal beneficiary or beneficiaries of the trust are the settlor or settlors of the trust and were the immediately prior owners of the homestead, and the homestead is occupied as such by a principal beneficiary, but only if the property was eligible for the homestead exemption immediately prior to the transfer to the trust or would have been eligible for the homestead exemption if such property were not owned in trust.
- (2) To property where the usufruct of the property has been granted for the lifetime of no more than two usufructuaries who were the immediate prior owners of the homestead, and the homestead is occupied as such by a usufructuary, and the grant of the usufruct has been made by a person or persons either in the direct ascending or descending line of the usufructuary but only if the property was eligible for the homestead exemption immediately prior to the granting of such lifetime usufruct, or would have been eligible for the homestead exemption if such usufruct had not been granted.
- (3) To a natural person or persons and to an irrevocable trust created by a natural person or persons in which the beneficiaries of the trust are a natural person or persons provided that the provisions of the proposed constitutional amendment are otherwise satisfied.

Proposed constitutional amendment prohibits the granting of a homestead exemption on bond for deed property. However, grandfathers in exemptions granted prior to June 20, 2003 on any property occupied upon the effective date of the proposed constitutional amendment by a buyer under a bond for deed contract as long as "the circumstances giving rise to the exemption at the time the exemption was granted remain applicable."

Proposed constitutional amendment prohibits extending more than one homestead exemption to any person.

Specifies submission of the amendment to the voters at an election to be held on November 2, 2004.

(Amends Const. Art VII, Section 20(A))