

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: SB873**

**Bill Subtitle: TO PROVIDE AN INCREASED HOMESTEAD PROPERTY TAX CREDIT FOR PERSONS OVER A CERTAIN AGE.**

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**Basic Change :** Sponsor: Senator B. Pierce

The proposal increases the real property homestead tax credit for property owners who are 65 years of age or older. Current law provides a homestead credit that reduces the real property taxes assessed on the homestead of each property owner by \$350. The bill increases the credit to \$500 if the property owner is age 65 or older. The act is effective for assessment years beginning on or after January 1, 2015.

**Revenue Impact :**

CY 2016 Total Impact of Increased Tax Credits	-\$27.3 million
CY 2017 Total Impact of Increased Tax Credits	-\$28.1 million

Using Census Bureau data, 29.1% of owner-occupied homes are owned by those aged 65 and older. Increased credits would be claimed by 190,226 Arkansas homestead property owners as a result of raising the credit cap to \$500. Raising the credit from \$350 to \$500 for homeowners aged 65 and older would have an estimated additional cost of \$27.3 million in CY2016 and \$28.1 million in CY2017. Raising the annual reimbursements by an additional \$27.3 million would cause the annual payments paid out to exceed the annual sales tax collections beginning in CY2016 (\$266.7 million payments out and \$247.3 million collections in). The carry over fund balance available for CY2017 when added to sales tax collections in CY2017 will result in the fund being depleted with insufficient funds being available to make the CY2017 reimbursements for the homestead tax credits the counties granted.

**Taxpayer Impact :**

It is projected that 190,000 property owners could benefit from the increased credit.

**Resources Required :**

None.

**Time Required :**

None.

**Procedural Changes :**

None.

**Legal Analysis :**

Currently, Arkansas law provides a \$350 tax credit against real property taxes on a person's homestead. SB873 would increase that tax credit to \$500 when the homestead owners are 65 years of age or older. The bill is effective for tax years beginning on or after January 1, 2015.

SB873, if adopted, could be held unconstitutional. Article 16, Section 5 of the Arkansas Constitution provides that real property taxes shall be: "equal and uniform throughout the State" and "[n]o one species of property for which a tax may be collected shall be taxed higher than another species of property of equal value[.]" That constitutional provision is typically utilized to invalidate higher taxation of different types of property. However, the Arkansas Supreme Court has also utilized this provision to prevent unequal taxation of different types of taxpayers. See *White River Lumber Co. v. Elliot*, 146 Ark. 551 (1920) (invalidating a real property tax that only applied to nonresidents). SB873 would create different tax liabilities for homestead parcels of equal value without constitutional authority. Consequently, based on the citations above, this proposal may be held as a violation of Article 16, Section 5 of the Arkansas Constitution if litigated.