

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 455	FINAL HOUSE FLOOR ACTION:	
SUBJECT/SHORT TITLE	Tax Exemptions for First Responders and Surviving Spouses	117 Y's	0 N's
SPONSOR(S):	Appropriations Committee, Ways & Means Committee; Metz and others	GOVERNOR'S ACTION:	Pending
COMPANION BILLS:	CS/CS/CS/SB 764		

SUMMARY ANALYSIS

CS/CS/HB 455 passed the House as amended on April 28, 2017 and subsequently the Senate on May 5, 2017.

In November of 2016, Florida voters approved an amendment to the state constitution that allows the legislature to provide ad valorem tax relief to certain totally and permanently disabled first responders. This bill implements that amendment by providing a 100 percent homestead tax exemption to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty. The bill also extends a 100 percent exemption to the surviving spouse of a totally and permanently disabled first responder, provided certain conditions are met.

The bill defines "first responder" by cross reference as a law enforcement officer, correctional officer, firefighter, emergency medical technician or paramedic, who is employed full-time, part-time or serves on a volunteer basis. The bill defines "total and permanent disability" as an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout his or her life.

The bill sets forth several methods by which first responders may qualify for the exemption. Depending on an applicant's circumstances they may qualify by providing certification of disability from two professionally unrelated Florida-licensed physicians and a certification from their former employer that the injury which gave rise to disability occurred in the line of duty. The employer certification must be accompanied by any existing supporting documentation of the injury or incident that gave rise to the first responder's total and permanent disability. Alternatively, an applicant may provide certification of total and permanent disability from a Florida-licensed physician and an award letter from the Social Security Administration based on the applicant's total and permanent disability. These documents must also be accompanied by the employer certification and supporting documents described above.

The deadline to apply for exemption from taxes levied in 2017 is August 1st, 2017. However, property appraisers may accept untimely filed applications if certain conditions are met. The deadline to apply for exemption from taxes levied in 2018 and beyond is March 1 of each year.

The Revenue Estimating Conference estimates that the bill will reduce local government property tax revenues by \$2.9 million per year, beginning in Fiscal Year 2017-18, assuming current tax rates. Of the \$2.9 million impact, the impact to schools is \$1.2 million and the impact to counties and municipalities is \$1.7 million.

The bill applies retroactively to January 1, 2017 and takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0455z.WMC

DATE: May 17, 2017

I. SUBSTANTIVE INFORMATION

A. Present Situation

Property Taxes in Florida

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.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value (i.e., market value) for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ Property appraisers calculate assessed value by adjusting just value in accordance with any applicable assessment limitations or usage classifications. The assessed value is then reduced by any exemptions to produce the taxable value.⁵ Each year, local government governing boards levy millage rates (i.e. tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets. Property appraisers must notify property owners of the adopted millage rates by mailing out notices of proposed property taxes, commonly referred to as truth in millage (TRIM) notices.⁶

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁷

Homestead Exemption

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads on assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Exemptions Related to Disabled Persons or First Responders

Current law provides several exemptions related to the totally and permanently disabled or first responders:

- Homestead exemption for certain totally and permanently disabled veterans or their surviving spouse;⁸
- Homestead exemption for surviving spouses of first responders who die in the line of duty;⁹
- Homestead exemption for disabled veterans confined to wheelchairs;¹⁰
- Homestead exemption for certain totally and permanently disabled persons;¹¹ and

¹ Fla. Const. art. VII, s. 1(a).

² Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4.

⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ s. 200.065(2)(b), F.S.

⁷ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁸ ss. 196.081(1) and (3), F.S.

⁹ s. 196.081(6), F.S.

¹⁰ s. 196.091, F.S.

- Property to the value of \$500 owned by widows, widowers, and blind or totally and permanently disabled persons.¹²

Section 196.101, F.S., relating to the annual application process for property tax exemptions, requires applications for several homestead-related exemptions to include the social security number of the applicant and the applicant's spouse, if any.

2016 Constitutional Amendment

In November 2016, Florida electors approved a constitutional amendment that allows the legislature to provide homestead tax relief to first responders who are totally and permanently disabled as a result of injury sustained in the line of duty.¹³ The amendment specifies that a causal connection between an injury and service in the line of duty may not be presumed, and that the term "disability" does not include chronic disease, unless injury in the line of duty was the sole cause of the disease.

Effect of Proposed Changes

Exemption for Totally and Permanently Disabled First Responders

The bill completely exempts from all homestead taxes first responders who are totally and permanently disabled due to an injury sustained in the line of duty. The term "first responders" refers to law enforcement officers, firefighters, paramedics or emergency medical technicians as those terms are defined in statute.¹⁴

The bill defines "totally and permanently disabled" to mean an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout his or her life.

The bill defines "in the line of duty" via cross reference as:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing a rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in an authorized training exercise related to any of the events or activities enumerated above.

The bill defines "cardiac event" to mean a heart attack, stroke or vascular rupture.

The constitutional amendment authorizing an exemption for first responders imposes two requirements on those who wish to receive the exemption. First, applicants must be totally and permanently disabled. Accordingly, the bill provides that first responders qualify as totally and permanently disabled if they meet all of the non-income requirements in the existing exemption for totally and permanently disabled persons, which is provided in s. 196.101, F.S. That section requires two professionally unrelated Florida licensed physicians to attest that a first responder's disability renders him or her, a quadriplegic, paraplegic, hemiplegic, legally blind, or otherwise confined to a wheelchair for mobility purposes.¹⁵

¹¹ s. 196.101, F.S.

¹² s. 196.202, F.S.

¹³ See Article VII, section 6(f)(3) of the Florida Constitution.

¹⁴ The terms are respectively defined in ss. 943.10, 633.102, 401.21, F.S.

¹⁵ s. 196.101, F.S.

First responder applicants who are eligible to receive a disability determination from the SSA may satisfy the “totally and permanently disabled” requirement by providing their property appraiser with a certification letter from a Florida-licensed physician, attesting to their status as totally and permanently disabled and an award letter from the SSA. Applicants must provide SSA award letters to their local property appraiser within 3 months of issuance.

First responders who are not eligible to receive a disability determination from the SSA may instead demonstrate the extent of their disability by providing certifications of disability from two professionally unrelated Florida-licensed physicians. This provision benefits first responders who have insufficient work history to qualify for SSA benefits and those who worked for an employer that elected to offer private benefits in lieu of Social Security and/or Medicaid.

The second constitutional requirement is that causal connection between disability and service in the line of duty cannot be presumed but must be determined in accordance with general law. To that end, the bill requires all first responder-applicants to prove a causal connection between their disability and service in the line of duty by submitting a letter from a representative of the entity who employed the first responder or when the injury occurred. Among other information, the employer letter must include a statement that the first responder’s injury was directly and proximately caused by service in the line of duty, without willful negligence by the first responder, and that the injury is the sole cause of the first responder’s total and permanent disability. The employer letter must be accompanied by any existing supporting documentation such as an incident report or insurance claim. Additionally, a first responder whose disability resulted from a cardiac event only qualifies for exemption if the cardiac event occurred within 24 hours of nonroutine stressful or strenuous physical activity performed on the line of duty. Further, the first responder would also need to provide certification from his or her treating cardiologist which states:

- The nonroutine stressful or strenuous activity directly and proximately caused the cardiac event that gave rise to the total and permanent disability; and
- The cardiac event was not caused by a preexisting condition.

The exemption applies to taxes levied on or after January 1, 2017.

Spousal Exemption

The bill allows the spouse of a totally and permanently disabled first responder to maintain the exemption if the first responder predeceases the spouse. The bill also allows the surviving spouse of a totally and permanently disabled first responder to transfer the exemption to a different homestead property. The surviving spouse exemption remains in effect as long as the new residence is used as the surviving spouse’s primary residence and he or she does not remarry.

Application Procedures

The deadline to apply for exemption from taxes levied in 2017 is August 1, 2017. For taxes levied in 2018 and beyond, the application deadline is March 1 of each year.¹⁶ The bill allows property appraisers to accept untimely filed applications until 25 days after TRIM notices are mailed if the applicant is otherwise qualified for exemption and the applicant produces evidence demonstrating that he or she was unable to apply for exemption in a timely manner. The bill also allows first responders to petition for appeal before value adjustment boards in the event the property appraiser denies an application for exemption. A petition for such an appeal must be filed no later than 25 days after the property appraiser mails TRIM notices.

The bill amends s. 196.011, F.S., to add the new exemption created by this bill to the current list of property tax exemptions, the applications for which must include the applicant’s social security number.

¹⁶ See s. 196.011(1)(a), F.S.

The bill takes effect upon becoming a law.

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 estimates that the bill will reduce local government property tax revenues by \$2.9 million per year, beginning in FY 2017-18, assuming current tax rates. Of the \$2.9 million impact, the impact to schools is \$1.2 million and the impact to counties, municipalities and special districts is \$1.7 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.