

STORAGE NAME: h1229.lgva.doc
DATE: March 25, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
ANALYSIS**

BILL #: HB 1229
RELATING TO: Property Tax/Widow, Blind, Disabled
SPONSOR(S): Representative Gibson
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
 - (2) FISCAL POLICY & RESOURCES (FRC)
 - (3) FISCAL RESPONSIBILITY COUNCIL
 - (4)
 - (5)
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I. SUMMARY:

This bill increases the tax exemption for widows, widowers, blind persons and totally and permanently disabled persons from \$500 in value to \$1,000 in value. For purposes of this exemption, the bill redefines the term "totally and permanently disabled person" to be a person so certified by a physician licensed in this state, by the U.S. Department of Veterans Affairs or its predecessor, or by the Social Security Administration. Current law requires a "totally and permanently disabled person" to be so certified by two physicians licensed in this state or by the U.S. Department of Veterans Affairs or its predecessor, or by the Social Security Administration.

The Impact Conference has not addressed this bill. The bill has no fiscal impact on state government. The bill has a negative fiscal impact on local government. The bill reduces the revenue raising authority of counties and municipalities by a significant amount and appears to be subject to the requirement of Article VII, section 18(b) of the State Constitution, requiring a two-thirds vote of the membership of each house of the Legislature.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Ad Valorem Taxation/Background

Article VII, Section 1, of the Florida Constitution preempts to the state all forms of taxation other than ad valorem taxes levied upon real estate and tangible personal property, except as provided by general law. Article VII, Section 9 of the Florida Constitution provides that counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes, and limits these taxes to 10 mills for all county purposes, 10 mills for all municipal purposes, and 10 mills for all school purposes. Additional millage may be levied for the payment of bonds and taxes levied for a period not longer than two years when authorized by vote of the electors.

Article VII, Section 2, of the Florida Constitution requires:

"All ad valorem taxation shall be at a uniform rate within each taxing unit, except the taxes on intangible personal property may be at different rates but shall never exceed two mills on the dollar of assessed value; . . ."

Just Valuation

Article VII, Section 4, of the Florida Constitution requires:

"By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, . . ."

The Florida Supreme Court has interpreted "just valuation" to mean fair market value, i.e., the amount a purchaser, willing but not obliged to buy, would pay a seller who is willing but not obliged to sell. *Walter v. Schuler*, 176 So.2d 81 (Fla. 1965).

Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes are exceptions that may be assessed solely on the basis of their character or use. Tangible personal property held for sale as stock in trade and livestock may be assessed at a specified percentage of its value or totally exempted. The legislature may also allow counties and municipalities to authorize by ordinance that historic

property may be assessed solely on the basis of character of use, but such assessment may only apply to the jurisdiction adopting the ordinance.

Effective January 1, 1994, subsection (c) of Section 4, Article VII, of the Florida Constitution provides a limitation to the extent that assessments for homesteads may be changed annually on January 1 of each year. Changes in assessment may not exceed the lower of 3 percent of the assessment for the prior year or the percent change in the Consumer Price Index.

Homestead Exemptions

Article VII, Section 6 of the Florida Constitution authorizes an exemption from ad valorem taxation for homestead property used by taxpayers as their permanent residence, as follows:

- Subsection (a) provides a basic \$5,000 exemption to all qualified homeowners.
- Subsection (b) prohibits the granting of more than one exemption to any one person or the granting of an exemption that is in excess of the total assessed value of the property.
- Subsection (c) increases the exemption to \$25,000 for school district levies for all qualified homestead owners and to \$10,000 for all other ad valorem tax levies if the homestead owner has attained age 65 or is totally and permanently disabled and is not entitled to the exemption provided in subsection (d).
- Subsection (d) increases the exemption to \$25,000 for non-school district levies. This subsection further provides that the increase is not applicable upon the effective date of any amendment to Article VII, Section 4 of the Florida Constitution that would authorize the assessment of homestead property at a specified percentage of its just value. A third provision of subsection (d) disallows the increased exemption in counties in which the tax roll has not been certified as in compliance with Section 4, Article VII, of the Florida Constitution.
- Subsection (e) authorizes the Legislature to give ad valorem tax relief to renters.
- Subsection (f) authorizes the Legislature to allow, by general law, counties or municipalities, for the purposes of their respective levies, to grant an additional homestead tax exemption not exceeding \$25,000 to any person meeting specified criteria and having attained age sixty-five.

Section 196.031, F.S., primarily implements homestead exemption. Subsection (1) provides for the basic \$5,000 exemption and sets out the residency and ownership requirements.

Subsection (3) implements the constitutionally authorized increases in the exemption including the increase to \$25,000. In most cases, the increase to \$25,000 eliminates the need for other lesser increases. However, the increase to \$25,000 for levies other than school district levies is not effective until the assessment roll has been approved by the executive director of the Department of Revenue. In cases where the assessment roll has not been approved, for levies other than school district levies, for state residents who are 65 and older [s. 196.031(3)(a), F.S.] or who are totally and permanently disabled [s. 196.031(3)(b), F.S.], the maximum combined exemption of \$10,000 for exemptions granted under the Florida Constitution is still authorized.

Exemption for Persons Who Are Blind or Totally and Permanently Disabled

Article VII, Section 3(b) of the Florida Constitution requires that not less than \$500 of property, as established by general law, of persons who are blind or totally and permanently disabled be exempt

from taxation. This exemption is implemented in chapter 196, F.S. Sections 196.081 and 196.091, F.S., provide for total homestead exemptions for disabled veterans and their surviving spouses.

Section 196.101, F.S., exempts the total value of homesteads used and owned by quadriplegics, paraplegics, hemiplegics, or other "totally and permanently disabled person, as defined in s. 196.012(11), who must use a wheel chair for mobility or who is legally blind . . ." With the exception of quadriplegics, persons qualifying for total exemption must meet specified income limits. Section 196.101(3), F.S., provides that the production by any totally and permanently disabled person entitled to an exemption under this section of a certificate of such disability from two licensed doctors of this state or from the U.S. Department of Veterans Affairs or its predecessor to the property appraiser is prima facie evidence of the fact that he or she is entitled to such exemption. Except for quadriplegics, the section restricts the exemption to persons with incomes below specified levels.

Section 196.202, F.S., provides that property to the value of \$500 of every widow, widower, blind person, or totally and permanently disabled person who is a bona fide resident of this state shall be exempt from taxation.

Section 196.012(11), F.S., defines, in part, a "totally and permanently disabled person" as a person certified as totally and permanently disabled by two licensed physicians of this state, by the U.S. Department of Veterans Affairs, or by the Social Security Administration.

C. EFFECT OF PROPOSED CHANGES:

This bill increases the tax exemption for widows, widowers, blind persons and totally and permanently disabled persons from \$500 in value to \$1,000 in value. For purposes of this exemption, the bill redefines the term "totally and permanently disabled person" to be a person so certified by a physician licensed in this state, by the U.S. Department of Veterans Affairs or its predecessor, or by the Social Security Administration. Current law requires a "totally and permanently disabled person" to be so certified by two physicians licensed in this state or by the U.S. Department of Veterans Affairs or its predecessor, or by the Social Security Administration.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Paragraph (b) of subsection (3) of s. 196.031, F.S., is amended to reduce from \$9,500 to \$9,000 the increase in homestead exemption for taxes levied by governing bodies of counties, municipalities, and special districts for persons who qualify for the exemption granted pursuant to s. 196.202, F.S., as totally and permanently disabled person.

Section 2. Section 196.202, F.S., is amended to increase the tax exemption for widows, widowers, blind persons and totally and permanently disabled persons from \$500 in value to \$1,000 in value. For purposes of this exemption, the bill redefines the term "totally and permanently disabled person" to be a person so certified by a physician licensed in this state, by the U.S. Department of Veterans Affairs or its predecessor, or by the Social Security Administration.

Section 3. An effective date of January 1, 2002, is provided.

III. 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:

See "Fiscal Comments" section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The Impact Conference has not yet reviewed this bill. According to the 2001 Florida Tax Handbook, in fiscal year 2001-02, the estimated ad valorem tax loss to local governments due to the exemptions provided in s. 196.202, F.S., was \$5.1 million. Assuming the same number of parcels qualify for these exemptions, this bill would double the amount of ad valorem tax loss to \$10.2 million.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By increasing the reduction in taxable value from \$500 to \$1,000 for persons qualifying for the exemption provided in s. 196.202, F.S., the bill reduces municipalities' and counties property tax base, thereby reducing their revenue-raising authority. Assuming the maximum millage rate of 10 mills each for cities and counties, and applying the combined 20 mill rate to the \$234,566,500 estimated increase in total exempt value resulting from this bill, the bill will reduce revenue raising authority for cities and counties by approximately \$4.7 million. Therefore, the measure appears to require a two-thirds vote of the membership of each house of the Legislature.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the total aggregate percent of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

Under applicable Attorney General Opinions, persons qualifying for one or more exemptions under s. 196.202, F.S., as blind, widow/widower, or disabled can also independently qualify for the \$25,000 homestead exemption under s. 196.031, F.S. See AGOs 80-62 and 74.353. Therefore, if the 196.202 exemption is increased to \$1000, persons could qualify for one or more \$1000 exemptions under that section and could also independently qualify for \$25,000 under ss. 196.031(3)(d) and 196.031(3)(e), F.S. See AGO 72-151, F.S.

In the wake of *Osterndorf v. Turner*, 426 So.2d 539 (Fla. 1982), which invalidated the five-year residency requirement in s. 196.031(3)(d) and (e), F.S., the legislature has provided \$25,000 non-school exemption for everyone, including those who are disabled and living here for five years. As further background, the Florida Supreme Court in *Osterndorf* also extended the \$25,000 exemption for school levies to all Florida residents when it removed the five-year residency requirement. Thus, persons receiving the \$500 exemption under s. 196.202, F.S., who also receive the homestead exemption have also received a \$25,000 from school and non-school millage.

As noted in the "Present Situation" section of the analysis, in most cases, the increase to \$25,000 in homestead exemption eliminates the need for other lesser increases included in the statutes, including that provided in s. 196.031(3)(b), F.S. However, the increase to \$25,000 for levies other than school district levies is not effective until the assessment roll has been approved by the executive director of the Department of Revenue. Although situations where the assessment roll has not been approved by the executive director of the Department of Revenue are highly unlikely, s. 196.031(3), F.S., still has potential relevancy. In cases where the assessment roll has not been approved, for levies other than school district levies, for state residents who are 65 and older [s. 196.031(3)(a), F.S.] or who are totally and permanently disabled [s. 196.031(3)(b), F.S.], the maximum combined exemption of \$10,000 for exemptions granted under the Florida Constitution is still authorized. Section 196.031(3)(c), F.S., further provides that no homestead shall be exempted under both paragraphs (a) [state residents who are 65 and older] and (b) [totally and permanently disabled]. Paragraph (c) also states in no event shall the combined exemptions of s. 196.202, F.S., and paragraph (a) or (b) exceed \$10,000.

Under this bill, s. 196.031(3)(c), F.S., would continue to provide that in no event shall the combined exemptions of s. 196.202, F.S., and paragraph (a) or (b) exceed \$10,000. Failure to amend s. 196.031(3)(b) to reduce from \$9,500 to \$9,000 the increase in homestead exemption for non-school district levies for persons who qualify for the exemption granted pursuant to s. 196.202, F.S., as totally and permanently disabled, would place (b) in conflict with (c) by allowing persons who qualify for the exemption granted pursuant to s. 196.202, F.S., as totally and permanently disabled, to

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receive the \$9,500 homestead exemption as well as the \$1,000 exemption under s. 196.202, F.S, for a total exemption of \$10,500.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Thomas L. Hamby, Jr.

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