

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 1268

INTRODUCER: Community Affairs Committee and Senator Margolis

SUBJECT: Deferral of Ad Valorem Taxes

DATE: March 6, 2006

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Vickers | Yeatman | CA | Fav/CS |
| 2. | _____ | _____ | GE | _____ |
| 3. | _____ | _____ | WM | _____ |
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I. Summary:

This committee substitute (CS) amends eligibility requirements governing the homestead tax deferral program. The tax deferral program allows qualifying homestead property owners to defer ad valorem and non-ad valorem assessments until there is change in the ownership or use of the property, at which time the deferred taxes, assessments, and interests are due and payable. The CS revises program eligibility requirements to decrease the age limit (from 70 to 65) and increase the income threshold (from \$12,000 to \$23,460). The CS also reduces the maximum interest rate that may be charged on deferred property taxes from 9.5 to 7 percent.

This CS substantially amends section 197.252 of the Florida Statutes.

II. Present Situation:

Article VII, Section 6, of the Florida Constitution, authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner. The value of the homestead exemption is currently \$25,000 of the assessed value of the real estate. This constitutional provision is implemented through s. 196.031, F.S.

Additional Homestead Exemption for Persons 65 and Older – In accordance with s. 6(f), Art. VII of the Florida Constitution, and s. 196.075, F.S., the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow an additional homestead exemption of up to \$25,000 for any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age 65, and whose household income does not exceed \$20,000. This exemption only applies to tax millage levied by the county or city that enacts the exemption, and does not apply to millage

of school districts or other taxing authorities. Currently, 53 counties and 158 municipalities have implemented the additional homestead exemption authorized under this section.¹

Section 196.075, F.S., provides that beginning January 1, 2001, the \$20,000 income limitation shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor. For 2006, the adjusted income limitation is \$23,463.²

Homestead Tax Deferral - Section 197.252, F.S., provides that any person who is entitled to claim homestead tax exemption under s. 196.031, F.S., may elect to defer payment of a portion of the combined total of the ad valorem taxes and any non-ad valorem assessments by filing an annual application for tax deferral with the county tax collector on or before January 31 following the year in which the taxes and non-ad valorem assessments are assessed.

Approval of an application for tax deferral will defer the portion of property tax that exceeds 5 percent of the applicant's household income for the prior year. If household income for the prior year is less than \$10,000, all ad valorem taxes plus non-ad valorem assessments may be deferred. A permanent resident of Florida who is 65 years old or older may defer that portion of the tax that exceeds 3 percent of the applicant's household income for the previous year. The property taxes may also be deferred entirely for persons between 65 and 69 years of age, whose household income for the previous year was less than \$10,000. *Finally, the taxes may be deferred in their entirety for persons 70 years old or older whose household income was less than \$12,000 for the previous year.*

Section 197.252, F.S., establishes certain limitations regarding eligibility for this deferral program. For example, a tax deferral may not be granted if the total amount of deferred taxes, non-ad valorem assessments, and interest plus the total amount of all other unsatisfied liens on the homestead exceeds 85 percent of the assessed value of the homestead. Similarly, a deferral may not be granted if the primary mortgage financing on the homestead is for an amount which exceeds 70 percent of the assessed value of the homestead.

The tax deferral becomes a lien on the property with interest accruing on the deferred amount until the balance is paid. The interest rate may not exceed 9.5 percent. The deferred tax amount plus interest becomes due and payable to the county if any of the following occur:

- the property is sold,
- the required homeowners and fire insurance are not maintained, or
- a change of property use occurs and owner is no longer entitled to claim homestead exemption for such property.

¹ Florida Department of Revenue, *Counties and Municipalities Implementing Additional Exemption for Persons 65 and Older Under Section 196.075, F.S.*, February 24, 2006.

² Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, February 24, 2006. (<http://www.myflorida.com/dor/property/limitations.html>)

III. Effect of Proposed Changes:

The CS revises the age and income thresholds governing eligibility for the homestead tax deferral program established in s. 197.252, F.S. Specifically, the CS decreases the minimum age limit from 70 to 65, and increases the household income limitation from \$12,000 to \$23,463. This income limit matches the threshold amount designated for the additional homestead exemption authorized in s. 196.075, F.S. Additionally, the CS reduces the maximum interest rate that may be charged on deferred property taxes from 9.5 to 7 percent.

The CS would enable a larger population of homestead property owners to elect to defer all or a portion of the combined total of the ad valorem taxes and any non-ad valorem assessments. The maximum interest rate applicable to deferred taxes and assessments would be capped at 7 percent. The deferred taxes and interest would continue to constitute a prior lien on the homestead, and all deferred taxes, assessments, and interests would be due upon a change in the ownership or use of the property.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The CS would increase the number of homestead property owners who are eligible to defer all or a portion of their ad valorem taxes and non-ad valorem assessments. Similarly, the CS reduces the maximum interest rate applicable to deferred taxes and assessments. The number of additional individuals who would elect to utilize the deferral option is unknown.

C. Government Sector Impact:

The CS could impact the revenue stream of local governments in two ways. First, it will limit the short term cash flow the local governments would receive from the property taxes deferred on the property. Second, it will increase the total overall amount of

revenue the local government will receive on the property because the deferred amount will accrue interest during the period of deferral. The amount of each effect could not be adequately estimated at the time of analysis because there is no method of determining how many property owners would avail themselves of this option or the amount of taxes and other assessments that would be deferred.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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