

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Budget Subcommittee on Finance and Tax

BILL: CS/SB 1058

INTRODUCER: Military Affairs, Space, and Domestic Security Committee and Senator Norman

SUBJECT: Homestead Property Tax Exemptions

DATE: February 22, 2012      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	<b>Fav/CS</b>
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
3.	<u>White</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
4.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>BFT</u>	<b>Pre-meeting</b>
5.	_____	_____	<u>BC</u>	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The bill sets forth the requirements for a full exemption from ad valorem taxes as authorized by the proposed constitutional amendment in CS/SJR 1056. The exemption is available under specified conditions to the surviving spouse of a “first responder” who died in the line of duty if the real estate is owned and used by the surviving spouse as a homestead. The bill defines the terms “first responder” and “in the line of duty.”

The bill takes effect upon the approval of the voters of the amendment proposed by CS/SJR 1056. The bill first applies to property taxes in 2013.

This bill substantially amends section 196.081 of the Florida Statutes.

This bill creates three undesignated sections of law.

## II. Present Situation:

### Property Valuation in Florida

Median home values in Florida climbed from \$23,100 in 1940 to \$105,500 in 2000,<sup>1</sup> but more recently sales prices have been stagnant across the state, with median sales prices for existing homes dropping 3 percent in 2011.<sup>2</sup> Some economists, however, predict renewed increases in home prices “in the Miami and Naples markets” throughout 2012 and the beginning of 2013, with a “recovery [that] is likely to roll northward to Central Florida and then North Florida.”<sup>3</sup>

Although Florida homeowners may face the “frustrating paradox[]” of falling real estate markets combined with rising property taxes,<sup>4</sup> Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution, provides for uniform ad valorem taxation, stating that “all ad valorem taxation shall be at a uniform rate within each taxing unit.”<sup>5</sup> The property tax burden for an owner of any particular piece of real estate will depend on the property’s just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

### Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arms-length transaction.<sup>6</sup>

### Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>7</sup> Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.<sup>8</sup> Land used for conservation purposes must be assessed solely

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<sup>1</sup> U.S. Census Bureau, *Housing and Household Economic Statistics Division, Historical Census of Housing Tables: Home Values* (Last Revised Oct. 31, 2011), available at <http://www.census.gov/hhes/www/housing/census/historic/values.html> (last visited Feb. 2, 2012).

<sup>2</sup> In 2011, the median sales price for existing homes was \$131,700, down from \$135,900 in 2010. Florida Realtors, *Florida’s housing sales activity higher as 2011 ends* (Jan. 20, 2012), <http://www.floridarealtors.org/NewsAndEvents/article.cfm?id=270287> (last visited Feb. 2, 2012).

<sup>3</sup> Florida Realtors, *Leading U. S. economists: Fla.’s housing market bouncing back* (Dec. 7, 2011), <http://www.floridarealtors.org/NewsAndEvents/article.cfm?id=268417> (last visited Feb. 2, 2012) (quoting Dr. Lawrence Yun, chief economist for the National Association of Realtors®).

<sup>4</sup> See Tim Padgett, *TIME, Florida’s Property Taxes Go Wacky in Housing Slump* (June 29, 2009), available at <http://www.time.com/time/business/article/0,8599,1907198,00.html> (last visited Feb. 2, 2012) (quoting Kurt Wenner, research director at Florida Tax Watch in Tallahassee).

<sup>5</sup> FLA. CONST. art. VII, s. 2.

<sup>6</sup> See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>7</sup> The constitutional provisions in section 4, Art. VII, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

<sup>8</sup> FLA. CONST. art. VII, s. 4(a).

on the basis of character or use.<sup>9</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>10</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.<sup>11</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>12</sup> Certain working waterfront property is assessed based upon the property's current use.<sup>13</sup>

### ***Taxable Value***

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to, homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.<sup>14</sup>

### **Assessment Limitations**

#### ***Save Our Homes***

The *Save Our Homes* assessment limitation was amended into the Florida Constitution in 1992. Article VII, section 4(d) of the Florida Constitution, limits the amount that a homestead's assessed value can increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).<sup>15</sup> In addition, an assessment may not exceed just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution, to provide for the portability of the accrued benefit under the *Save Our Homes* assessment limitation. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the accrued benefit to the new homestead.

### **Property Tax Exemptions for Homesteads**

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.<sup>16</sup>

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<sup>9</sup> FLA. CONST. art. VII, s. 4(b).

<sup>10</sup> FLA. CONST. art. VII, s. 4(e).

<sup>11</sup> FLA. CONST. art. VII, s. 4(f).

<sup>12</sup> FLA. CONST. art. VII, s. 4(i).

<sup>13</sup> FLA. CONST. art. VII, s. 4(j).

<sup>14</sup> FLA. CONST. art. VII, ss. 3 and 6.

<sup>15</sup> FLA. CONST. art. VII, s. 4(d).

<sup>16</sup> *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).

### ***Homestead Exemption***

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by school districts.

### ***Additional Homestead Exemption for Qualified Senior Citizens***

Article VII, section 6(d) of the Florida Constitution, allows the Legislature to adopt a general law allowing counties and municipalities to grant an additional homestead exemption of up to \$50,000. This additional exemption applies to any person who has legal and equitable title to real estate who maintains a property as a permanent residence, has attained the age of 65, and has a household income, as defined by general law, which does not exceed \$20,000. In the implementing legislation for the exemption, the Legislature indexed the \$20,000 figure to inflation. Adjusted for inflation, the current senior low income exemption is around \$26,000.<sup>17</sup>

Section 196.075, F.S., is the general law enacted to allow counties and municipalities to grant the additional homestead exemption for qualified senior citizens. The county or municipality must grant this additional exemption by ordinance, which must be adopted pursuant to the procedures prescribed in chapters 125 and 166, F.S. The county or municipality must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.<sup>18</sup> For purposes of the exemption, “household income” means “the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.”<sup>19</sup> The term “household” means “a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.”<sup>20</sup> In 2010, 59 boards of county commissioners and 206 city commissions had enacted local ordinances granting the additional exemption for seniors.<sup>21</sup>

### ***Exemption for Surviving Spouses of Certain Veterans***

Section 196.081(4), F.S., currently provides, under specified conditions, a full exemption from ad valorem taxes on property that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces. To be eligible for the exemption the surviving spouse must provide a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran died from service-connected causes while

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<sup>17</sup> Florida Department of Revenue, *SJR 838 Analysis* (Nov. 29, 2011) (on file with the Senate Judiciary Committee).

<sup>18</sup> See s. 196.075, F.S. (Because the exemption applies only to tax millage levied by the county or city that enacts the exemption, it does not apply to millage of school districts or other taxing authorities.).

<sup>19</sup> Section 196.075(1)(b), F.S.

<sup>20</sup> Section 196.075(1)(a), F.S.

<sup>21</sup> Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited Feb. 3, 2012) (Data obtained from tax rolls submitted to the Department of Revenue for 2010).

on active duty. Additionally, the veteran must have been a permanent resident of this state on January 1, of the year in which he or she died.

### **Ad Valorem Discount for Veterans**

Article VII, section 6(e) of the Florida Constitution, provides that each veteran, who is age 65 or older and is partially or totally permanently disabled, is entitled to a discount from the amount of the ad valorem tax otherwise owed on homestead property. The disability must be combat related, the veteran must have been a resident of Florida at the time of entering the military service, and the veteran must have been honorably discharged. The discount is in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.

### **Ad Valorem Exemption for Deployed Military Personnel**

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. One such exemption applies to military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.<sup>22</sup> The applicable exemption is for a percentage of the taxable value of the homestead property that is equal to the percent of the time during the preceding calendar year the person was deployed on active duty outside the continental United States, Alaska, or Hawaii, in support of military operations designated by the legislature.

## **III. Effect of Proposed Changes:**

**Section 1** creates an undesignated section of law to provide that the act may be cited as the "Fallen Heroes Family Tax Relief Act."

**Section 2** amends s. 196.081, F.S., to set forth the requirements for a full exemption from ad valorem taxes authorized by the proposed constitutional amendment in CS/SJR 1056. The exemption is available under specified conditions to the surviving spouse of a "first responder" who died "in the line of duty." The exemption applies to real estate that is owned and used by the surviving spouse as a homestead.<sup>23</sup>

The bill defines the term "first responder" to mean a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.30, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer.

The bill defines "in the line of duty" to mean:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;

<sup>22</sup> FLA. CONST. art. VII, s. 3(g).

<sup>23</sup> The bill specifies that these terms are defined for purposes of this exemption only and do not apply to the payment of benefits under ss. 112.19 or 112.191, F.S., relating to death benefits.

- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities enumerated above if the training has been authorized by the employing entity.

Under the bill, a death also occurs “in the line of duty” if the death:

- Occurs within 24 hours after one of the events or activities listed above;
- Results from a heart attack or stroke that causes the death or causes an injury resulting in death; and
- Is directly and proximately caused by the initial event or activity.

The bill specifies the documentation required to qualify for the exemption. The bill requires a surviving spouse of a first responder who seeks to qualify for the exemption to produce a letter issued by a governmental entity which legally recognizes and certifies that the first responder died in the line of duty while employed as a first responder. The bill provides that production by the surviving spouse of this letter is prima facie evidence that the surviving spouse is entitled to this exemption.

The bill provides that the exemption may apply as long as the spouse holds the legal or beneficial title to the homestead, permanently resides on the property, and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.

**Section 3** creates an undesignated section of law to provide that the bill will operate prospectively to tax rolls submitted to the Department of Revenue by each county tax collector beginning January 2013 and each January thereafter. The bill does not provide a basis for relief from an assessment of taxes not paid or create a right to refund of taxes paid before January 1, 2013.

The provisions of the bill apply for surviving spouses of first responders whose deaths occur before, on, or after the effective date of the bill.

**Section 4** creates an undesignated section of law to appropriate \$100,302 to the Department of State to publish the proposed constitutional amendment contained in CS/SJR 1056 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution.

**Section 5** provides that the bill takes effect upon the approval of the amendment proposed by CS/SJR 1056. As a result, the bill will take effect on January 1, 2013, if CS/SJR 1056 is approved by the electors in the 2012 General Election.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The bill implements the proposed constitutional amendment contained in CS/SJR 1056, which provides ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and to the surviving spouse of a first responder who died in the line of duty.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

If the amendment proposed by CS/SJR 1056 is approved by the voters, the bill would exempt surviving spouses of certain first responders from paying ad valorem taxes on homestead property.

**B. Private Sector Impact:**

If the amendment proposed by CS/SJR 1056 is approved by the voters, the bill would provide property tax relief to surviving spouses of certain first responders.

**C. Government Sector Impact:**

The Revenue Estimating Conference has estimated an indeterminate annual reduction in tax revenues due to the need for electorate approval of the constitutional amendment. However, if voters approve the constitutional amendment, this bill is estimated to reduce property taxes in total by \$0.6 million per year, beginning in fiscal year 2013-2014. Of that amount, school taxes are reduced \$0.3 million per year, while non-school taxes are also reduced by \$0.3 million per year.

The bill appropriates \$100,302 to the Department of State (department) to publish the proposed constitutional amendment contained in CS/SJR 1056 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution. According to the department, the estimated cost to publish the proposed constitutional amendment is

\$108,793.50.<sup>24</sup> The department estimates the cost based on the average cost per word to advertise a constitutional amendment.

**VI. Technical Deficiencies:**

The word “deaths” in line 134 of the CS should be changed to the singular form “death” for subject-verb agreement.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Military Affairs, Space, and Domestic Security on January 26, 2012:**

- Removes changes dealing with the current exemption for surviving spouses of military veterans who died from service-connected causes while on active duty.
- Clarifies that the terms “first responder” and “in the line of duty” are defined for purposes of this exemption.
- Clarifies that the exemption begins with the 2013 tax roll.
- Provides an appropriation to publish the proposed constitutional amendment in newspapers in each county as required by the Florida Constitution.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>24</sup> E-mail correspondence with Department of State staff (Jan. 27, 2012) (on file with Senate Judiciary Committee).