

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 Community Affairs Committee

BILL: CS/SB 1058

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

SUBJECT: Homestead Property Tax Exemptions

DATE: January 31, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fleming</u>	<u>Carter</u>	<u>MS</u>	Fav/CS
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Pre-meeting
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>BC</u>	_____
5.	_____	_____	_____	_____
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 creates a new statutory provision that creates and sets 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 when 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 amendment proposed by CS/SJR 1056 by the voters. 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.

This bill substantially amends section 196.081 of the Florida Statutes.

This bill creates three undesignated sections of law.

II. Present Situation:

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” is synonymous with “fair market value” and is defined as what a willing buyer would pay a willing seller for the property in an arm’s length transaction.¹

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.² 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.³ Land used for conservation purposes must be assessed solely on the basis of character or use.⁴ Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.⁵ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁶ 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.⁷ 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.⁸ Certain working waterfront property is assessed based upon the property’s current use.⁹

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.

Assessment Limitations

Save Our Homes

The “Save Our Homes” provision in Article VII, section 4 of the Florida Constitution, limits the amount a homestead’s assessed value can increase annually to the lesser of 3 percent or the inflation rate as measured by the consumer price index (CPI).¹⁰ Homestead property owners that

¹ See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

² The constitutional provisions in section 4, Art. VII, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

³ Art. VII, section 4(a) of the Florida Constitution.

⁴ Art. VII, section 4(b) of the Florida Constitution.

⁵ Art. VII, section 4(c) of the Florida Constitution.

⁶ Art. VII, section 4(e) of the Florida Constitution.

⁷ Art. VII, section 4(f) of the Florida Constitution.

⁸ Art. VII, section 4(i) of the Florida Constitution.

⁹ Art. VII, section 4(j) of the Florida Constitution.

¹⁰ Art. VII, section 4(d) of the Florida Constitution.

establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to a new homestead.¹¹

Additional Assessment Limitations

Article VII, sections 4(g) and (h), of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law.

Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹²

Homestead Exemptions

Article VII, section 6(a) 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 that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Additional Homestead Exemption for Certain 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 with legal and equitable title to real estate who maintains a property as a permanent residence, who has attained the age of 65, and whose household income, as defined by general law, does not exceed \$20,000 adjusted annually for inflation.¹³

Exemptions for Widows or Widowers

Article VII, section 3(b) of the Florida Constitution, provides an exemption to every widow or widower or person who is blind or totally and permanently disabled, to the value fixed by general law not less than five hundred dollars.¹⁴

¹¹ Art. VII, section 4(d) of the Florida Constitution.

¹² See *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

¹³ 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.

¹⁴ Section 196.202, F.S., provides the general law and enacts the widows and widowers exemption at \$500.

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 and for whom 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 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 who is partially or totally permanently disabled shall receive 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 shall be 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.

Other Exemptions

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.¹⁵ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.¹⁶ A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.¹⁷ A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹⁸ Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁹ There is an exemption for real property dedicated in perpetuity for conservation purposes.²⁰ There is an exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.²¹

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."

¹⁵ Art. VII, section 3(a) of the Florida Constitution.

¹⁶ Art. VII, section 3(b) of the Florida Constitution.

¹⁷ Art. VII, section 3(c) of the Florida Constitution.

¹⁸ Art. VII, section 3(d) of the Florida Constitution.

¹⁹ Art. VII, section 3(e) of the Florida Constitution.

²⁰ Art. VII, section 3(f) of the Florida Constitution.

²¹ Art. VII, section 3(g) of the Florida Constitution.

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 when the real estate is owned and used by the surviving spouse as a homestead.

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;
- 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 in this subparagraph if the training has been authorized by the employing entity.

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.

The bill provides that a heart attack or stroke that causes death or causes an injury resulting in death must occur within 24 hours after an event or activity enumerated above and must be directly and proximately caused by the event or activity in order to be considered as having occurred in the line of duty.

The bill specifies the documentation required to qualify for the exemption to be a legally issued letter from the state or appropriate political subdivision of the state or other authority or special district recognizing and certifying that the individual died in the line of duty while employed as a first responder. The bill provides that presentation by the surviving spouse of this letter that attests the individual’s death was in the line of duty 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 thereon, 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 and do 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 provide a General Revenue appropriation of \$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.

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 allow surviving spouses of certain first responders complete exemption from ad valorem taxes.

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 that, if the amendment proposed by CS/SJR 1056 is approved by the voters, assuming current millage rates, the estimated statewide impact of the bill would be annual reductions in school tax revenues of \$0.3 million beginning in fiscal year 2013-14. Annual reductions in local government non-school tax revenues under those circumstances are estimated to be \$0.3 million beginning in fiscal year 2013-14.

The bill provides a General Revenue appropriation of \$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 updated estimate of the cost to publish the proposed constitutional amendment is \$108,793.50.²² The department estimates the cost based on the average cost per word to advertise the constitutional amendment. This updated estimate reflects the additional words that were added to the constitutional amendment in the current version of CS/SJR 1056.

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.

²² E-mail correspondence with Department of State staff (Jan. 27, 2012) (on file with Senate Committee on Community Affairs).

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