

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 173 Property Tax Exemptions

**SPONSOR(S):** Goodson

**TIED BILLS:**                   **IDEN./SIM. BILLS:**

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Finance & Tax Committee	15 Y, 0 N	Wolfgang	Langston
2) Local & Federal Affairs Committee	17 Y, 0 N	Darden	Kiner

**SUMMARY ANALYSIS**

The bill increases the existing ad valorem tax exemption for residents who are widows, widowers, blind, or totally and permanently disabled from \$500 to \$5,000 of value.

The Revenue Estimating Conference on January 30, 2015, conducted an analysis of the impacts of the bill. The bill is expected to have no impact in the 2015-2016 fiscal year, then a negative revenue impact to local governments of approximately \$41.9 million beginning in the 2016-2017 fiscal year, assuming current millage rates.

The bill becomes effective upon becoming law, but only applies to tax years beginning on or after January 1, 2016.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by general or special act.<sup>1</sup> Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem tax rates are capped by the state constitution as follows:<sup>2</sup>

- Ten mills for county purposes.
- Ten mills for municipal purposes.
- Ten mills for school purposes.
- A millage fixed by law for a county furnishing municipal services.
- A millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.<sup>3</sup>

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county and distributes the taxes to each taxing authority.<sup>4</sup>

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.<sup>5</sup> Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.<sup>6</sup>

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.<sup>7</sup> However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.<sup>8</sup>

Federal, state, and county governments are immune from taxation, but municipalities are not subdivisions of the state and may be subject to taxation absent an express exemption.<sup>9</sup> The Florida Constitution grants property tax relief in the form of certain valuation differentials,<sup>10</sup> assessment

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<sup>1</sup> FLA. CONST. art VII, s. 9,

<sup>2</sup> A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

<sup>3</sup> Section 200.001(7), F.S.

<sup>4</sup> Section 197.383, F.S.

<sup>5</sup> Section 195.002, F.S.

<sup>6</sup> Chapter 195, F.S.

<sup>7</sup> FLA. CONST. art VII, s. 2.

<sup>8</sup> See, e.g., *Moore v. Palm Beach County*, 731 So. 2d 754, 758 (Fla. 4th DCA 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (Fla. 1940).

<sup>9</sup> "Exemption" presupposes the existence of a power to tax, while "immunity" implies the absence of it. See *Turner v. Florida State Fair Authority*, 974 So. 2d 470, 474 (Fla. 2d DCA 2008); *Dept. of Revenue v. Gainesville*, 918 So. 2d 250, 257-59 (Fla. 2005).

<sup>10</sup> FLA. CONST. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

limitations,<sup>11</sup> and exemptions,<sup>12</sup> including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

Since its 1968 revision, the Florida Constitution has provided a specific exemption to “every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.”<sup>13</sup> This exemption is effectuated in s. 196.202, F.S., for every person who is a bona fide resident of this state. An applicant for the exemption may apply for the exemption before receiving the necessary documentation from the United States Department of Veterans Affairs or its predecessor, or the Social Security Administration.<sup>14</sup> Upon receipt of the documentation, the exemption shall be granted as of the date of the original application, and any excess taxes paid are refunded.<sup>15</sup>

### **Proposed Changes**

The bill increases from \$500 to \$5,000 of value exempt from ad valorem taxation for residents who are widows, widowers, blind, or totally and permanently disabled. The bill specifies that the increase applies to tax years beginning on or after January 1, 2016.

#### **B. SECTION DIRECTORY:**

**Section 1** of the bill amends s. 196.202, F.S., to increase the exemption for residents who are widows, widowers, blind, or totally and permanently disabled from \$500 to \$5,000.

**Section 2** specifies that the increase applies to tax years beginning on or after January 1, 2016.

**Section 3** provides that the act shall take effect upon becoming 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 on January 30, 2015, conducted an analysis of the impacts of the bill. The bill is expected to have no impact in the 2015-2016 fiscal year, then a negative revenue

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<sup>11</sup> FLA. CONST. art VII, s. 4(d), authorizes the “Save Our Homes” property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the “Granny Flats” assessment limitation.

<sup>12</sup> FLA. CONST. art VII, s. 3, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

<sup>13</sup> FLA. CONST. art VII, s. 3(b).

<sup>14</sup> S. 196.202(2), F.S.

<sup>15</sup> *Id.*

impact to local governments of approximately \$41.9 million beginning in the 2016-2017 fiscal year, assuming current millage rates.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Florida residents who are widows, widowers, blind, or totally and permanently disabled will pay less property tax.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill reduces local government's ability to raise ad valorem revenues. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES