

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 Committee on Community Affairs

BILL: SB 1622

INTRODUCER: Senator Abruzzo

SUBJECT: Homestead Property Tax Exemptions

DATE: January 29, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Present | Yeatman | CA | Pre-meeting |
| 2. | | | FT | |
| 3. | | | AP | |

I. Summary:

SB 1622 is the implementing legislation for SJR 1624. The bill allows the parent or parents of an unmarried veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces to receive ad valorem tax relief equal to the total amount owed on a homestead property.

In order to be eligible for the homestead exemption:

- The United States Government or the United States Department of Veterans Affairs or its predecessor must have issued a letter certifying that the veteran died from service-connected causes while on active duty.
- The veteran must have been a permanent resident of Florida on January 1 of the year in which he or she died.
- The parent or parents must hold legal or beneficial title to the homestead and permanently reside thereon. However, if the parent or parents sell the property, an exemption not to exceed the amount granted under the most recent ad valorem tax roll may be transferred to the new residence as long as it is used as the primary residence.

The bill applies to unmarried veterans who died before, on, or after the effective date of this act, but does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2017.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Property Tax Exemptions for Ex-Servicemembers

Florida grants a number of property tax exemptions for disabled ex-servicemembers. Most of these exemptions carry over to the benefit of the surviving spouse after the ex-servicemember’s death.

\$5,000 Ad Valorem Tax Exemption for Ex-Servicemembers and Surviving Spouses

Up to \$5,000 of property of an ex-servicemember is exempt if the ex-servicemember is a bona fide resident of the state, was discharged under honorable conditions, and has been disabled to a degree of 10 percent or more by misfortune or while serving during a period of wartime service.¹¹ This exemption carries over to the un-remarried surviving spouse if he or she had been married to the disabled ex-servicemember for at least 5 years on the date of the ex-servicemember’s death.¹²

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art. VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *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).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 196.24, F.S.

¹² *Id.*

Disabled Veterans Confined to Wheelchairs and Surviving Spouses

Homestead property of an ex-servicemember is totally exempt if the ex-servicemember was honorably discharged with a service-connected total disability, is receiving or has received special pecuniary assistance due to a disability requiring specially adapted housing, and is required to use a wheelchair for his or her transportation.¹³ The exemption carries over to the benefit of the surviving spouse in the event the ex-servicemember predeceases his or her spouse, until the spouse no longer resides on the property, remarries, or otherwise disposes of the property.¹⁴

Ad Valorem Tax Exemption for Surviving Spouses of Veterans Who Died from Service-Connected Causes

Homestead property of a surviving spouse of an ex-servicemember is exempt if the ex-servicemember died from service-connected causes while on active duty.¹⁵

Total Homestead Exemption for Ex-Servicemembers and Surviving Spouses

Homestead property of an ex-servicemember is exempt if the ex-servicemember was honorably discharged with a service-connected total and permanent disability.¹⁶ If the totally and permanently disabled ex-servicemember predeceases his or her spouse, the exemption carries over to the benefit of the surviving spouse until the spouse no longer resides on the property, remarries, or disposes of the property.¹⁷

Combat-Related Partial Ad Valorem Tax Discount for Ex-Servicemembers

Homestead property of an ex-servicemember receives an ad valorem discount if the ex-servicemember was honorably discharged, is 65 years or older, is disabled and the disability is combat-related.¹⁸ The discount percentage is equal to the veteran's percentage of disability, as determined by the U.S. Department of Veterans Affairs.¹⁹ The discount is not currently provided to the surviving spouse upon the death of the disabled veteran.

III. Effect of Proposed Changes:

Section 1 amends s. 196.081, F.S., to provide that any real estate that is owned and used as a homestead by the parent or parents of an unmarried 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 who died from service-connected causes

¹³ Section 196.091, F.S.

¹⁴ *Id.*

¹⁵ Section 196.081(4), F.S.

¹⁶ Section 196.081(1), F.S.

¹⁷ Section 196.081(3), F.S.

¹⁸ Section 196.082, F.S.

¹⁹ The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0 percent to 100 percent (in 10 percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation. The USDVA does not determine whether a disability is combat-related.

while on active duty is exempt from taxation if the veteran was a permanent resident of this state on January 1 of the year in which the veteran died.

The production of the letter by the veteran's parent or parents which attests to the veteran's death while on active duty is prima facie evidence that the parent or parents are entitled to the exemption.

The tax exemption carries over to the benefit of the veteran's parent or parents as long as the parent or parents hold legal or beneficial title to the homestead and permanently reside thereon as specified in s. 196.031, F.S. Section 196.031(1), F.S., provides that a person who makes a property his or her permanent resident in good faith is entitled to the exemption. Furthermore, s. 196.031(5), F.S., provides that a person who is receiving or claiming an ad valorem tax exemption or a tax credit in another state where permanent residency is required as the basis for such exemption or tax credit is not entitled to the homestead exemption in Florida.

If the parent or parents sell the property, an exemption not to exceed the amount granted under the most recent ad valorem tax roll may be transferred to the new residence as long as it is used as the primary residence.

Section 2 provides that the revisions to s. 196.081, F.S., made by this act operate prospectively to the 2017 tax roll and do not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2017. The provisions of s. 196.081(7), F.S., apply to the homestead exemption of the parent or parents of an unmarried veteran whose death occurs before, on, or after the effective date of this act.

Section 3 provides that the act shall take effect on the same date that SJR 1624, or a similar joint resolution having substantially the same intent and purpose, takes effect if approved by electors at the general election held in November 2016 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Parents of unmarried veterans who die in active duty due to service-connected causes may receive property tax relief.

C. Government Sector Impact:

The Department of Revenue would need to amend Rule 12D-7.004, F.A.C., and Forms DR-501, DR-490, DR-489EB, and DR-403EB.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The term “parent” is not defined in the bill. The Federal statute for the Gold star lapel button provides that a parent of a member of the armed forces includes a “mother, father, stepmother, stepfather, mother through adoption, father through adoption, and foster parents who stood in loco parentis.”²¹ It is unclear whether the bill covers such individuals.

It is also unclear how a parent will prove that their veteran child was unmarried.

VIII. Statutes Affected:

This bill substantially amends section 196.081 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

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

²⁰ Florida Dep’t of Revenue, *Legislative Bill Analysis for SB 1622, 2*, (Jan. 22, 2016).

²¹ 10 U.S.C. s. 1126d-2.