

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 611 Homestead Property Tax Exemptions

SPONSOR(S): Hager

TIED BILLS: None **IDEN./SIM. BILLS:** SB 804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee	11 Y, 0 N, As CS	Renner	Thompson
2) Finance & Tax Committee			
3) Appropriations Committee			

SUMMARY ANALYSIS

Section 196.081, F.S., currently provides a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran who has a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is claimed or was a permanent resident on January 1 of the year he or she died. This exemption may be carried over to the benefit of the veteran's unremarried surviving spouse, provided the residency requirement is met.

This section also provides a full exemption on property that is owned and used as a homestead by the surviving spouse of veteran who died from service-connected causes while on active duty. The veteran must have been a permanent Florida resident on January 1 of the year in which he or she died.

The bill expands the above homestead exemptions. Specifically, the bill removes the residency requirement for the full exemption 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. In addition, the bill exempts the unremarried surviving spouse of a veteran who was totally and permanently disabled upon death from payment of ad valorem taxes for a homestead property in this state if the veteran, at the time of death, owned homestead property in another state and used it in a manner that would have qualified for homestead exemption if the property was located in Florida on January 1 of the year the veteran died. To qualify for the tax exemption, after the veteran's death, the unremarried surviving spouse must hold the legal or beneficial title to the homestead property in this state and permanently reside on the property as of January 1 of the tax year for which the exemption is being claimed.

Additionally, the surviving spouse must provide the county property appraiser with documentation that verifies the partial or full homestead exemption that applied to the veteran's property in the other state and any prima facie evidence that the surviving spouse is entitled to the exemption. The tax exemption:

- Is available until the surviving spouse remarries.
- May not be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as it is used as the surviving spouse's primary residence and he or she does not remarry.

On December 18, 2015, the Revenue Estimating Conference (REC) estimated the bill's impact on local government revenue in Fiscal Year 2016-17 would be -\$0.9 million for schools and -\$0.7 million for non-school purposes (growing to -\$1.0 million for schools and -\$1.1 million for non-school purposes in FY 2020-21), holding the 2014 statewide average property tax rates constant.

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:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Exemptions

Article VII, section 6 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.

Case law precedent provides that 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.⁶

Article VII, section 3 of the Florida Constitution provides for other specific exemptions from property taxes, including, but not limited to, exemptions for widows and widowers, blind persons, and persons who are totally and permanently disabled.

Veteran Exemptions

Totally and Permanently Disabled Veterans/Surviving Spouses

Article VII, section 3(b) of the Florida Constitution authorizes the Legislature by general law to provide, in part, a property tax exemption in an amount not less than five hundred dollars for every widow or widower, and for persons who are permanently disabled. The Legislature implemented this provision through s. 196.081(1)-(3), F.S. These subsections currently provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.⁷ This exemption

¹ Fla. Const. art. VII, s. 1(a)

² Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4

⁴ Fla. Const., art. VII, ss. 3, 4, and 6.

⁵ Section 196.031, F.S.

⁶ *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).

⁷ Section 196.081(1), F.S.

may be carried over to the benefit of the veteran's surviving spouse.⁸ If the deceased veteran does not meet these criteria, the surviving spouse is not eligible for the carry-over of the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.⁹

Veterans Who Died from Service-connected Causes While on Active duty/Surviving Spouses

Article VII, section 6(f) of the Florida Constitution authorizes the Legislature to provide 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. The Legislature implemented this provision through s. 196.081(4), F.S.

Unlike the tax exemption in section 196.081(1)-(3), F.S., that is granted to a totally and permanently disabled veteran and passes to the surviving spouse upon the veteran's death, the exemption in section 196.081(4), F.S., applies directly to the surviving spouse of a veteran. This subsection provides 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 and is a permanent Florida resident on January 1 of the tax year for which the veteran died.¹⁰ If the surviving spouse does not meet these criteria, the surviving spouse is not eligible to receive the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.¹¹

Portability

While current law allows the surviving spouse of a disabled veteran to transfer the veteran's disability exemption to a new property if they are moving within Florida, this portability is not available to a surviving spouse who is coming from another state. In other words, if a surviving spouse owned a permanent residence in another state and was receiving an exemption or similar benefit based on their veteran spouse's disability, they could not transfer that benefit to a new Florida residence. However, a similarly situated surviving spouse who was moving within Florida would be able to transfer their benefit.

Proposed Changes

The bill expands the above homestead exemptions. In sum, the bill allows the surviving spouse of a veteran who died from service-connected causes while on active duty to receive property tax relief in this state, if the veteran was not a permanent resident of this state on January 1 of the year in which the veteran died. In addition, the bill allows the surviving spouse of a veteran who was totally and permanently disabled upon death to receive property tax relief in this state, if the veteran, at the time of his or her death, owned homestead property in another state and had received a partial or full homestead exemption on that property on January 1 of the year the veteran died.

To qualify for the tax exemption, after the veteran's death, the unremarried surviving spouse must hold the legal or beneficial title to the homestead property in this state and permanently reside on the property¹² as of January 1 of the tax year for which the exemption is being claimed.

⁸ Section 196.081(2) and (3), F.S.

⁹ Section 196.081(3), F.S.

¹⁰ Section 196.081(4), F.S.

¹¹ Section 196.081(4)(b), F.S.

¹² See section 196.031, F.S.

Additionally, the surviving spouse must provide the county property appraiser with documentation that verifies the partial or full homestead exemption that applied to the veteran's property in the other state and any prima facie evidence that the surviving spouse is entitled to the exemption.

Lastly, the tax exemption:

- Is available until the surviving spouse remarries.
- May be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as it is used as the surviving spouse's primary residence and he or she does not remarry.

B. SECTION DIRECTORY:

Section 1 Amends s. 196.081, F.S., relating to homestead exemptions for certain totally and permanently disabled veterans and for surviving spouses of veterans.

Section 2 Provides an effective date of July 1, 2016.

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:

On December 18, 2015, the Revenue Estimating Conference estimated the bill's impact on local government revenue beginning in Fiscal Year 2016-17 would be $-\$0.9$ million for schools, growing to $-\$1.0$ million in FY 2020-21. For non-school purposes, the recurring impact is estimated to be $-\$0.7$ million in FY 2016-17, growing to $-\$1.1$ million in FY 2020-21. The estimates assume the 2014 statewide average property tax rates. The Fiscal Year 2016-17 cash impact is zero because of the effective date.¹³

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The surviving spouse of a veteran who was totally and permanently disabled upon death could receive property tax relief in this state, if the veteran, at the time of his or her death, owned homestead property in another state and had received a partial or full homestead exemption on that property on January 1 of the year the veteran died.

The surviving spouse of a veteran who died from service-connected causes while on active duty could receive property tax relief in this state, if the veteran was not a permanent resident of this state on January 1 of the year in which the veteran died.

D. FISCAL COMMENTS:

¹³ Revenue Estimating Conference, *Surviving Spouse/Disabled Veterans-Residency: HB 611* (December 18, 2015).

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality provisions of Art. VII, s. 18, of the Florida Constitution may apply because the provisions of the bill would reduce the authority that local governments have to raise 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. However, if the bill results in an insignificant fiscal impact to county or municipal governments, an exemption from the county/municipality provisions of Art. VII, s. 18, of the Florida Constitution may apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The proposed exemption expansion exempts an unremarried surviving spouse of a veteran who was *totally* and *permanently* disabled upon death from payment of ad valorem taxes for a homestead property in this state if the veteran, at the time of his or her death, owned homestead property in another state. Other states provide exemptions to veterans and surviving spouses based on a variety of criteria. Some may provide it with no disability requirement, while others provide it based on income. Consequently, it may be difficult for property appraisers to administer this proposal.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2016, the Veteran & Military Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies the application of the new homestead exemption. Specifically, the amendment:

- Removes the residency requirement for the full exemption 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.
- Exempts the unremarried surviving spouse of a veteran who was totally and permanently disabled upon death.

Additionally, the amendment:

- Compensates for a potential discrepancy in how other states define a homestead exemption.
- Removes the requirement for the surviving spouse to “purchase” the Florida property.
- Clarifies the qualifications for the surviving spouse to receive the tax exemption.

This bill analysis is drafted to the committee substitute as passed by the Veteran & Military Affairs Subcommittee.