

**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.)

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Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

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BILL: CS/SB 804

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Brandes

SUBJECT: Homestead Property Tax Exemptions

DATE: January 21, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	Fav/CS
2.			FT	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 804 expands eligibility for the homestead exemption authorized in current law for the unremarried surviving spouse of certain veterans. Specifically, the bill allows the surviving spouse of a veteran who died from service-connected causes while on active duty and the surviving spouse of a totally and permanently disabled veteran to qualify for a total homestead exemption regardless of whether or not the veteran was a resident of this state or owned property in this state at the time of the veteran's death.

An unremarried surviving spouse of a totally and permanently disabled veteran may qualify for the exemption if the veteran or the spouse owned property that was used as a permanent residence in another state at the time of the veteran's death. The surviving spouse must hold the legal and beneficial title to the homestead property in Florida subsequent to the veteran's death and use that property as his or her primary residence. The spouse is eligible for the exemption until he or she remarries.

The bill takes effect on January 1, 2017 and first applies to the 2017 property tax roll.

## 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.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> 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,<sup>4</sup> and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> 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;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### Exemption for 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. The veteran must have been a permanent Florida resident on January 1 of the tax year for which the

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<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

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

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

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

exemption is being claimed or in which the veteran died.<sup>11</sup> This exemption may be carried over to the benefit of the veteran's surviving spouse if upon the death of the veteran, the spouse holds the legal or beneficial title to the homestead and uses it as his or her permanent residence.<sup>12</sup>

This exemption does not currently apply to the surviving spouse of a totally and permanently disabled veteran who owned property that was used as a permanent residence in another state at the time of the veteran's death and subsequently moves to Florida.

### **Exemption for Veterans Who Died from Service-connected Causes/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., which 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. To qualify for the exemption, the veteran must have been a permanent Florida resident on January 1 of the tax year in which the veteran died.<sup>13</sup>

The exemption does not currently apply to the surviving spouse of such a veteran, if at the time of the veteran's death, the veteran resided in another state.

### **Other Property Tax Exemptions for Ex-Servicemembers**

#### ***\$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 was honorably discharged and is at least 10 percent disabled by misfortune or while serving during a period of wartime service.<sup>14</sup> 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.<sup>15</sup>

#### ***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.<sup>16</sup> The exemption carries over to the benefit of the surviving spouse in the event the ex-servicemember predeceases his or her spouse.<sup>17</sup>

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<sup>11</sup> Section 196.081(1), F.S.

<sup>12</sup> Section 196.081(2) and (3), F.S.

<sup>13</sup> Section 196.081(4), F.S.

<sup>14</sup> Section 196.24, F.S.

<sup>15</sup> Id.

<sup>16</sup> Section 196.091, F.S.

<sup>17</sup> Id.

***Combat-Related Partial Ad Valorem Tax Exemption (Discount) for Ex-Servicemembers***

Homestead property of an ex-servicemember receives an ad valorem discount if the ex-servicemember was honorably discharged, 65 years or older, and disabled.<sup>18</sup> The discount percentage is equal to the veteran's percentage of disability, as determined by the U.S. Department of Veterans Affairs.<sup>19</sup>

**III. Effect of Proposed Changes:**

CS/SB 804 amends s. 196.081, F.S., to expand eligibility for the homestead exemption authorized in current law for the unremarried surviving spouse of certain veterans. Specifically, the bill:

- Removes the requirement that a veteran who died from service-connected causes while on active duty be a resident of this state at the time of death in order for the veteran's unremarried surviving spouse to qualify for the total homestead exemption; and
- Allows the unremarried surviving spouse of a totally and permanently disabled veteran to qualify for the total homestead exemption, if the veteran or spouse owned property in another state at the time of the veteran's death.

The homestead exemption applies to the surviving spouse of a totally and permanently disabled veteran if, at the time of the veteran's death, the veteran or the spouse owned a home in another state that was used by the veteran in a manner that would have qualified for the exemption under s. 196.031, F.S. To qualify, the surviving spouse must hold the legal or beneficial title to homestead property in Florida subsequent to the death of the veteran 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 of a totally and permanently disabled veteran applying for the exemption must provide the county property appraiser with documentation from the U.S. Government or U.S. Department of Veterans Affairs certifying the veteran's disability. The homestead exemption is available until such surviving spouse remarries and may be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll.

The bill takes effect on January 1, 2017.

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

None.

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<sup>18</sup> Section 196.082, F.S.

<sup>19</sup> 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 make a definitive determination if a disability is combat-related.

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

None.

**C. Trust Funds Restrictions:**

None.

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

The Revenue Estimating Conference has analyzed similar legislation (proposed amendment to HB 611 (2016) and determined that it will initially have a negative \$1.6 million recurring impact on local governments in Fiscal Year 2016-17. The impact moving forward will continue to reduce both cash and recurring local government revenues by \$1.8 million in Fiscal Year 2017-18, \$1.9 million in Fiscal Year 2018-19, \$2.0 million in Fiscal Year 2019-20, and \$2.1 million in Fiscal Year 2020-21.<sup>20</sup>

**B. Private Sector Impact:**

Surviving spouses of certain veterans could receive property tax relief.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 196.081 of the Florida Statutes.

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<sup>20</sup> Revenue Estimating Conference, *Surviving Spouse/Disabled Veterans: Proposed Amendment to HB 611 (companion to CS/SB 804)*. December 18, 2015.

**IX. 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 and Veterans Affairs, Space, and Domestic Security Committee on January 19, 2016:**

The CS:

- Clarifies that the homestead exemption authorized in the bill applies to both the surviving spouse of a veteran who died from service-connected causes while on active duty and the surviving spouse of a totally and permanently disabled veteran;
- Removes the requirement that a veteran who died from service-connected causes while on active duty be a resident of this state at the time of death in order for the veteran's unremarried surviving spouse to qualify for the total homestead exemption;
- Provides that a surviving spouse of a totally and permanently disabled veteran is eligible for the exemption if the veteran or the spouse owned property in another state at the time of the veteran's death. The requirement that the veteran must have received a partial or full homestead exemption in another state is removed; and
- Changes the effective date to January 1, 2017.

- B. **Amendments:**

None.