

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: SB 804

INTRODUCER: Senator Brandes

SUBJECT: Homestead Property Tax Exemptions

DATE: January 15, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 804 entitles the unremarried surviving spouse of a veteran who was totally and permanently disabled upon his or her death to a total homestead exemption, irrespective of the state in which the veteran's homestead was located at the time of death. The veteran, at the time of his or her death, must have owned homestead property in another state and received a partial or full homestead exemption on that property on January 1 of the year the veteran died in order for the surviving spouse to qualify for the exemption.

The surviving spouse is eligible for the exemption while he or she remains unmarried and uses the residence purchased in this state following the death of the veteran as his or her primary residence.

The bill takes effect on July 1, 2016 and first applies beginning with the 2016-2017 fiscal year.

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

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.

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

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 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.¹¹ This exemption may be carried over to the benefit of the veteran's surviving spouse.¹²

This exemption does not currently apply to the surviving spouse of a totally and permanently disabled veteran who resided 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

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 196.081(1), F.S.

¹² Section 196.081(2) and (3), F.S.

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.¹³

The exemption does not currently apply to the surviving spouse of such a veteran, if at the time of the veteran's death, he or she 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.¹⁴ 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.¹⁵

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.¹⁶ The exemption carries over to the benefit of the surviving spouse in the event the ex-servicemember predeceases his or her spouse.¹⁷

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.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.

¹³ Section 196.081(4), F.S.

¹⁴ Section 196.24, F.S.

¹⁵ Id.

¹⁶ Section 196.091, F.S.

¹⁷ Id.

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 make a definitive determination if a disability is combat-related.

III. Effect of Proposed Changes:

SB 804 amends s. 196.081, F.S., to exempt 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 his or her death, owned homestead property in another state and 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 purchase and hold the legal or beneficial title to the homestead property in this state and permanently reside on the property.

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 other evidence that verifies the spouse is entitled to the exemption.

Finally, the exemption provided in the bill:

- Is effective beginning with the 2016-2017 fiscal year;
- Applies 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; and
- 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.

The bill takes effect on July 1, 2016.

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:

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 2020-21.²⁰

B. Private Sector Impact:

Surviving spouses of certain veterans could receive property tax relief.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Ad valorem property taxes are assessed on January 1 of each year. The effective date, currently set for July 1, 2016, does not coincide with the assessment schedule.

VII. Related Issues:

The bill requires the unremarried surviving spouse of a totally and permanently disabled veteran to provide documentation to the property appraiser that verifies the partial or full homestead exemption that applied to the veteran's property in the other state. Due to the varying definitions of the term "homestead" among states, it may be difficult for property appraisers to administer this proposal.

It is unclear if the bill intends to allow the surviving spouse of a veteran who was not a Florida resident when he or she died from service-connected causes while on active duty to qualify for the exemption provided in the bill.

The bill specifies that a totally and permanently disabled veteran must have owned property (and received a homestead exemption) in another state at the time of his or her death in order for his or her surviving spouse to qualify for the property tax exemption provided in the bill. In its current form, if the spouse owned the homestead property in another state at the time of the veteran's death, and not the veteran, the surviving spouse may not qualify for the property tax exemption provided in the bill.

VIII. Statutes Affected:

This bill 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.

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

B. Amendments:

None.

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