

**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: SB 816

INTRODUCER: Senator Altman

SUBJECT: Homestead Property Tax Discount for Disabled Veterans

DATE: December 1, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Hrdlicka	MS	<b>Favorable</b>
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

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**I. Summary:**

SB 816 is the implementing legislation for CS/SJR 778. The bill establishes in statute that the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older may carry over to the spouse of the veteran if the veteran predeceases his or her spouse. The spouse is eligible for the tax relief while he or she remains unmarried and uses the residence as his or her primary residence. The discount applied to the residence is determined by the percentage of the veteran’s disability.

This bill takes effect on the same date that CS/SJR 778, or a similar joint resolution, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply 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

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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.

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>

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

Florida grants a number of property tax exemptions for disabled ex-servicemembers. Most of these exemptions carryover 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 was honorably discharged and is at least 10 percent disabled by misfortune or while serving during a period of wartime service.<sup>11</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>12</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>13</sup> The exemption carries over to the

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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).

<sup>11</sup> Section 196.24, F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 196.091, F.S.

benefit of the surviving spouse in the event the ex-servicemember predeceases his or her spouse.<sup>14</sup>

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

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

***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.<sup>16</sup> 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 remarries or disposes of the property.<sup>17</sup>

***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> The discount is not currently provided to the surviving spouse upon the death of the disabled veteran.

The Revenue Estimating Conference (REC) has not yet provided an analysis for CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 Regular Session. The REC determined that in 2014, 6,595 veterans received the discount, which amounted to a statewide property value discount of \$336,648,499.<sup>20</sup> There are currently 793,907 veterans over the age of 65 residing in Florida.<sup>21</sup> The U.S. Department of Veterans Affairs indicates that there were 184,741 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Federal Fiscal Year 2014.<sup>22</sup>

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<sup>14</sup> Id.

<sup>15</sup> Section 196.081(4), F.S.

<sup>16</sup> Section 196.081, F.S.

<sup>17</sup> Id.

<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.

<sup>20</sup> Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*, February 5, 2015.

<sup>21</sup> United States Department of Veterans Affairs Office of the Actuary, Office of Policy and Planning, *Veteran Population* (Oct. 2014), available at [http://www.va.gov/vetdata/Veteran\\_Population.asp](http://www.va.gov/vetdata/Veteran_Population.asp) (last visited Nov. 24, 2015).

<sup>22</sup> The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2014*, available at <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY14-11052015.pdf> (last visited Nov. 24, 2015).

### III. Effect of Proposed Changes:

SB 816 establishes in statute that the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older may carry over to the spouse of the veteran if the veteran predeceases his or her spouse. The spouse is eligible for the tax relief while he or she remains unmarried and uses the residence as his or her primary residence. The discount applied to the residence is determined by the percentage of the veteran's disability.

This bill takes effect on the same date that CS/SJR 778, or a similar joint resolution, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property tax roll.<sup>23</sup>

### 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 (REC) has not yet provided an analysis for either SB 816 or its accompanying resolution CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 legislative session. The REC determined that the resolution will reduce local governments' revenues by \$200,000 in Fiscal Year 2018-2019, with a negative \$200,000 recurring impact on local governments.<sup>24</sup>

#### B. Private Sector Impact:

If the proposed constitutional amendment in CS/SJR 778 is approved by the electorate and implemented by the Legislature, surviving spouses of certain veterans could receive property tax relief.

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<sup>23</sup> FLA. CONST. art. XI, s. 5(e).

<sup>24</sup> Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*. February 5, 2015.

C. Government Sector Impact:

There is no impact to state government. See Tax/Fee Issues.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill implements CS/SJR 778.

**VIII. Statutes Affected:**

This bill creates section 196.082 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.