

**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 Community Affairs

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BILL: SB 1490

INTRODUCER: Senators Simmons and Baxley

SUBJECT: First Responder Property Tax Exemption

DATE: March 14, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1490 allows certain of out-of-state disabled first responders to qualify for the full homestead property tax exemption currently afforded to first responders who sustain a disability in the line of duty in Florida. Specifically, the bill allows a law enforcement officer or a firefighter who, prior to residing in Florida, was employed in another state as a law enforcement officer or firefighter and a sustained total and permanent disability while serving in in the line of duty, to qualify for the first responder homestead exemption in s. 196.102, F.S.

The homestead exemption authorized in the bill applies beginning with the 2020 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

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<sup>1</sup> Both real property and tangible personal property are 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.

each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

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>

### **Homestead Exemption for Totally and Permanently Disabled First Responders**

In November of 2016, Florida voters authorized the Legislature to provide a homestead property tax exemption to a first responder (law enforcement officer, correctional officer, firefighter, emergency medical technician, or paramedic) who is totally and permanently disabled as a result of an injury or injuries sustained in the line of duty.<sup>11</sup> This constitutional provision is implemented in s. 196.102, F.S., and provides a full homestead exemption to such a first responder if the person is a permanent resident of Florida on January 1 of the year for which the exemption is claimed.<sup>12</sup> Exemption applicants must have a total and permanent disability<sup>13</sup> as a result of an injury or injuries sustained in the line of duty while serving as a first responder in Florida, or during an operation in another state or country authorized by the state of Florida or a political subdivision of the state.<sup>14</sup>

For the purposes of implementing the exemption, "first responder" means a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer.<sup>15</sup>

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<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> FLA. CONST. art. VII, s. 6(f)(3).

<sup>12</sup> Section 196.102(2), F.S.

<sup>13</sup> "Total and permanent disability" means an impairment of the mind or body that renders a first responder unable to engage in any substantial gainful occupation and that is reasonably certain to continue throughout his or her life.

<sup>14</sup> Section 196.102(2), F.S.

<sup>15</sup> Section 196.102(1)(b), F.S., references the definition of "first responder" in s. 196.081, F.S., which provides a homestead exemption for the surviving spouse of a first responder who died in the line of duty.

The Florida Constitution defines “in the line of duty” as arising out of and in the actual performance of duty required by employment as a first responder.<sup>16</sup> This phrase is further defined in Florida Statutes to include:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.<sup>17</sup>

In determining eligibility for the property tax exemption, the causal connection between a disability and service in the line of duty shall not be presumed, and that disability does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.<sup>18</sup> Proof of disability is required in the form of a letter from the Social Security Administration and one Florida certified physician statement.<sup>19</sup> If an individual is not eligible for a medical status determination from the Social Security Administration, they may complete two Florida certified physician’s statements.<sup>20</sup> In addition, applicants for this exemption must submit a certificate of injury from the organization that employed them at the time their injury or injuries occurred.<sup>21</sup> The property tax exemption carries over to the benefit of the surviving spouse as long as the surviving spouse holds the legal or beneficial title to the homestead, permanently resides on the homestead, and does not remarry.<sup>22</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 196.102, F.S., to provide a full homestead exemption to an individual who before becoming a resident of Florida was employed as law enforcement officer or firefighter in another state and sustained a total and permanent disability in the line of duty. For this purpose, the bill defines “law enforcement officer” as a person who was employed full time by a municipality of another state, by another state, or by any political subdivision thereof; who was vested with the authority to bear arms and make arrests; and whose primary responsibility was the prevention or detection of crime or the enforcement of penal, criminal, traffic or highway laws of the previous state.<sup>23</sup>

<sup>16</sup> FLA. CONST. art. VII, s. 6(f).

<sup>17</sup> Section 196.081(6)(c)2.a.-h., F.S.

<sup>18</sup> FLA. CONST. art. VII, s. 6(f)(3).

<sup>19</sup> Section 196.102(5), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* Additional requirements exist for applicants who have a total and permanent disability resulting from a cardiac event that occurred while in the line of duty. *See* s. 196.102(6), F.S.

<sup>22</sup> Section 196.102(8), F.S.

<sup>23</sup> This definition of “law enforcement officer” parallels that found in s. 943.10, F.S.

The bill also restates verbatim the definition of “first responder” provided in s. 196.081, F.S., to determine eligibility for the existing homestead exemption for in-state totally and permanently disabled first responders. This change has no impact.

All provisions in s. 196.102, F.S., governing the existing homestead exemption for in-state totally and permanently disabled first responders apply to the exemption authorized in the bill.

**Section 2** states that the bill’s provisions apply beginning with the 2020 tax roll.

**Section 3** provides an effective date of July 1, 2019.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant fiscal impact, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.  
24,25,26

The mandates provision of section 18, Article VII, of the Florida Constitution, may apply because the bill would increase the number of persons eligible for the disabled first responder property tax exemption. To the extent this occurs, this bill would reduce local government authority to raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. This bill does not appear to qualify under any exemption or exception. 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.

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

None.

##### **C. Trust Funds Restrictions:**

None.

<sup>24</sup> FLA. CONST. art. VII, s. 18(d).

<sup>25</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 14, 2019).

<sup>26</sup> Based on the Florida Demographic Estimating Conference’s February 6, 2019 population forecast for 2019 of 21,184,532. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 14, 2019).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the impact of SB 1490.

B. Private Sector Impact:

Specified homestead owners who were totally and permanently disabled in the line of duty as a law enforcement officer or firefighter in another state prior to residing in Florida will pay less property taxes.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 196.102 of the Florida Statutes.

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.