

**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 202

INTRODUCER: Senator Wright

SUBJECT: Property Tax Exemptions

DATE: February 19, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Favorable</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 202 increases the existing property tax exemption for Florida residents who are widows, widowers, blind, or totally and permanently disabled from \$500 to \$5,000.

**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.

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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.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and 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 character or current use, known as classified use assessments,<sup>7</sup> 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>8</sup> land used for conservation purposes;<sup>9</sup> historic properties when authorized by the county or municipality;<sup>10</sup> and certain working waterfront property.<sup>11</sup>

### **Property Tax Exemptions for Widows, Widowers, Blind Persons, and Totally and Permanently Disabled Persons**

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.<sup>12</sup> Since its 1968 revision, the Florida Constitution has provided a specific exemption to “every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.”<sup>13</sup> Section 196.202, F.S., as established by ch. 71-134, s. 12, Laws of Florida, effectuates the constitutional provision and exempts from taxation property to the value of \$500<sup>14</sup> for every widow or widower or person who is blind or totally and permanently disabled. The exemption applies to any property owned by these persons if they are bona fide residents of this state.<sup>15</sup>

For the purposes of administering the exemption, the term “widow” or “widower” does not apply to a divorced woman or man, a widow or widower who remarries, or a widow or widower who remarries and is subsequently divorced;<sup>16</sup> a “blind person” is defined as someone who is currently certified as blind by the Division of Blind Services of the Department of Education, the Social Security Administration, or the U.S. Department of Veterans Affairs;<sup>17</sup> and a “totally

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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> Section 193.441, F.S.

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

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

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

<sup>11</sup> FLA. CONST. art. VII, s. 4(j).

<sup>12</sup> *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).

<sup>13</sup> FLA. CONST. art. VII, s. 3(b).

<sup>14</sup> Using the Bureau of Labor Statistics' Consumer Price Index Calculator, the value of \$500 in June of 1971 represented \$3,100 in January of 2019. See Bureau of Labor Statistics, United States Department of Labor, *CPI Inflation Calculator*, available at [https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm) (last visited Feb. 15, 2019).

<sup>15</sup> See Rule 12D-7.003, F.A.C.

<sup>16</sup> Rule 12D-7.003(1)(a), F.A.C.

<sup>17</sup> Rule 12D-7.003(1)(c), F.A.C.

and permanently disabled person” means a person who is currently certified by a physician licensed in this state, by the U.S. Department of Veterans Affairs, or by the Social Security Administration to be totally and permanently disabled.<sup>18</sup>

The exemptions in s. 196.202, F.S., are cumulative, thus, an individual who qualifies under more than one classification may be granted more than one \$500 exemption.<sup>19</sup> However, the exemption may not exceed \$1,500 for an individual.<sup>20</sup>

### ***Other Exemptions for Totally and Permanently Disabled Persons and Blind Persons***

Section 196.101(1), F.S., provides a full property tax exemption for any real estate owned and used as a homestead by quadriplegics. Section 196.101(2), F.S., provides the same full homestead exemption to paraplegics, hemiplegics, totally and permanently disabled persons who must use a wheelchair for mobility, and legally blind persons. Applicants for the exemption in s. 196.101(2), F.S., must show that they meet certain income limitations.<sup>21</sup>

Sections 196.081(1) and 196.091, F.S., respectively, provide a full property tax exemption for any real estate owned and used as a homestead by totally and permanently disabled veterans and veterans confined to a wheelchair due to a service-connected disability.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 196.202, F.S., to increase the ad valorem tax exemption for Florida residents who are widows, widowers, blind, or totally and permanently disabled from \$500 to \$5,000.

**Section 2** specifies that the increased exemption applies to tax years beginning on or after January 1, 2020.

**Section 3** provides that the act shall take effect upon becoming law.

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

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

Article VII, Subsection (b) of section 18 of the State 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,

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<sup>18</sup> Section 196.202(1), F.S.

<sup>19</sup> Rule 12D-7.003(1)(d), F.A.C.

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

<sup>21</sup> Section 196.101(4) F.S., sets a gross household income limit of \$14,500 as of January 1, 1990, which is adjusted annually utilizing cost-of-living and consumer price index data.

1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.<sup>22,23,24</sup>

In 1991, Senate President Margolis and House Speaker Wetherell created a memo to guide the House and Senate in the review of local government mandates.<sup>25</sup> Using this guide, the county/municipality mandates provision of Art. VII, S. 18 of the Florida Constitution may apply to SB 202 because the bill reduces local government authority to raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. SB 202 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.

**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 determined that the bill will reduce local property tax revenues by \$38.2 million beginning in Fiscal Year 2020-2021, with a \$38.2 million recurring, negative impact. The \$38.2 million reduction includes a school tax reduction of \$15.4 million and a non-school tax reduction of \$22.8 million.<sup>26</sup>

<sup>22</sup> FLA. CONST. art. VII, s. 18(d).

<sup>23</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 Jan. 9, 2019).

<sup>24</sup> Based on the Florida Demographic Estimating Conference's November 5, 2018 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 18, 2019).

<sup>25</sup> Memorandum to Members of The Florida House and The Florida Senate from Gwen Margolis, President of the Senate and T.K. Wetherall, Speaker of the House, *County and Municipal Mandates Analysis*, (March 7, 1991) (on file with the Seante Committee on Community Affairs).

<sup>26</sup> Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference: Revenue Impact Results HB 51/SB 202*, 4-10 (Jan. 18, 2019) available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/\\_pdf/Impact0118.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/Impact0118.pdf) (last visited Jan 22, 2019).

**B. Private Sector Impact:**

Florida property owners who are widows, widowers, blind, or totally and permanently disabled will qualify to pay less property tax.

**C. Government Sector Impact:**

The bill will reduce the tax base upon which counties and municipalities raise ad valorem revenue.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 196.202 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.