

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 Finance and Tax

BILL: CS/SB 856

INTRODUCER: Finance and Tax Committee and Senator Gruters

SUBJECT: Homestead Exemptions

DATE: April 4, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ryon</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 856 allows a person or family unit to retain a homestead exemption under certain circumstances.

Current law provides that a property owner who is receiving or claiming an ad valorem tax exemption in another state that is conditioned upon permanent residency in that state may not receive the ad valorem homestead exemption in Florida, regardless of whether the property owner applied for the exemption in the other state or was granted the exemption without applying for it.

The bill allows a person or family unit that has a homestead exemption in Florida and an ad valorem, residency-based exemption or credit in another state to retain the Florida homestead exemption if the person or family unit demonstrates to the satisfaction of the property appraiser that the person or family unit did not apply for the exemption or credit in the other state and that the person or family unit has relinquished the exemption or credit in the other state.

The bill authorizes the Department of Revenue to require on its forms related to homestead exemption information about an applicant's receipt of residency-based tax exemptions or credits in another state.

The changes made by the bill apply to tax years beginning on or after January 1, 2020.

The bill takes effect July 1, 2019.

The Revenue Estimating Conference has not determined the fiscal impact of the bill; however, similar legislation (CS/HB 1151 (2019)) is estimated to reduce local property taxes by \$11.9 million beginning in Fiscal Year 2020-2021.

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 assessed or “just value”² of property 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 taxes⁴ and 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

¹ 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.

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. 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).

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹¹ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.¹² This exemption does not apply to ad valorem taxes levied by school districts.

Section 196.031(5), F.S., provides that a person who is receiving or claiming an ad valorem tax exemption or a tax credit in another state where permanent residency is required as a basis for the granting of that exemption or tax credit is not entitled to a homestead exemption in Florida.

Improperly Granted Homestead Exemptions

Florida provides several property tax exemptions for homestead property.¹³ Since Florida's homestead exemption requires that the property owner use the homestead property as a permanent residence, a property owner can only have one homestead exemption.

If a property appraiser determines that for any year or years within the prior 10 years a property owner was granted a homestead exemption, but was not entitled to it, the property appraiser must send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.¹⁴ The property owner has 30 days to pay the taxes owed, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. If not paid within 30 days of notice, the property appraiser must file a tax lien.¹⁵ The tax lien remains on the property until it is paid or until it expires after 20 years.¹⁶ The lien process applies whether or not the taxpayer applied for the residency-based exemption in the other state.

If a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption shall not be assessed penalty and interest.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 196.031, F.S., to specify that a person or family unit that receives or claims an ad valorem tax exemption or tax credit in another state where permanent residency is required as a basis for granting that exemption or credit is disqualified from the homestead tax exemption in Florida, unless the person or family unit demonstrates to the satisfaction of the property appraiser that the person or family unit did not apply for the exemption or credit in the other state and that the person or family unit has relinquished such exemption or credit.

¹¹ FLA. CONST. art VII, s. 6(a).

¹² *Id.*

¹³ *See, e.g.*, ss. 196.031, 196.071, 196.075, 196.081, and 196.091, F.S.

¹⁴ *See* ss. 196.011(9)(a), 196.075, and 196.161(1)(b), F.S.

¹⁵ *Id.*

¹⁶ Section 95.091(1)(b), F.S.

¹⁷ Section 196.161(1)(b), F.S.

Section 2 amends s. 196.121, F.S., to authorize the Department of Revenue to include on its forms for homestead exemptions the requirement that the homestead exemption applicant provide information about tax exemptions or tax credits in another state where permanent residency is required as a basis for the tax exemption or tax credit.

Section 3 provides that the changes made by the bill apply to tax years beginning on or after January 1, 2020.

Section 4 provide an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 not determined the fiscal impact of the bill; however, similar legislation (CS/HB 1151 (2019)) is estimated to reduce local property taxes by \$11.9 million beginning in Fiscal Year 2020-2021.

B. Private Sector Impact:

A property owner that has been found to have a Florida homestead exemption and a similar exemption or credit in another state may continue to qualify for the homestead exemption in Florida if he or she did not apply for the tax exemption or tax credit in another state and relinquishes the exemption or credit in the other state.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 196.031 and 196.121.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Finance and Tax on April 5, 2019:

The CS:

- Restructures the bill to put the burden on the taxpayer to show that the person or family unit did not apply for the exemption or credit in the other state.
- Requires the person or family unit to relinquish the tax exemption or tax credit in the other state.
- Authorizes the Department of Revenue's forms to require information about certain tax exemptions or credits received in other states.

B. Amendments:

None.