

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 888

INTRODUCER: Military and Veterans Affairs and Space Committee and Senator Brandes

SUBJECT: Homestead Property Tax Discount

DATE: April 3, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	Fav/CS
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 888 is the implementing legislation for SJR 886, which proposes an amendment to the Florida Constitution to allow the homestead property discount granted to veterans aged 65 or older who have permanent, combat-related disabilities to carry over to the veteran's surviving spouse upon the death of the veteran.

The bill takes effect on the effective date of SJR 886 (2019) or a similar joint resolution having substantially the same specific intent and purpose.

If the related joint resolution (SJR 886 (2019)) is approved by the electors, the Revenue Estimating Conference has determined that the bill will reduce local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$5.4 million per 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 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 State Constitution prohibits the state from levying ad valorem taxes,⁴ 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 State 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

Homestead Exemption

Every person having legal or 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. This exemption does not apply to ad valorem taxes levied by school districts.¹²

Property Tax Exemptions for Veterans and Surviving Spouses

Florida provides several property tax exemptions for disabled veterans and their surviving spouses. These include:

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. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4, 9 (Fla. 1973).

³ *See* s. 192.001(3) 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 FLA. CONST. art VII, s. 6(a).

¹² FLA. CONST. art VII, s. 6(a).

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veterans' unremarried surviving spouse.¹³
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.¹⁴
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.¹⁵
- The unremarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.¹⁶

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.¹⁷ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.¹⁸ The discount is applied as a reduction to the taxable value of the homestead property.¹⁹

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled;
- Have become disabled through military combat; and
- Have received an honorable discharge.²⁰

Unlike the exemptions described above, the discount for combat-related, disabled veterans does not carry over to a surviving spouse.²¹

III. Effect of Proposed Changes:

CS/SB 888 amends s. 196.082, F.S., to allow the homestead discount for a veteran aged 65 or older who has a permanent, combat-related disability to carry over to the veteran's surviving spouse upon the veteran's death, provided that the veteran applied for, and received the discount.

To receive the property tax discount, the surviving spouse must permanently reside at, and hold legal or beneficial title to, the homestead property. The surviving spouse is eligible for the discount until he or she:

¹³ Section 196.081(1)-(3), F.S.

¹⁴ Section 196.091, F.S.

¹⁵ Section 196.24, F.S.

¹⁶ Section 196.081(4), F.S.

¹⁷ Section 196.082, F.S.

¹⁸ Section 196.082(2), F.S.

¹⁹ Section 196.082(5), F.S.

²⁰ Section 196.082(1), F.S.

²¹ See s. 196.082, F.S.

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

After selling the property, however, a surviving spouse may transfer the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount that can be transferred may not exceed the dollar amount granted on the most recent ad valorem tax roll of the original property.

The bill authorizes applicants for the exemption who do not timely file an application (March 1) to petition the value adjustment board requesting the discount be granted.

The bill authorizes the Department of Revenue to promulgate emergency rules.²² Emergency rules adopted would be effective for 6 months, subject to renewal until the department adopts permanent rules. The emergency rulemaking authority expires January 1, 2022.

The bill takes effect on the effective date of the amendment to the State Constitution proposed by SJR 886 (2019), if the electors approve the amendment at the general election held in November 2020 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²² The Department of Revenue stated that if the bill becomes law, and voters approve the constitutional amendment, the department would need to amend two forms. Specifically, the department would need to include in the benefits chart a category for a qualifying surviving spouse of a combat-disabled veteran. If the constitutional amendment provided in linked bill SJR 886 is on the November 2020 ballot and if it passes, the provisions of the bill would take effect January 1, 2021. Therefore, the department requests legislative authority to initiate emergency rulemaking. Department of Revenue, *2019 Agency Legislative Bill Analysis, SB 888* (Feb. 22, 2019) (on file with the Senate Committee on Finance and Tax).

E. Other Constitutional Issues:

None identified.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

If the related joint resolution (SJR 886 (2019)) is approved by the electors, the Revenue Estimating Conference has determined that the bill will reduce local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$5.4 million per fiscal year.

B. Private Sector Impact:

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount, thereby financially benefitting from the bill.

C. Government Sector Impact:

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 196.082 of the Florida Statutes.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Military and Veterans Affairs and Space on March 13, 2019:

- Provided emergency rulemaking authority to the Department of Revenue.
- Identified by number the Senate Joint Resolution.

B. Amendments:

None.