

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 Appropriations

BILL: CS/SB 1074

INTRODUCER: Military and Veterans Affairs and Space Committee; and Senators Wright and Albritton

SUBJECT: Surviving Spouse Ad Valorem Tax Reduction

DATE: February 26, 2020 **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>Babin</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1074 is the implementing legislation for SJR 1076. The bill allows the homestead property tax discount for disabled veterans to transfer to a veteran's surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for combat-disabled veterans aged 65 or older.

The bill grants the Department of Revenue emergency rulemaking authority.

If the related amendment proposed by SJR 1076 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, increasing to \$4 million by Fiscal Year 2025-2026.

The bill takes effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution with substantially the same specific intent and purpose.

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 on real estate or tangible personal property,⁴ and it 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 may 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. The additional exemption does not apply to ad valorem taxes levied by school districts.¹²

If a person is entitled to an exemption from taxation, he or she must file an application on or before March 1 requesting the exemption with the appropriate county property appraiser.¹³ The Department of Revenue prescribes the forms upon which the application is made.¹⁴

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).

¹³ Section 196.011(1)(a), F.S.

¹⁴ *Id.*

Property Tax Exemptions for Veterans and Surviving Spouses

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

- 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 veteran's unremarried surviving spouse.¹⁵
- 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.¹⁶
- 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.¹⁷
- 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.¹⁸

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.¹⁹ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁰ The discount is applied as a reduction to the taxable value of the homestead property.²¹

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled with combat-related disabilities; and
- Have received an honorable discharge.²²

In addition to filing an application with the county tax appraiser for the discount, an eligible veteran must also provide to the tax appraiser by March 1:

- An official letter from the United States Department of Veterans Affairs which includes the percentage of the veteran's service-connected disability and evidence that reasonably identifies the disability as combat-related;
- A copy of the veteran's honorable discharge; and
- Proof of age as of January 1 of the year to which the discount will apply.²³

¹⁵ Section 196.081(1)-(3), F.S.

¹⁶ Section 196.091(1) and (3), F.S.

¹⁷ Section 196.24, F.S.

¹⁸ Section 196.081(4), F.S.

¹⁹ Section 196.082, F.S.

²⁰ Section 196.082(2), F.S.

²¹ Section 196.082(5), F.S.

²² Section 196.082(1), F.S.

²³ Section 196.082(3), F.S.

Unlike the exemptions described above, the discount for a combat-related, disabled veteran does not carry over to a surviving spouse.²⁴

III. Effect of Proposed Changes:

This bill allows the homestead property tax discount for disabled veterans to transfer to a veteran's surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for combat-disabled veterans aged 65 or older.

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:

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

However, after selling or otherwise disposing of the property, a surviving spouse may carry over the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount is based on the latest tax roll of the original property.

For surviving spouses that do not apply timely, the bill authorizes the surviving spouse to petition the value adjustment board.

The Department of Revenue is authorized to adopt emergency rules to administer the provisions of this bill.

The bill is linked to SJR 1076, which provides ballot language to amend the constitution to add the benefit for a qualifying surviving spouse.

The bill takes effect on the effective date of the amendment to the State Constitution proposed by SJR 1076, or a similar joint resolution with substantially the same specific intent and purpose if the voters approve the amendment at the general election of November 2020 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, s. 18 of the State Constitution do not apply to bills that implement constitutional amendments.

B. Public Records/Open Meetings Issues:

None.

²⁴ See s. 196.082, F.S.

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, if the constitutional amendment proposed by SJR 1076 is approved by the electors, the bill will reduce local property tax receipts by \$1.0 million beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.²⁵

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:

The Department of Revenue indicates that if the bill passes, it would need to amend two forms.²⁶

VIII. Statutes Affected:

This bill substantially amends section 196.082 of the Florida Statutes.

²⁵ Office of Economic and Demographic Research, *Revenue Estimating Conference, Impact Conference, 01/10/20 Revenue Impact Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page55-61.pdf (last visited Feb. 06, 2020).

²⁶ Department of Revenue, *2020 Agency Legislative Bill Analysis, SB 1074* (Jan. 6, 2020) (on file with the Senate Committee on Finance and Tax).

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Military and Veterans Affairs and Space on January 22, 2020:
The CS refers to the linked joint resolution in the bill as “SJR 1076.”

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
