

**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 Military and Veterans Affairs and Space

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BILL: CS/SB 1074

INTRODUCER: Senator Wright

SUBJECT: Surviving Spouse Ad Valorem Tax Reduction

DATE: January 22, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Caldwell	MS	Fav/CS
2.			FT	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1074 is the implementing legislation for SJR 1076. The bill establishes a new ad valorem tax exemption on homestead property. Current law provides a tax discount on homestead property for a partially or totally permanently combat-disabled veteran aged 65 or older who received an honorable discharge from military service. This bill extends the same property tax exemption, upon the death of the veteran, to a surviving spouse, provided that the veteran had applied for and received the exemption.

To receive the homestead exemption, 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 the property, a surviving spouse may carry over the discount to a new, permanent residence as long as he or she remains unmarried.

The bill grants the Department of Revenue emergency rulemaking authority.

The Revenue Estimating Conference (REC) determined that the impact of the bill is indeterminate because it requires voter approval. If approved by the voters, the bill would reduce

local property taxes by \$1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$4 million per fiscal year.

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 voters approve the amendment at the general election of November 2020 or at an earlier special election specifically authorized for that 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.<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. The State 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 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;<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>

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<sup>1</sup> 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.

<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, 9 (Fla. 1973).

<sup>3</sup> See s. 192.001(3) and (16), F.S.

<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).

## Exemptions and Discounts on Homestead Property

Although all real and personal property in Florida is subject to taxation, a person may apply for an exemption in certain circumstances.<sup>11</sup>

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.<sup>12</sup> The Department of Revenue prescribes the forms upon which the application is made.<sup>13</sup>

An exemption on homestead property applies to all homeowners in the state on one permanent residence<sup>14</sup> per individual or family.<sup>15</sup> Application of the provision exempts from taxation both up to the assessed value of \$25,000 on the residence and contiguous real property, and an additional exemption of up to \$25,000 on the assessed valuation greater than \$50,000 and up to \$75,000 for all levies other than school district levies.<sup>16</sup>

In addition to the exemption provided in s. 6, Article VII of the State Constitution, and s. 196.031, F.S., which is available to all permanent resident homeowners in the state on a homestead property, other exemptions and discounts on taxation apply to certain homeowners of homestead property. Persons eligible for these exemptions include qualifying disabled persons, first responders, and veterans.<sup>17</sup> Other than in instances in which the homestead property is totally exempt from taxation, the general exemption applies first, followed by the others in the order that results in the lowest taxable value.<sup>18</sup>

## Exemptions on Homestead Property for Veterans and Surviving Spouses

Florida law currently provides five discounts on, or exemptions from, ad valorem taxes on homestead property to a qualifying veteran or his or her surviving spouse.

Specifically, an exemption or discount is available to a:

- Disabled veteran, age 65 or older, provided that the disability is combat-related, in an amount based on the percent of disability;<sup>19</sup>
- Veteran disabled 10 percent or more by misfortune or during wartime service, or a surviving spouse, in an amount of up to \$5,000;<sup>20</sup>
- Veteran with a service-connected total disability that confines him or her to a wheelchair, or a surviving spouse, provided as a total exemption from all homestead property taxes;<sup>21</sup>

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<sup>11</sup> Section 196.001(1), F.S.

<sup>12</sup> Section 196.011(1)(a), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 196.012(17), F.S., defines a permanent residence as the place where a person makes his or her true, fixed, and permanent home and principal establishment to which, when he or she is absent, intends to return.

<sup>15</sup> FLA. CONST. art. VII s. 6.; s. 196.031, F.S.

<sup>16</sup> Section 196.031(1)(a) and (b), F.S.

<sup>17</sup> Chapter 196, F.S.

<sup>18</sup> Section 196.031(7), F.S.

<sup>19</sup> Section 196.082, F.S.

<sup>20</sup> Section 196.24, F.S.

<sup>21</sup> Section 196.091, F.S.

- Veteran with a totally and permanently service-connected disability, or a surviving spouse, provided as a total exemption from all homestead property taxes;<sup>22</sup> and
- Surviving spouse of a veteran who died while on active duty, provided as a total exemption from all homestead property taxes.<sup>23</sup>

### **Qualification Requirements on the Tax Discount on Homestead Property for a Combat-disabled Veteran**

Of the exemptions listed above, only the tax discount on homestead property for combat-disabled veterans, aged 65 or older, does not carry over to a surviving spouse.<sup>24</sup> This discount, provided in s. 196.082, F.S., authorizes a tax discount on homestead property for a veteran who is partially or totally permanently disabled.

To qualify for the tax discount, the veteran must:

- Have become disabled through military combat;
- Have been a resident of Florida at the time of entering United States military service; and
- Have received an honorable discharge.<sup>25</sup>

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.<sup>26</sup>

The applied discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.<sup>27</sup>

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

CS/SB 1074 establishes a new ad valorem tax exemption on homestead property. Current law provides a tax discount on homestead property for a partially or totally permanently combat-disabled veteran aged 65 or older, provided that he or she received an honorable discharge from military service. This bill extends the same property tax discount, upon the death of the veteran, to a surviving spouse, 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:

- Remarries;

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<sup>22</sup> Section 196.081(1)-(3), F.S.

<sup>23</sup> Section 196.081(4), F.S.

<sup>24</sup> Chapter 2007-36, L.O.F.

<sup>25</sup> Section 196.082(1), F.S.

<sup>26</sup> Section 196.082(3), F.S.

<sup>27</sup> Section 196.082(2), F.S.

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

However, after selling 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.

The bill extends, from the veteran to the surviving spouse, the authority to file a petition to the value adjustment board if the petitioner fails to timely file an application for the discount.

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 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.

##### **E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference (REC) reviewed the impact of House Bill 879, which is identical to this bill. The REC has determined that the bill has an indeterminate impact due to the need for approval by the electors. If approved by the electors, the REC has determined that the bill will reduce local property tax receipts by \$1.0 million beginning in Fiscal Year 2021-2022, with a \$4.0 million recurring reduction.<sup>28</sup>

**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 on either that homestead property or a new homestead property, thereby financially benefitting from the bill.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Revenue (department) indicates that if the bill passes, the department would need to amend two forms.<sup>29</sup>

**VIII. Statutes Affected:**

This bill substantially amends section 196.082, Florida Statutes.

**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 bill in the bill as “SJR 1076”.

**B. Amendments:**

None.

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<sup>28</sup> 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/index.cfm> (last visited Jan. 13, 2020).

<sup>29</sup> Department of Revenue, *2020 Agency Legislative Bill Analysis, SB 1074* (Jan. 6, 2020) (on file with the Senate Committee on Military and Veterans Affairs and Space).

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

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