

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 Community Affairs

BILL: CS/SB 1662

INTRODUCER: Community Affairs Committee and Senators Albritton and Broxson

SUBJECT: Property Tax Exemption for Disabled Veterans

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	Fav/CS
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1662 allows a totally and permanently disabled veteran, or his or her surviving spouse, who acquires legal or beneficial title to property between January 1 and November 1, to receive a prorated refund of the ad valorem taxes paid for the newly acquired property as of the date of the property transfer. To receive the refund, the veteran or surviving spouse must have received the homestead exemption for totally and permanently disabled veterans authorized in s. 196.081, F.S., on another homestead property in the previous tax year.

Although current law provides a full property tax exemption for homestead property owned by veterans who sustained a total and permanent service-connected disability, tax-exempt veterans may sustain some tax liabilities when moving homestead property. The bill would allow a veteran or surviving spouse to, in essence, keep their exempt status upon acquiring new homestead property through a rebate process.

Veterans and spouses who qualify for the refund will receive the reimbursement in the tax year following the acquisition of a new property.

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 a 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 Property tax bills are mailed in November of each year based on the previous January 1 valuation.⁴ If a taxpayer furnishes the outstanding taxes within 30 days after the tax collector mailed the tax notice, the taxpayer will receive a 4 percent discount on the total amount of taxes due.⁵ The full amount of taxes is due by March 31 of the following year.⁶

The Florida Constitution prohibits the state from levying ad valorem taxes⁷ and limits the Legislature’s authority to provide for property valuations at less than just value unless expressly authorized.⁸

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads with an exemption from taxes.⁹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹⁰ Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹¹

Every person having a legal or equitable title to real estate and who maintains a permanent residence on the real estate is deemed to establish homestead property. Homestead property is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹² An additional \$25,000 exemption applies to homestead property value between

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).

³ *See* ss. 192.001(2) and (16), F.S.

⁴ *See* Florida Department of Revenue, Florida Property Tax Calendar, *available at*: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Jan. 30, 2020)

⁵ *See* Florida Department of Revenue, Tax Collector Calendar - Property Tax Oversight, *available at*: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Jan. 30, 2020)

⁶ *Id.*

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ *See* FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 6.

¹⁰ FLA. CONST. art. VII, s. 4.

¹¹ *Id.* at (c).

¹² FLA. CONST. art VII, s. 6(a).

\$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.¹³

Annual Application

Each person or organization meeting the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.¹⁴ The application for exemption must be filed with the property appraiser on or before March 1, and failure to make an application constitutes a waiver of the exemption for that year. The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis unless the property appraiser (subject to approval by a vote of the governing body of the county) has waived the annual application requirement for a property after an initial application is made and the exemption granted.¹⁵

Veterans with Total and Permanent Service-Connected Disability

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.¹⁶ To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1 of the year the veteran died. If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse, and the spouse is unmarried.¹⁷

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.¹⁸ A veteran may apply for the exemption before receiving documentation from the United States Government or the United States Department of Veterans Affairs.¹⁹ When the property appraiser receives the documentation, the exemption is granted as of the date of the original application, with excess taxes paid refunded (subject to the four years of limitation under s. 197.182(1)(e), F.S.).

III. Effect of Proposed Changes:

The bill amends ss. 196.011 and 196.081, F.S., to allow a totally and permanently disabled veteran, or his or her surviving spouse, to receive a prorated refund for homestead property taxes paid on the newly acquired property, if legal or beneficial title to the property is acquired between January 1 and November 1. To qualify for the refund, the veteran or the surviving spouse must have received the homestead exemption for totally and permanently disabled veterans authorized in s. 196.081, F.S., on another property in the previous tax year. This change

¹³ *Id.*

¹⁴ Section 196.011(1)(a), F.S.

¹⁵ Section 196.011(5) and (9)(a), F.S.

¹⁶ Section 196.081(1), F.S.

¹⁷ Section 196.081(3), F.S.

¹⁸ Section 196.081(2), F.S.

¹⁹ Section 196.081(5), F.S.

would allow a veteran or surviving spouse to, in essence, keep their exempt status upon acquiring new homestead property through a rebate process.

Upon finding an applicant is entitled to the homestead exemption, a property appraiser shall immediately make entries on the tax rolls of the county to allow the prorated refund of taxes for the previous tax year.

Veterans and spouses who qualify for the refund will receive the reimbursement in the tax year following the acquisition of a new property.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(b) of the Florida 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, 1989. However, the mandate requirement does not apply to laws having an insignificant impact,²⁰ which for the Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.^{21, 22}

The mandate provision may apply because the bill requires counties to issue a prorated refund of ad valorem tax to qualified disabled veterans under certain circumstances. If the bill does qualify as a mandate, the 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.

²⁰ 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. 7, 2020).

²¹ FLA. CONST. art. VII, s. 18(d).

²² Based on the Florida Demographic Estimating Conference's July 8, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 7, 2020).

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined the bill will reduce local government ad valorem receipts by \$5.9 million in the fiscal year 2020-2021, increasing to \$8.2 million by the fiscal year 2024-2025.²³

B. Private Sector Impact:

The bill may generate a positive fiscal impact for qualified disabled veterans by providing these veterans ad valorem tax refunds when moving between homestead properties.

C. Government Sector Impact:

Local governments may realize a reduction in ad valorem tax revenues by refunding qualified disabled veterans for the taxes paid on newly acquired property.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 196.011 and 196.081 of the Florida Statutes.

²³ Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: CS/HB 1249 (Similar SB 1662)*, 381-386 (Feb. 7, 2020), available at: http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/Impact0207.pdf (last visited February 11, 2020).

IX. Additional Information:

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

CS by Community Affairs February 10, 2020:

The committee substitute alters the mechanics of the homestead exemption “transfer” concept in the bill to allow a qualified veteran, or a surviving spouse, to receive a prorated refund for homestead taxes paid on newly acquired property.

- B. **Amendments:**

None.