

**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 Community Affairs

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BILL: SB 1662

INTRODUCER: Senator Albritton

SUBJECT: Property Tax Exemption for Disabled Veterans

DATE: January 31, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	<b>Pre-meeting</b>
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

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**I. Summary:**

SB 1662 allows certain veterans with total and permanent disabilities to transfer a homestead property exemption to a new property acquired after January 1 of a tax year. Qualified disabled veterans who move homesteads after January 1 would no longer have to wait until the following year to receive the exemption.

Current law provides a full property tax exemption for homestead property owned by veterans who sustained a total and permanent service-connected disability.

To transfer a homestead property tax exemption under the bill, a qualified disabled veteran must have received the exemption on another homestead property in the previous tax year, file an application with the property appraiser describing both properties, and certify under oath that they are qualified to receive the exemption, hold the legal title to the new property, and intend to use the new property as a homestead.

**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.<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> Property tax bills are mailed in November of each year based on the previous January 1 valuation.<sup>4</sup> 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.<sup>5</sup> The full amount of taxes is due by March 31 of the following year.<sup>6</sup>

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>7</sup> and limits the Legislature’s authority to provide for property valuations at less than just value unless expressly authorized.<sup>8</sup>

### **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.<sup>9</sup> Second, the homestead provisions protect the homestead from forced sale by creditors.<sup>10</sup> Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.<sup>11</sup>

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.<sup>12</sup> 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.<sup>13</sup>

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<sup>1</sup> 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.

<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).

<sup>3</sup> *See* ss. 192.001(2) and (16), F.S.

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

<sup>5</sup> *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)

<sup>6</sup> *Id.*

<sup>7</sup> FLA. CONST. art. VII, s. 1(a).

<sup>8</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>9</sup> FLA. CONST. art. VII, s. 6.

<sup>10</sup> FLA. CONST. art. VII, s. 4.

<sup>11</sup> *Id.* at (c).

<sup>12</sup> FLA. CONST. art VII, s. 6(a).

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

### **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.<sup>14</sup> 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.<sup>15</sup>

### **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.<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup> A veteran may apply for the exemption before receiving documentation from the United States Government or the United States Department of Veterans Affairs.<sup>19</sup> 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.).

### **Property Taxes for Mortgaged Real Estate**

Mortgage lenders are often the parties paying property taxes on behalf of homeowners. These property taxes are charged to the homeowner as a component of a mortgage payment. Under Florida's Consumer Protection statutes in ch. 501, F.S., mortgage lenders who collect payments for a loan secured by a mortgage on real property are required to promptly pay annual property taxes to receive the maximum tax discount available on behalf of the property owner.<sup>20</sup> This statutory requirement means that the property tax for most homeowners with mortgaged property in Florida is paid during November or within 30 days after the tax collector mails the tax notice.<sup>21</sup>

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<sup>14</sup> Section 196.011(1)(a), F.S.

<sup>15</sup> Section 196.011(5) and (9)(a), F.S.

<sup>16</sup> Section 196.081(1), F.S.

<sup>17</sup> Section 196.081(3), F.S.

<sup>18</sup> Section 196.081(2), F.S.

<sup>19</sup> Section 196.081(5), F.S.

<sup>20</sup> Section 501.137(1), F.S.

<sup>21</sup> *Id.*

## Property Taxes and Transfer of Real Estate

Due to the fact Florida statutorily requires mortgage lenders to pay property taxes in November to receive the maximum available discount for property owners, annual property taxes are usually paid in full at the time ownership of real estate is transferred.<sup>22</sup> So, if an individual buys a previously owned home, the individual or the mortgage lender will typically repay the seller or seller's mortgage lender a pro-rata share of the property taxes to cover the portion of the remaining tax year. On the other hand, these parties are also free to make alternative agreements regarding taxes. Notwithstanding, after this initial year elapses, the property tax schedule resumes the statutory timeframes.<sup>23</sup>

### III. Effect of Proposed Changes:

The bill amends ss. 196.011 and 196.081, F.S., to allow a veteran who was honorably discharged with a service-connected total and permanent disability to apply for the homestead property exemption under s. 196.081(1), F.S., in the current tax year for property acquired after January 1 of that year if the veteran had received the exemption on another property in the immediately preceding tax year.

The bill provides that notwithstanding the exemption filing deadline established by s. 196.011, F.S., the veteran may file for the exemption with the property appraiser up to the 25th day following the date the property appraiser mails the assessment notice under s. 194.011, F.S. The application for the exemption must list and describe both the previous homestead and new property. The applicant must also certify under oath that he or she:

- Is otherwise qualified to receive the tax exemption for permanently and totally disabled veterans;
- Holds legal title to the new property; and
- Intends to use the new property as his or her homestead.1, 2020.

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

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<sup>22</sup> *Id.*

<sup>23</sup> See Realtor.com, When Do You Start Paying Property Taxes on a New Home? (Dec. 12, 2019), available at: <https://www.moving.com/tips/when-do-you-start-paying-property-taxes-on-a-new-home/> (last visited Jan. 30, 2020).

mandate requirement does not apply to laws having an insignificant impact,<sup>24</sup> which for Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.<sup>25,26</sup>

The mandate provision may apply because the bill would reduce ad valorem tax revenues to the extent qualified veterans will receive the benefit of ad valorem tax exemption on two parcels in the year of transfer. This decrease in tax revenue may be fiscally insignificant depending on the number of qualified veterans moving in a given year and taxable value of the property. 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.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not yet analyzed the bill.

**B. Private Sector Impact:**

The bill may generate a positive fiscal impact for qualified disabled veterans by decreasing tax liabilities when moving between homestead properties.

**C. Government Sector Impact:**

Local governments may realize a reduction in ad valorem tax revenues from qualified disabled veterans moving homesteads while receiving the exemption.

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<sup>24</sup> 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).

<sup>25</sup> FLA. CONST. art. VII, s. 18(d).

<sup>26</sup> 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).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill may fail to operate cleanly in real-world transactions. As previously noted, under s. 501.137, F.S., mortgage lenders have a statutory obligation to pay property taxes on behalf of property owners in November of each year to receive the maximum tax discount. In this scenario, sellers (or their mortgage lenders) may still require tax-exempt disabled veteran buyers to reimburse them a pro-rata amount of prepaid property taxes to cover the portion of the tax year the veteran owns the property.

It may be difficult to increase the portability of this tax exemption without curtailing the ability of private parties to allocate reimbursement of prepaid taxes or providing a windfall for tax-exempt veterans.

**VIII. Statutes Affected:**

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

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.