

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 597 Homestead Exemption for Seniors 65 and Older

SPONSOR(S): Local Administration & Veterans Affairs Subcommittee and Ways & Means Committee, Woodson and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1256

FINAL HOUSE FLOOR ACTION: 119 Y's

0 N's

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

CS/CS/HB 597 passed the House on April 21, 2021, and subsequently passed the Senate on April 26, 2021.

The Florida Constitution requires all property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Property assessments are used to calculate ad valorem taxes that fund counties, municipalities, school districts, and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

The Florida Constitution authorizes the Legislature to allow counties and municipalities by ordinance to grant either or both of the following additional homestead exemptions:

- An exemption of up to \$50,000 for the homestead property of any person who has attained age 65 and has a household income of less than \$20,000
- An exemption equal to the assessed value of the homestead property, if the just value of the property is less than \$250,000 in the first year that the owner applies for and is eligible for the exemption, and the owner is age 65 or older, has a household income of less than \$20,000, and has maintained the property as his or her permanent residence for at least 25 years

The income limitation is adjusted each year according to changes in the consumer price index. The 2021 household income threshold for the exemption is \$31,100.

The bill amends the process by which a low-income senior verifies his or her income for purposes of these additional homestead exemptions. The bill requires that an ordinance enacted by a local government authorizing an additional homestead exemption for low-income seniors must require the taxpayer to submit a sworn statement of household income when initially claiming the exemption only, rather than annually. The bill also requires the property appraiser to annually notify each taxpayer receiving the exemption of the adjusted income limitation for that year. The taxpayer must then notify the property appraiser by May 1 of any year in which his or her income exceeds the income limitation.

The bill may have an indeterminate fiscal impact on local governments.

The bill was approved by the Governor on June 29, 2021, ch. 2021-208, L.O.F., and became effective on July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Property Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on such property.¹ The ad valorem tax is an annual tax levied by counties, municipalities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires all property to be assessed at just value for ad valorem tax purposes³ and provides for specified assessment limitations, property classifications, and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Property Tax Exemptions

Unless expressly exempted from taxation, all real and personal property and leasehold interests in the state are subject to taxation.⁶ The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁷

Homestead Exemptions

Every person having legal and 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.⁸ An additional \$25,000 exemption applies to homestead property valued between \$50,000 and \$75,000.⁹ This exemption does not apply to ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Persons 65 and Older

Under current law, additional homestead property tax exemptions may be granted to persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors).¹⁰ Article VII, s. 6(d) of the Florida Constitution provides that the Legislature may, by general law, allow counties and municipalities to grant either or both of the following additional homestead exemptions:

- An exemption of up to \$50,000 for the homestead property of any person who has attained age 65 and has a household income of less than \$20,000;¹¹ or
- An exemption equal to the assessed value of the homestead property, if the just value of the property is less than \$250,000, and the owner is age 65 or older, has a household income of

¹ Art. VII, s. 1(a), Fla. Const.

² S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Art. VII, s. 4, Fla. Const.

⁴ Art. VII, ss. 3, 4, and 6, Fla. Const.

⁵ S. 196.031, F.S.

⁶ S. 196.001, F.S.; see also *Sebring Airport Authority v. McIntyre*, 642 So. 2d 1072, 1073 (Fla. 1994), noting exemptions are strictly construed against the party claiming them.

⁷ *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Am Fi Inv. Corp v. Kinney*, 360 So. 2d 415 (Fla. 1978); see also *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁸ Art. VII, s. 6(a), Fla. Const. and s. 196.031, F.S.

⁹ S. 196.031(1)(b), F.S.

¹⁰ Art. VII, s. 6(d)(1) and (2), Fla. Const.

¹¹ Art. VII, s. 6(d)(1), implemented by s. 196.075(2)(a), F.S.

less than \$20,000, and has maintained the property as his or her permanent residence for at least 25 years.¹²

The \$20,000 income limitation is adjusted annually according to changes in the consumer price index.¹³ The 2021 household income threshold for these exemptions is \$31,100.¹⁴

Requirements for Ordinances Granting Additional Homestead Exemptions to Low-income Seniors

An ordinance granting an additional homestead exemption for low-income seniors must follow certain statutory requirements.¹⁵ The ordinance must:

- Be adopted under the procedures for adoption of a nonemergency ordinance;¹⁶
- Specify that the exemption applies only to taxes levied by the governmental entity granting the exemption;
- Specify the amount of the exemption, not to exceed the limits provided in statute; and
- Require the taxpayer claiming the exemption to submit to the property appraiser a sworn statement of household income each year.

Sworn Statements of Household Income

The Department of Revenue (department) is authorized to adopt rules regulating the annual statement of household income.¹⁷ The statement must be supported by copies of federal income tax returns for the prior year, W-2 forms, any request for an extension of time to file such statement, and any other document the department deems necessary.¹⁸ The taxpayer's sworn statement must attest to the accuracy of the documents and grant permission to allow review of the documents, if requested, by the property appraiser.¹⁹ Supporting documents are not required, unless requested, for a renewal of an existing exemption. However, the property appraiser is authorized to randomly audit the taxpayers' sworn statements to ensure accuracy of the household income reported.

Penalties for Failure to Notify and Tax Liens

If the property appraiser determines a taxpayer received an exemption for which the taxpayer was not entitled during the last 10 years, the taxpayer must repay the taxes exempted as a result of the improperly granted exemption, a penalty of 50 percent of the taxes exempted, and 15 percent interest per annum.²⁰ If the penalty is not paid in 30 days, the property appraiser must record a notice of tax lien against any property in the county owned by that person, or property in other counties if that person no longer owns property in the appraiser's county.

This penalty, with its valuation and lien provisions, is equivalent to the penalty associated with receiving a general homestead exemption to which a taxpayer was not entitled.²¹

Effect of Proposed Changes

¹² Art. VII, s. 6(d)(2), implemented by s. 196.075(2)(b), F.S.

¹³ S. 196.075(3), F.S.

¹⁴ Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited March 17, 2021).

¹⁵ S. 196.075(4), F.S.

¹⁶ An ordinance to adopt an exemption under s. 196.075(2)(b) must be approved by a supermajority (majority plus one) vote of the governing body of the county or municipality. S. 196.075(4)(a), F.S.

¹⁷ S. 196.075(5), F.S.

¹⁸ S. 196.075(5), F.S.

¹⁹ *Id.*

²⁰ S. 196.075(9), F.S. If the exemption was improperly granted due to a clerical mistake or omission by the property appraiser, the taxpayer is liable for the payment of the taxes exempted as a result of the error, but is not subject to penalties and interest.

²¹ See s. 193.155(10), F.S.

The bill amends the process by which a low-income senior verifies his or her income for purposes of the additional homestead exemptions for persons 65 or older. The bill requires that an ordinance enacted by a local government authorizing an additional homestead exemption for low-income seniors must require the taxpayer to submit a sworn statement of household income when initially claiming the exemption only, rather than annually.

The bill also requires the property appraiser to annually notify each taxpayer claiming the income-based homestead exemption of the adjusted income limitation for that year. The taxpayer must notify the property appraiser by May 1 of that year if his or her household income exceeds the most recent adjusted income limitation.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference, estimated that the impact on local government revenue was indeterminate and could be positive or negative.

2. Expenditures:

Property appraisers may incur expenses as a result of implementing the annual notification requirement in the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill amends the process by which a senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions, in order to reduce the burden of submitting sworn statements annually. A senior may be subject to penalties for receiving a homestead exemption for which he or she is not eligible. Such penalties are not changed by the bill.

D. FISCAL COMMENTS:

None.