

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 401 Ad Valorem Tax Exemption for Affordable Housing and Nonprofit Homes

**SPONSOR(S):** Local Administration & Veterans Affairs Subcommittee, Smith, D. and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 362

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration & Veterans Affairs Subcommittee	16 Y, 0 N, As CS	Leshko	Miller
2) Ways & Means Committee	15 Y, 0 N	Davis	Aldridge
3) State Affairs Committee	21 Y, 0 N	Leshko	Williamson

### SUMMARY ANALYSIS

Florida law exempts from ad valorem taxation property used as a home for the aged by certain non-profit corporations, if at least 75 percent of the occupants of the facility are over the age of 62 or totally and permanently disabled. The exemption also applies to the extent these properties are used exclusively for the conduct of religious services or rendering nursing or medical services.

Individual units and apartments in such a facility may be exempt from ad valorem taxation if the units or apartments are reserved for, restricted to, or actually occupied by a permanent resident of the state who is at least 62 years of age or totally and permanently disabled and who meets certain income qualifications.

The bill revises eligibility for the ad valorem tax exemption for property used as a home for the aged by non-profit corporations to include property owned by a Florida limited partnership where an entity wholly owned by a corporation not-for-profit under ch. 617, F.S., is the sole general partner.

The Revenue Estimating Conference estimates the provisions of the bill will reduce local government revenue by \$100,000 annually beginning in fiscal year 2022-23.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Exemption for Property Used by Nonprofit Homes for the Aged

Florida law exempts from ad valorem taxation property used as a home for the aged by certain non-profit corporations.<sup>1</sup> In order to qualify for the exemption, the following criteria must be met:

- The applicant for exemption must be qualified as a 501(c)(3) exempt charitable organization under federal law by January 1 of the year it requests to be exempt from Florida ad valorem taxation and be either:
  - A corporation not-for-profit pursuant to ch. 617, F.S.; or
  - A Florida limited partnership, the sole general partner of which is a corporation not-for-profit pursuant to ch. 617, F.S.;
- 75 percent of the occupants of the facility must be over the age of 62 or be totally and permanently disabled; and
- Certain facilities must acquire licensing by the Agency for Health Care Administration.<sup>2</sup>

Upon sufficient proof that the applicant meets the above criteria, the property appraiser will exempt the portions of the facility devoted exclusively to the conduct of religious services or the rendering of nursing or medical services.<sup>3</sup> In addition, the property appraiser may exempt individual units or apartments in the facility if residency in those units or apartments is reserved for or restricted to, or the unit or apartment is occupied by, a permanent resident of the state who is:

- An individual with a gross income<sup>4</sup> of no more than \$34,374<sup>5</sup> per year who is at least 62 years of age or is totally and permanently disabled;
- A couple with a combined gross income of no more than \$38,590 per year, or the surviving spouse of such a couple if the surviving spouse lived with the deceased at the time of the deceased's death in a home for the aged, at least one of whom must be at least 62 years of age or is totally and permanently disabled; or
- A totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S.<sup>6</sup>

If any portion of the facility is used for a non-exempt purpose, those portions may be valued and placed upon the tax rolls separately from any portion entitled to the exemption.<sup>7</sup> Common areas of the home are exempt from taxation as long as at least 25 percent of the units or apartments of the home are restricted to or are occupied by persons who meet the income requirements.<sup>8</sup>

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<sup>1</sup> Fla. Const. ss. 3(a), 6(c), art. VII, implemented by s. 196.1975, F.S.

<sup>2</sup> Ss. 196.1975(1)-(2), F.S. Licensure by the Agency for Health Care Administration is required for facilities that furnish medical facilities or nursing services to residents or that qualifies as an assisted living facility under ch. 429, F.S. Ss. 196.1975(2)(a)-(b), F.S.

<sup>3</sup> S. 196.1975(3), F.S.

<sup>4</sup> Social security benefits are considered gross income for the purposes of this exemption. S. 196.1975(6), F.S.

<sup>5</sup> S. 196.1975(4)(b), F.S. The income requirements will be adjusted January 2022.

<sup>6</sup> S. 196.1975(4)(a), F.S. Statute defines the maximum income limitation as \$7,200 (for individuals) or \$8,000 (for couples) in the year the provision was passed (1977), adjusted annually by the percentage change in U.S. Department of Labor's cost-of-living index. See s. 196.1975(4)(a)-(b). The values above reflect those present adjustments for 2021. Fla. Dept. of Revenue, *Cost of Living Adjustments*, <https://floridarevenue.com/property/Documents/CostofLivingAdjust.pdf> (last accessed Jan. 10, 2022).

<sup>7</sup> S. 196.1975(11), F.S.

<sup>8</sup> S. 196.1975(8), F.S.

The facility must file an application annually with the property appraiser to demonstrate continuing qualification for the exemption<sup>9</sup> and file an affidavit from each person residing in a unit or apartment in the facility who meets the disability or income requirements described above.<sup>10</sup> The person signing the affidavit must attest that he or she resides in the unit or apartment claiming the exemption and, in good faith, makes that unit or apartment his or her permanent residence.<sup>11</sup>

### **Effect of Proposed Changes**

The bill revises eligibility for the ad valorem tax exemption for property used as a home for the aged by non-profit corporations to include property owned by a Florida limited partnership where an entity wholly owned by a corporation not-for-profit under ch. 617, F.S., is the sole general partner.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 196.1975, F.S., revising criteria for the ad valorem taxation exemption for property used by non-profit homes for the aged.

Section 2: Provides an effective date of January 1, 2023.

### **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 estimates the provisions of the bill will reduce local government revenue by \$100,000 annually beginning in fiscal year 2022-23.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may enable additional homes for the aged operated by not-for-profit corporations to qualify for the ad valorem tax exemption.

#### **D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

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<sup>9</sup> S. 196.1975(9)(b), F.S. This application is known as a DR-504HA form. Fla. Dept. of Revenue, *Property Tax Oversight Forms*, <https://floridarevenue.com/property/pages/forms.aspx> (last accessed Mar. 4, 2021).

<sup>10</sup> S. 196.1975(9)(b), F.S. This application is known as a DR-504S form.

<sup>11</sup> *Id.*

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill reduces ad valorem tax revenues to the extent it may enable additional homes for the aged operated by non-for-profit corporations to qualify for an ad valorem tax exemption. However, an exemption may apply if the fiscal impact of the bill is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 19, 2022 the Local Administration & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS removed changes to s. 193.017, F.S., from the bill.

This analysis is drafted to the committee substitute adopted by the Local Administration & Veterans Affairs Subcommittee.