

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 127 Ad Valorem Tax Exemption for Nonprofit Homes for the Aged

**SPONSOR(S):** Ways & Means Committee, Smith and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 566

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Ways & Means Committee	22 Y, 0 N, As CS	McCain	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee	18 Y, 0 N	Burgess	Darden
3) State Affairs Committee	18 Y, 0 N	Burgess	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 years or totally and permanently disabled. The exemption also applies to the extent these properties are used exclusively to conduct religious services or render 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 not licensed under ch. 429, F.S., and 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 have an annual recurring impact on local government revenues of -\$0.1 million beginning in Fiscal Year 2023-24.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### 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 nonprofit 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 years or be totally and permanently disabled; and
- Certain facilities must also 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 that are 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 \$38,869<sup>5</sup> per year who is either at least 62 years of age or is totally and permanently disabled;
- A couple with a combined gross income of no more than \$40,636 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>

The facility must file an application annually with the property appraiser to demonstrate continuing qualification for the exemption.<sup>9</sup> The facility must also 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>

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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. See also Fla. Dept. of Revenue, Cost of Living Adjustments, <https://floridarevenue.com/property/Documents/CostofLivingAdjust.pdf> (last accessed March 3, 2023).

<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 2023. Fla. Dept. of Revenue, Cost of Living Adjustments, <https://floridarevenue.com/property/Documents/CostofLivingAdjust.pdf> (last accessed March 3, 2023).

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

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

<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 March 3, 2023).

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

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 not licensed under ch. 429, F.S., and 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, 2024.

### **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 have an annual recurring impact on local government revenues of -\$0.1 million beginning in Fiscal Year 2023-24.

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**

#### **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 enables additional homes for the aged operated by not-for-profit corporations to qualify for an ad valorem tax exemption; however, an exemption may apply because the bill may have an insignificant fiscal impact.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 15, 2023, the Ways & Means Committee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from HB 127 in that it provides that the entity which owns the non-profit home for the aged, and which is wholly owned by a not-for-profit corporation may not be an entity licensed under ch. 429, F.S., for purposes of the exemption.

This analysis is drafted to the committee substitute as reported favorably by the Ways & Means Committee.