

**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 Finance and Tax

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BILL: SB 762

INTRODUCER: Senator Wright

SUBJECT: Property Tax Exemption for Surviving Spouses of Veterans

DATE: March 17, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Shuler</u>	<u>Babin</u>	<u>FT</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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## I. Summary:

SB 762 clarifies that if a veteran predeceases the issuance of a letter of total and permanent disability from the United States Department of Veterans Affairs, the veteran’s surviving spouse may produce the letter to the property appraiser to establish eligibility for the homestead exemption for surviving spouses of permanently and totally disabled veterans. The bill does not substantively alter the requirements or procedure for applying for or receiving such an exemption.

The Revenue Estimating Conference has determined the bill will have no fiscal impact.

The bill takes effect January 1, 2024, and first applies to the 2024 tax roll.

## 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

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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, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

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, property owned and maintained as a person's primary residence, 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 legal or equitable title to real estate and who maintains a permanent residence on the real estate 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>

### **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.<sup>15</sup> The application must list and describe the property for which the exemption is being

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

<sup>4</sup> Section 197.322, F.S.; see also Florida Department of Revenue, Florida Property Tax Calendar, available at: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Mar. 15, 2023).

<sup>5</sup> Section 197.162, F.S.; see also Florida Department of Revenue, Tax Collector Calendar, available at: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Mar. 15, 2023).

<sup>6</sup> Section 197.162, F.S.

<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. X, s. 4.

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

<sup>12</sup> FLA. CONST. art VII, s. 6(a); s. 196.031, F.S.

<sup>13</sup> FLA. CONST. art VII, s. 6(a); s. 196.031(1)(b), F.S.

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

<sup>15</sup> Section 196.011(1), F.S. But see s. 196.011(7) and (8), F.S., for conditions when the exemption may be granted if an application is filed after March 1.

claimed and certify the ownership and use of the property.<sup>16</sup> 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>17</sup>

### **Exemption for 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>18</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.<sup>19</sup> If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property and permanent residence of the spouse, and the spouse is unmarried.<sup>20</sup>

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, may receive a prorated refund of the ad valorem taxes paid for the newly acquired property as of the date of the property transfer provided they were eligible for and granted the exemption on another homestead property in the previous tax year.<sup>21</sup>

### ***Application for This Exemption***

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs (USDVA) or its predecessor by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.<sup>22</sup> A veteran may apply for the exemption before receiving documentation from the USDVA.<sup>23</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.).<sup>24</sup>

A letter of total and permanent disability is a document requested by a veteran from the USDVA. A veteran must file an application for disability benefits alongside supporting medical documentation of disability.<sup>25</sup> A surviving spouse may apply independently to the Department of Veterans Affairs for certain benefits, but a letter of total and permanent disability requires application by the veteran.<sup>26</sup> In the event that a veteran applies for a letter and predeceases either

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<sup>16</sup> Section 196.011(1)(a), F.S.

<sup>17</sup> Section 196.011(5) and (9)(a), F.S.

<sup>18</sup> FLA. CONST. art. VII, s. 3(b); s. 196.081(1), F.S.

<sup>19</sup> Section 196.081(1), F.S.

<sup>20</sup> Section 196.081(3), F.S.

<sup>21</sup> Section 196.081(1)(b), F.S.

<sup>22</sup> Section 196.081(2), F.S.

<sup>23</sup> Section 196.081(5), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> U. S. Dep't of Veterans Affairs, *How to File a VA Disability Claim*, (Mar. 8, 2023), <https://www.va.gov/disability/how-to-file-claim/>.

<sup>26</sup> *Id.*; U.S. Dep't of Veterans Affairs, *About VA DIC for spouses, dependents, and parents*, (Oct 12, 2022), <https://www.va.gov/disability/dependency-indemnity-compensation/>.

its issuance or presentation, however, a surviving spouse may present the letter to the property appraiser to establish eligibility for the homestead exemptions discussed.<sup>27</sup>

### III. Effect of Proposed Changes:

The bill amends s. 196.081(2), F.S., to clarify that if a veteran predeceases the issuance of a letter of total and permanent disability from USDVA, the veteran's surviving spouse may produce the letter to the property appraiser to establish eligibility for the homestead exemption for surviving spouses of permanently and totally disabled veterans. The bill does not substantively alter the requirements or procedure for applying for or receiving such an exemption.

The bill takes effect January 1, 2024, and first applies to the 2024 tax roll.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Article VII, s. 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,<sup>28</sup> which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.<sup>29</sup> As the Revenue Estimating Conference estimates no impact on local governments from this bill, the mandate provisions of Article VII, section 18 of the Florida Constitution likely do not apply.<sup>30</sup>

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>27</sup> Section 196.081(2), F.S., provides that “production by a veteran or the spouse *or surviving spouse* of a letter of total and permanent disability [...] is prima facie evidence of the fact that the veteran or the surviving spouse is entitled to the exemption.” (emphasis added).

<sup>28</sup> FLA. CONST. art. VII, s. 18(d).

<sup>29</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 Mar. 15, 2023).

<sup>30</sup> Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: SB 762/HB747*, 190-191, (Mar. 3, 2023), available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2023/\\_pdf/page190-191.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2023/_pdf/page190-191.pdf) (last visited Mar. 16, 2023).

**D. State Tax or Fee Increases:**

Article VII, s. 19 of the Florida Constitution requires that legislation that increases or creates taxes or fees be passed by a 2/3 vote of each chamber in a bill with no other subject. The bill does not increase or create new taxes or fees. Thus, the constitutional requirements related to new or increased taxes or fees do not apply.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference has determined the bill will have no impact on local government ad valorem receipts.<sup>31</sup>

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 196.081, 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.

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<sup>31</sup> *Id.*

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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