

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 172

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Polsky and others

SUBJECT: Verification of Eligibility for Homestead Exemption

DATE: February 26, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Shuler</u>	<u>Khan</u>	<u>FT</u>	<u>Fav/CS</u>
3.	<u>Shuler</u>	<u>Sadberry</u>	<u>AP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 172 requires the Department of Revenue to create a form that a property appraiser may use to provide a person with tentative verification of that person’s eligibility to receive an exemption related to the applicant’s status as a disabled veteran after the purchase of homestead property.

The bill takes effect July 1, 2024.

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.¹ The property appraiser annually determines the “just value”² of property

¹ 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.

² 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

within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."³ Property tax bills are mailed in November of each year based on the previous January 1 valuation.⁴ 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.⁵ The full amount of taxes is due by March 31 of the following year.⁶

The Florida Constitution prohibits the state from levying ad valorem taxes⁷ and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁸

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

Every person having 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.¹² 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.¹³

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 1.¹⁴ 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

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).

³ *See* ss. 192.001(2) and (16), F.S.

⁴ 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 Jan. 31, 2024).

⁵ 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 Jan. 31, 2024).

⁶ Section 197.162, F.S.

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ *See* FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 6.

¹⁰ FLA. CONST. art. X, s. 4.

¹¹ *Id.* at (c).

¹² FLA. CONST. art VII, s. 6(a).

¹³ *Id.*

¹⁴ Section 196.011(1)(a), F.S.

year.¹⁵ The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property.¹⁶ 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.¹⁷

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.¹⁸ 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.¹⁹ 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.²⁰

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.²¹

Exemption for Disabled Veterans Confined to Wheelchairs

Similar to the homestead property of veterans with total and permanent disabilities, the homestead property of a veteran who was honorably discharged with a service-connected total disability and who requires a wheelchair is exempt from taxation.²² The veteran must have a certificate from the United States Government or United States Department of Veterans Affairs or its predecessor, or its successors, certifying that the ex-servicemember is receiving or has received special pecuniary assistance due to disability requiring specially adapted housing and is required to use a wheelchair for his or her transportation.²³ The surviving spouse of the veteran may continue to receive the exemption if the veteran predeceases their spouse as long as the spouse continues to reside on the property, uses it as their domicile, and does not remarry or sell or otherwise dispose of the property.²⁴

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

¹⁶ Section 196.011(1)(a), F.S.

¹⁷ Section 196.011(5) and (9)(a), F.S.

¹⁸ Section 196.081(1), F.S.

¹⁹ *Id.*

²⁰ Section 196.081(3), F.S.

²¹ Section 196.081(1)(b), F.S.

²² Section 196.091(1), F.S.

²³ *Id.*

²⁴ Section 196.091(3), F.S.

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.²⁵ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁶ The discount is applied as a reduction to the taxable value of the homestead property.²⁷

To qualify for the tax discount, the veteran must:

- Be aged 65 or older;
- Be partially or totally disabled with combat-related disabilities; and
- Have received an honorable discharge.²⁸

In addition to filing an application with the county tax appraiser for the discount, an eligible veteran must also provide to the tax appraiser by March 1:

- An official letter from the United States Department of Veterans Affairs which includes the percentage of the veteran's service-connected disability and evidence that reasonably identifies the disability as combat-related;
- A copy of the veteran's honorable discharge; and
- Proof of age as of January 1 of the year to which the discount will apply.²⁹

I. Effect of Proposed Changes:

This bill requires the Department of Revenue (department) to create a form that a property appraiser may use, at his or her discretion, to provide a person with tentative verification of that person's eligibility to receive an ad valorem tax exemption under ss. 196.081, 196.082, or 196.091, F.S., related to the applicant's status as a disabled veteran after the purchase of homestead property. The person must submit forms, documentation, and other necessary proof of qualification for the exemption or discount. The form must indicate that the tentative verification is not binding upon the property appraiser and that the person must comply with annual application requirements. The bill provides that decisions by property appraisers whether to consider a request for the tentative verification or regarding a person's eligibility are not subject to administrative or judicial review under chapter 194. Currently, this is a service which is not required but may be undertaken by local property appraisers at their own discretion.

The bill takes effect July 1, 2024.

II. 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

²⁵ Section 196.082, F.S.

²⁶ Section 196.082(2), F.S.

²⁷ Section 196.082(6), F.S.

²⁸ Section 196.082(1), F.S.

²⁹ Section 196.082(4), F.S.

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. The mandates provision does not apply to this bill as it requires the development of an administrative form for optional use by property appraisers and does not affect municipal or county authority to raise revenue.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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.

III. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Property appraisers may incur additional administrative burdens reviewing forms to verify applicants' potential eligibility for exemptions before their official application for the exemptions.

IV. Technical Deficiencies:

None.

V. Related Issues:

None.

VI. Statutes Affected:

This bill creates section 196.092 of the Florida Statutes.

VII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Finance and Tax on February 8, 2024:

The committee substitute:

- Revises a requirement for DOR to provide, rather than create, the form.
- Clarifies that property appraisers may use the form at their discretion.
- Provides that decisions by property appraisers whether to consider the request for tentative verification or a person's apparent eligibility for an exemption or discount are not subject to administrative or judicial review under Ch. 194.

CS by Community Affairs on January 29, 2024:

The committee substitute revises the bill to require the Department of Revenue to create a form for use by property appraisers to utilize in verifying eligibility, as opposed to the Department conducting the verification process.

- B. **Amendments:**

None.