

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 55 Tax Exemptions for Surviving Spouses of Quadriplegics

**SPONSOR(S):** Tant and others

**TIED BILLS:** HJR 53 **IDEN./SIM. BILLS:** CS/SB 616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	24 Y, 0 N	Rexford	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N	Mwakyanjala	Darden
3) State Affairs Committee	18 Y, 0 N	Mwakyanjala	Williamson

### SUMMARY ANALYSIS

Ad valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the just value of real and tangible personal property as determined by county property appraisers on January 1 of each year.

Current law allows homestead property owned and used by quadriplegic persons and certain other disabled persons to be exempt from ad valorem taxes. This exemption does not carry over to the surviving spouse of a quadriplegic or other disabled person if the quadriplegic or other disabled person predeceases his or her spouse. Other property tax exemptions in law, like exemptions for certain disabled veterans and first responders, allow a surviving spouse to enjoy the exemption as long as the surviving spouse continues to reside on the property and does not remarry.

The bill implements an amendment to Article VII, Section 6 of the Florida Constitution, which is proposed by HJR 53 (2024), to allow the ad valorem tax exemption available to a quadriplegic person to carry over to his or her surviving spouse if the quadriplegic person predeceases his or her spouse. The exemption would apply to the property until the surviving spouse remarries or disposes of the property. If the surviving spouse moves, the dollar amount of the exemption as reflected in the most recent tax roll can be transferred to the surviving spouse's new residence.

The Revenue Estimating Conference (REC) estimated the bill to have a zero or negative indeterminate impact on local government revenues due to the need for approval by the voters of the constitutional amendment proposed by HJR 53. If approved by the voters, and assuming current millage rates, the REC estimated the bill to have a negative recurring impact on school tax revenues of \$0.4 million and \$0.6 million on non-school local tax revenues in Fiscal Year 2024-25.

This bill takes effect on January 1, 2025, if the amendment to the Florida Constitution proposed by HJR 53 is approved by the voters at the 2024 general election or at an earlier special election.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> 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.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and it provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> 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 applicable exemptions to produce the taxable value.<sup>5</sup>

##### Exemptions

Article VII, Section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title, and maintains their permanent residence or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

The Florida Constitution also creates specific ad valorem exemptions. For example, Article VII, Section 3 of the Florida Constitution provides for specific exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled.

There are a handful of instances in current law where a property tax exemption granted by way of the status or condition of one's spouse carries over to the surviving spouse upon death. Some examples include the exemption for surviving spouses of totally and permanently disabled first responders<sup>6</sup> and the exemption for surviving spouses of partially or totally disabled veterans over age 65.<sup>7</sup> In these examples and in other instances in law, the surviving spouse can enjoy the exemption as long as he or she continues to reside on the property and he or she does not remarry. The surviving spouse can also transfer the value of the exemption to a different homestead property.

##### Exemptions for Quadriplegics and Other Disabled Persons

Under current law, homestead property used and owned by a quadriplegic person is totally exempt from property taxes.<sup>8</sup> Paraplegic, hemiplegic, and other disabled persons<sup>9</sup> with a certain gross household income can also receive a total exemption.<sup>10</sup> To be eligible for the exemption, the disabled

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<sup>1</sup> Art. VII, s. 1(a), Fla. Const.

<sup>2</sup> Section 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 Art. VII, s. 1(b), Fla. Const., and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> S. 196.031, F.S.

<sup>6</sup> S. 196.102(8), F.S.

<sup>7</sup> S. 196.082(3), F.S.

<sup>8</sup> S. 196.101(1), F.S.

<sup>9</sup> Other disabled persons include, a person who must use a wheelchair for mobility or a person who is legally blind. S. 196.101(2), F.S.

<sup>10</sup> S. 196.101(2), F.S.

person must provide proof of their disability to the property appraiser in the county where the homestead property is located.<sup>11</sup> Proof can be in the form of a certification from two doctors licensed in Florida or a certification from the United States Department of Veterans Affairs.<sup>12</sup> Currently, this property tax exemption does not carry over to the surviving spouse of the disabled person when the disabled person predeceases his or her spouse.

### HJR 53 (2024)

HJR 53, to which this bill is linked, proposes an amendment to the Florida Constitution to authorize the Legislature to allow the homestead property tax exemption for homestead property used and owned by a quadriplegic person to carry over to his or her surviving spouse if the quadriplegic person predeceases his or her spouse. If approved by the voters at the 2024 general election, or an earlier special election, the amendment would take effect January 1, 2025.

### **Effect of Proposed Changes**

This bill implements the amendment to Article VII, Section 6 of the Florida Constitution, proposed by HJR 53, to allow the exemption for homestead property taxes held by a quadriplegic person to carry over to his or her surviving spouse if the quadriplegic person predeceases his or her spouse. The surviving spouse can continue to enjoy this exemption as long as he or she holds the legal or beneficial title to the homestead, permanently resides thereon, and does not remarry.

If the surviving spouse moves from the property, the dollar amount of the exemption as reflected in the most recent tax roll can be transferred to the surviving spouse's new residence. The surviving spouse can continue to enjoy the exemption at his or her new residence as long as he or she permanently resides on the property and does not remarry.

The bill provides emergency rulemaking authority to the Department of Revenue to administer the provisions of the act.

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

Section 1: Amends s. 196.101, F.S., to allow the homestead property tax exemption held by a quadriplegic person to carry over to his or her surviving spouse.

Section 2: Authorizes the Department of Revenue to adopt emergency rules to administer the act.

Section 3: Provides a contingent effective date.

## **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 (REC) estimated the bill to have a zero or negative indeterminate impact on local government revenues due to the need for approval by the voters of

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<sup>11</sup> S. 196.101(3), F.S.

<sup>12</sup> S. 196.101(3), F.S.

the constitutional amendment proposed by HJR 53. If approved by the voters, and assuming current millage rates, the REC estimated the bill to have a negative recurring impact on school tax revenues of \$0.4 million and \$0.6 million on non-school local tax revenues in Fiscal Year 2024-25.<sup>13</sup>

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If HJR 53 is approved by the voters and this bill goes into effect, surviving spouses of deceased quadriplegic persons would be eligible to receive property tax relief in certain situations.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, Section 18 of the Florida Constitution may apply because this bill may reduce the authority that counties or municipalities have to raise revenues in the aggregate to the extent it allows the ad valorem tax exemption available to a quadriplegic person to carry over to his or her surviving spouse if the quadriplegic person predeceases his or her spouse in certain circumstances; however, an exemption may apply because the bill may have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill authorizes the Department of Revenue to adopt emergency rules to administer the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>13</sup> Revenue Estimating Conference, *Tax Exemption for Surviving Spouse of Quadriplegics (Implementing Bill)*

[http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2024/\\_pdf/page9-11.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2024/_pdf/page9-11.pdf) (last visited Jan. 22, 2024).