

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 Finance and Tax

BILL: CS/SB 616

INTRODUCER: Community Affairs Committee and Senator Simon

SUBJECT: Tax Exemptions for Surviving Spouses of Quadriplegics

DATE: February 12, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Shuler</u>	<u>Khan</u>	<u>FT</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 616 is linked to SJR 618, which proposes an amendment to the Florida Constitution to permit the legislature to provide ad valorem tax relief to the surviving spouse of a quadriplegic who was receiving a property tax exemption on their homestead property at the time of their death.

The bill amends the associated statutory provision to provide that if a quadriplegic receiving an ad valorem tax exemption under current law predeceases his or her spouse, and the surviving spouse owns the same property thereafter, the benefit carries over to the surviving spouse. The surviving spouse may carry over the benefit to a new residence provided he or she does not remarry.

The bill will take effect on the effective date of the constitutional amendment proposed by SJR 618 or a similar joint resolution having substantially the same intent and purpose. If approved by the electors in the next general election in November 2024, the proposed amendment and this bill will take effect on January 1, 2025.

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 property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property 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 and full payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes⁴ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

Property Tax Exemptions for Homesteads

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.⁶ An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000.⁷ This exemption does not apply to ad valorem taxes levied by school districts.

Homestead Exemption for the Blind or Totally and Permanently Disabled

Article VII, s. 3(b) of the State Constitution, requires that general law establish an exemption of property tax for widows and widowers, and persons who are blind or totally and permanently disabled. Subsections (1) and (2) of s. 196.101, F.S., exempt the total value of a homestead used and owned by a person who has been certified⁸ as totally and permanently disabled, including any quadriplegic, paraplegic, or hemiplegic.

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 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* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ FLA. CONST. art VII, s. 6(a) and s. 196.031(1)(a), F.S.

⁷ FLA. CONST. art VII, s. 6(a) and s. 196.031(1)(b), F.S.

⁸ Section 196.101(3), F.S., permits the use of certification from two licensed Florida doctors or from the United States Department of Veterans Affairs as proof of total and permanent disability.

III. Effect of Proposed Changes:

Section 1 amends section 196.101(1) to provide that if a quadriplegic granted a homestead exemption under this section predeceases his or her spouse, and the spouse holds title to the homestead property thereafter, the ad valorem tax exemption carries over to the benefit of the spouse until such time as he or she remarries or disposes of the property. The value of the exemption may be carried over by the spouse to new homestead property provided the surviving spouse does not remarry.

The section also makes a technical change to subsection (3).

Section 2 provides that the Department of Revenue may adopt emergency rules pursuant to s. 120.54(4), F.S., to administer the act.

Section 3 provides that this bill will take effect on the effective date of the constitutional amendment proposed by SJR 618, or a similar joint resolution having substantially the same specific intent and purpose.

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. The mandate requirement does not apply to laws having an insignificant impact, which for Fiscal Year 2024-2025 is forecast at approximately \$2.3 million.

The Revenue Estimating Conference reviewed this bill and adopted a zero/negative indeterminate impact due to the requirement for a statewide referendum. However, the Conference determined that if the joint resolution were to be approved by the voters, the bill provisions would have a negative recurring impact on school tax revenue of \$0.4 million and \$0.6 million on non-school local government tax revenue beginning in Fiscal Year 2024-2025.⁹ Therefore, the mandates provision likely does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ OFF. OF ECON. & DEMOGRAPHIC RSCH, *Revenue Estimating Conference Impact Results: HB 55 / SB 616*, 9-11 (Nov. 3, 2023), available at http://edr.state.fl.us/content/conferences/revenueimpact/archives/2024/_pdf/impact1103.pdf (last visited Feb. 5, 2024).

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 reviewed this bill and adopted a zero/negative indeterminate due to the requirement for a statewide referendum. The Conference estimated the potential recurring impact should the amendment pass to be \$1 million on local governments.¹⁰

B. Private Sector Impact:

If the linked proposed constitutional amendment (SJR 618) is approved by 60 percent of voters in November 2024, additional households will be eligible for full homestead exemptions, where applicable. This will result in an indeterminate positive fiscal impact as homeowners take advantage of ad valorem tax savings.

C. Government Sector Impact:

If the linked proposed constitutional amendment (SJR 618) is approved by 60 percent of voters in November 2024, additional households will be eligible for full homestead exemptions, where applicable. This will result in an indeterminate negative fiscal impact on local governments as total assessments on homestead property will be reduced.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.101 of the Florida Statutes.

¹⁰ *Id.*

IX. Additional Information:

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

CS by Community Affairs on January 9, 2024:

The CS makes a technical change to insert the reference to SJR 618 for the purpose of linking the bill’s effective date to a proposed constitutional amendment.

- B. **Amendments:**

None.