

**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 Appropriations

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BILL: SJR 1076

INTRODUCER: Senators Wright and Albritton

SUBJECT: Surviving Spouse Ad Valorem Tax Reduction

DATE: February 26, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Caldwell</u>	<u>MS</u>	<b>Favorable</b>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Favorable</b>
3.	<u>Babin</u>	<u>Kynoch</u>	<u>AP</u>	<b>Favorable</b>

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**I. Summary:**

SJR 1076 proposes an amendment to the Florida Constitution to allow the homestead property tax discount for disabled veterans to transfer to a veteran’s surviving spouse upon the death of the veteran, provided the veteran had received the discount. The discount is available for veterans aged 65 or older who have permanent, combat-related disabilities.

The joint resolution requires approval by a three-fifths vote of the membership of each house of the Legislature for passage.

The Department of State estimates the publication costs for advertising the proposed amendment based on a rate of \$92.93 per word to be approximately \$74,251.07.

If the proposed amendment is approved by the electors, the Revenue Estimating Conference has determined that it will reduce local property taxes by \$1.0 million, beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.

If approved by the electors, the amendment takes effect January 1, 2021.

**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.<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 exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation, and payment is due by March 31.

The State Constitution prohibits the state from levying ad valorem taxes on real estate or tangible personal property,<sup>4</sup> and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the State Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that may receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, land used exclusively for noncommercial recreational purposes;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### **Homestead Exemption**

Every person having legal or 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.<sup>11</sup> An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.<sup>12</sup>

### **Property Tax Exemptions for Veterans and Surviving Spouses**

Florida provides several property tax exemptions for disabled veterans and their surviving spouses. These include exemptions for the following persons:

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<sup>1</sup> Both real property and tangible personal property can be 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 Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4, 9 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(3) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> FLA. CONST. art VII, s. 6(a).

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

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.<sup>13</sup>
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.<sup>14</sup>
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.<sup>15</sup>
- The unremarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.<sup>16</sup>

### **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.<sup>17</sup> The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.<sup>18</sup> The discount is applied as a reduction to the taxable value of the homestead property.<sup>19</sup>

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.<sup>20</sup>

Unlike the other exemptions described above, the discount for a combat-related disability does not carry over to a surviving spouse.<sup>21</sup>

### **III. Effect of Proposed Changes:**

This bill proposes an amendment to the Florida Constitution to allow the homestead property tax discount for a veteran aged 65 or older who has a permanent, combat-related disability to carry over to the veteran's surviving spouse upon the veteran's death, provided that the veteran applied for and received the discount.

To receive the property tax discount, the surviving spouse must permanently reside at and hold legal or beneficial title to the homestead property. The surviving spouse is eligible for the discount until he or she:

<sup>13</sup> Section 196.081(1)-(3), F.S.

<sup>14</sup> Section 196.091(1) and (3), F.S.

<sup>15</sup> Section 196.24, F.S.

<sup>16</sup> Section 196.081(4), F.S.

<sup>17</sup> Section 196.082, F.S.

<sup>18</sup> Section 196.082(2), F.S.

<sup>19</sup> Section 196.082(5), F.S.

<sup>20</sup> Section 196.082(1), F.S.

<sup>21</sup> See s. 196.082, F.S.

- Remarries;
- Sells the property; or
- Otherwise disposes of the property.

After selling or otherwise disposing of the property, however, a surviving spouse may transfer the discount to a new, permanent residence as long as he or she remains unmarried. The amount of the discount transferred may not exceed the dollar amount granted on the most recent ad valorem tax roll of the original property.

The joint resolution provides that the amendment is self-executing and does not require implementing legislation.

If approved by the electors, the amendment takes effect January 1, 2021.

#### **IV. Constitutional Issues:**

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

The mandate provisions in Article VII, section 18 of the State Constitution, do not apply to joint resolutions.

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

None.

##### **C. Trust Funds Restrictions:**

None.

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

None.

##### **E. Other Constitutional Issues:**

Article XI, s. 1 of the State Constitution authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, s. 5(e) of the State Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the first Tuesday after the first Monday in January following the election, or on such other date specified in the amendment. The joint resolution specifies that the amendment takes effect January 1, 2021.

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

The Revenue Estimating Conference has determined that, if adopted by the electors, the amendment will reduce local property tax receipts by \$1.0 million beginning in Fiscal Year 2021-2022, increasing to \$4.0 million by Fiscal Year 2025-2026.<sup>22</sup>

**B. Private Sector Impact:**

A qualifying surviving spouse of a veteran who had received the tax discount on homestead property would be eligible for the same discount, thereby financially benefitting from the bill.

**C. Government Sector Impact:**

Article XI, s. 5(d) of the State Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county in which a newspaper is published.

The Division of Elections is required to twice advertise the full text of proposed constitutional amendments in English and Spanish in the newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with English and Spanish booklets or posters displaying the full text of proposed amendments, for each polling room or early voting area in each county, and to translate the amendments into Spanish.

The cost to advertise this amendment in newspapers and produce booklets for the 2020 General Election is estimated to be \$74,251.07, at a minimum. More accurate cost estimates cannot be determined until the total number of amendments to be advertised is known.<sup>23</sup> Additionally, whether the estimate changes due to placement on the ballot at the Primary Election, rather than the General Election in 2020 is unknown.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>22</sup> Office of Economic and Demographic Research, *Revenue Estimating Conference, Impact Conference, 01/10/20 Revenue Impact Results*, available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/\\_pdf/page181-189.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page181-189.pdf) (last visited Feb. 09, 2020).

<sup>23</sup> Email correspondence with Maria Matthews, Director of Division of Elections, Department of State (Jan. 8, 2020) (on file with the Senate Committee on Finance and Tax).

**VIII. Statutes Affected:**

The joint resolution amends Article VII, section 6 of the State Constitution.

The joint resolution creates a new section in Article XII of the State Constitution.

**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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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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