

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**MILITARY AND VETERANS AFFAIRS, SPACE, AND  
DOMESTIC SECURITY**  
**Senator Altman, Chair**  
**Senator Gibson, Vice Chair**

**MEETING DATE:** Tuesday, December 1, 2015  
**TIME:** 1:00—3:00 p.m.  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Office Building*

**MEMBERS:** Senator Altman, Chair; Senator Gibson, Vice Chair; Senators Evers, Sachs, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 626</b> Banking and Insurance / Gaetz (Similar H 717)	Consumer Credit; Authorizing the Office of Financial Regulation to deny a license or take disciplinary action against a person who violates the Military Lending Act or the regulations adopted under that act in connection with a consumer finance loan under the Florida Consumer Finance Act, etc.  BI      11/17/2015 Fav/CS MS      12/01/2015 Favorable FP	Favorable Yeas 4 Nays 0
2	<b>SJR 778</b> Altman (Similar HJR 811, Compare H 813, Linked S 816)	Homestead Tax Exemption/Spouses of Combat-related Disabled Veterans; Proposing an amendment to the State Constitution to authorize the discount on ad valorem taxes on homestead property which is received by certain veterans who have permanent, combat-related disabilities to carry over upon the death of the veteran to the benefit of a surviving spouse until the surviving spouse remarries or sells or otherwise disposes of the property and to specify that the discount is transferrable to another permanent residence if the surviving spouse remains unmarried, etc.  MS      12/01/2015 Fav/CS FT AP	Fav/CS Yeas 4 Nays 0
3	<b>SB 816</b> Altman (Compare HJR 811, H 813, Linked CS/SJR 778)	Homestead Property Tax Discount for Disabled Veterans; Providing for the transfer of a certain discount on ad valorem taxes on homestead property to the surviving spouse of a specified disabled veteran under certain circumstances; providing for the transfer of the discount by the surviving spouse to a new residence under certain circumstances, etc.  MS      12/01/2015 Favorable FT AP	Favorable Yeas 4 Nays 0

Other Related Meeting Documents

**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 Military and Veterans Affairs, Space, and Domestic Security

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**BILL:** CS/SB 626

**INTRODUCER:** Banking and Insurance Committee and Senator Gaetz

**SUBJECT:** Consumer Credit

**DATE:** November 30, 2015      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2.	<u>Sanders</u>	<u>Hrdlicka</u>	<u>MS</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

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

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**I. Summary:**

CS/SB 626 authorizes the Office of Financial Regulation to enforce the provisions of the federal Military Lending Act (MLA) for state financial institutions, deferred presentment providers (payday lenders), consumer finance lenders, title loan lenders. The MLA provides greater consumer protections for servicemembers and their dependents in connection with a broad range of consumer credit transactions, including consumer finance loans, payday loans, title loans, overdraft lines of credit, small dollar loans, and credit card accounts. The MLA caps the Military Annual Percentage Rate on these credit transactions at 36 percent, requires oral and written disclosures for the consumer, and prohibits certain terms and conditions on the loan, such as mandatory arbitration and prepayment penalties.

The bill takes effect on October 3, 2016.

**II. Present Situation:**

**Federal Consumer Protection Laws**

***Federal Truth in Lending Act***

The purpose of the Truth in Lending Act (TILA) is to promote the informed use of credit through “a meaningful disclosure of credit terms so that the consumer will be able to compare more

readily the various credit terms available.”<sup>1</sup> Regulation Z, which implements the TILA, requires the calculation and disclosure of the Annual Percentage Rate (APR) for consumer loans.<sup>2</sup> Lines of consumer credit covered by the TILA include mortgage loans, home equity lines of credit, reverse mortgages, open-end credit, certain student loans, and installment loans.<sup>3</sup>

### **State Regulation of Consumer Lending**

The Florida Office of Financial Regulation (OFR) has regulatory oversight of state-chartered financial institutions, securities brokers, investment advisers, mortgage loan originators, deferred presentment providers or payday loan lenders, consumer finance companies, title loan lenders, debt collectors, and other financial service entities.

#### ***Regulation of State Financial Institutions***

The Division of Financial Institutions of the OFR charters and regulates entities that engage in financial institution business in Florida in accordance with the Florida Financial Institutions Codes (codes).<sup>4</sup> The OFR may examine, investigate, and take disciplinary actions against state-chartered financial institutions for violation of the codes.<sup>5</sup>

#### ***Deferred Presentment Transactions or Payday Loans***

Part IV of ch. 560, F.S., regulates deferred presentment providers (or payday loan lenders) and deferred presentment transactions. A deferred presentment transaction, or “payday loan”, is a type of loan where a person exchanges a check, like a paycheck, up to \$500 in exchange for currency or a payment instrument (e.g., electronic funds transfer, check, or money order) and the lender agrees to hold the check for a specified period of time before depositing or redeeming the check.<sup>6</sup> Repayment terms range from a minimum of 7 days to a maximum of 31 days. The maximum allowable fees are 10 percent of the currency or payment instrument provided, as well as a verification fee of up to \$5 per transaction. For each transaction, the deferred presentment provider must comply with the disclosure requirements of Regulation Z. Borrowers may have only one active payday loan at a time, but may secure a new loan 24 hours after paying off the original loan.<sup>7</sup>

#### ***Consumer Finance Loans***

The Florida Consumer Finance Act, codified at ch. 516, F.S., sets forth licensing requirements for consumer finance lenders and the terms and conditions under which a consumer loan is authorized in Florida. The act sets forth maximum interest rates for a consumer finance loan,

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<sup>1</sup> 15 U.S.C. s. 1601(a). TILA is codified at 15 U.S.C. s. 1601 et seq., as implemented by Regulation Z, 12 C.F.R. part 226.

<sup>2</sup> 15 U.S.C. s. 1604-1606.

<sup>3</sup> Consumer Financial Protection Bureau, *eRegulations: 12 CFR Part 1026 (Regulation Z)*, available at <http://www.consumerfinance.gov/eregulations/1026> (last visited Nov. 24, 2015).

<sup>4</sup> Chapters 655, 657, 658, 660, 663, 665, and 667, F.S.

<sup>5</sup> These entities are also subject to laws and regulation by various federal entities. For example, the Federal Deposit Insurance Corporation (FDIC) supervises state-chartered banks that are not members of the Federal Reserve System and state-chartered savings associations. The FDIC also insures deposits in banks and savings associations in the event of bank failure. The Federal Reserve Board supervises state-chartered banks that are members of the Federal Reserve System.

<sup>6</sup> See Florida Office of Financial Regulation, *Deferred Presentment Provider*, available at <http://www.flofr.com/StaticPages/DeferredPresentmentProvider.htm> (last visited Nov. 25, 2015).

<sup>7</sup> Section 560.404, F.S.

which is a loan of money, credit, goods, or a provision of a line of credit, in an amount or to a value of \$25,000 or less at an interest rate greater than 18 percent per annum.<sup>8</sup> The maximum allowable interest rates on consumer finance loans are tiered and limited based on the principal amount that falls within each tier of the loan, as provided below:

- 30 percent a year, computed on the first \$3,000 of the principal amount;
- 24 percent a year on that part of principal between \$3,001 and \$4,000; and
- 18 percent per year on that part of principal between \$4,001 and \$25,000.<sup>9</sup>

These principal amounts are the same as the financed amounts determined by the TILA and Regulation Z.<sup>10</sup> The APR for all loans under the act may equal, but cannot exceed, the APR for the loan as required to be computed and disclosed by the TILA and Regulation Z.<sup>11</sup> In addition to the applicable interest rates described above, the Florida law allows consumer finance lenders to charge borrowers the following charges and fees:

- Up to \$25 for investigating the credit and character of the borrower;
- A \$25 annual fee on the anniversary date of each line-of-credit account;
- Brokerage fees for certain loans and appraisals of real property offered as security;
- Intangible personal property tax, if secured by a loan note on real property;
- Documentary excise tax and lawful fees for public filing, recoding, and the like;
- Insurance premiums;
- Actual and reasonable attorney fees and court costs;
- Actual and commercially reasonable expenses for recovering the collateral property;
- Delinquency charges of up to \$15 for each payment in default for at least 10 days, if agreed upon in writing before the charge is imposed; and
- A dishonored check charge of up to \$20.<sup>12</sup>

### ***Title Loans***

The Florida Title Loan Act, codified at ch. 537, F.S., sets forth licensing requirements for title loan lenders and the terms and conditions under which a title loan is authorized in Florida. A title loan is secured through transfer of a motor vehicle certificate of title, with the loan amount dependent on the vehicle's value. Title lenders charge tiered interest rates based on the principal amount, which is calculated and disclosed pursuant to Regulation Z.<sup>13</sup> The maturity date of a title loan is 30 days after the agreement date, but can be extended for one or more 30-day periods by mutual consent of the lender and the borrower.<sup>14</sup> Title lenders are prohibited from selling or charging for any type of insurance in connection with the loan.<sup>15</sup>

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<sup>8</sup> Section 516.01(2), F.S.

<sup>9</sup> Section 516.031(1), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 516.031(2), F.S.

<sup>12</sup> Section 516.031(3), F.S.

<sup>13</sup> The interest rate tiers are: 30 percent a year, computed on the first \$2,000 of the principal amount; 24 percent a year on that part of principal between \$2,001 and \$3,000; and 18 percent a year on that part of principal exceeding \$3,001. See s. 537.011(1), F.S.

<sup>14</sup> Section 537.011(3), F.S.

<sup>15</sup> Section 537.013(1)(h), F.S.

## Consumer Debt and the Military

According to the U.S. Department of Defense (DoD), servicemembers, particularly younger members, have limited money management skills and are generally unprepared for their financial responsibilities prior to entering the military. According to the DoD, 41 percent of servicemembers reported using one or more sources of small dollar lending in the past 12 months. Examples of these small dollar loans included payday, vehicle title, bank deposit advance, pawn shop, cash advances on credit cards, overdraft loans, overdraft lines of credit, overdraft protection from other accounts, relief society loans, and loans from friends and family. Further, the report states that 47 percent of servicemembers reported difficulty managing their finances within the last 12 months.<sup>16</sup>

The DoD expects servicemembers “to maintain personal readiness standards, including paying their debts and maintaining their ability to attend to the financial needs of their families. Losing qualified servicemembers due to personal issues, such as financial instability, causes loss of mission capability and drives significant replacement costs. The DoD estimates that each separation costs the DoD \$58,250.”<sup>17</sup> As a result, it is a priority of the DoD to educate servicemembers of the risks associated with high-cost loans and encourage them to resolve their financial problems through counseling and alternatives, rather than perpetuate the problems through predatory loans.

### *Federal Military Lending Act*

Congress enacted the Military Lending Act (MLA) in 2006 to provide covered servicemembers and their dependents with specific protections for their consumer credit transactions.<sup>18</sup> A servicemember is defined in law as a member of the armed forces who is on active duty for more than 30 days, or on active Guard and Reserve Duty.<sup>19</sup> Covered dependents include the spouse, child, parent or parent-in-law, and an unmarried person for whom the covered servicemember has legal custody.<sup>20</sup>

The MLA currently applies to the following “consumer credit” products of covered borrowers:

- Closed-end payday loans for no more than \$2,000 and with a term of 91 days or fewer;
- Closed-end auto title loans with a term of 181 days or fewer; and
- Closed-end tax refund anticipation loans.<sup>21</sup>

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<sup>16</sup> DoD, *Limitations on Terms of Consumer Credit Extended to Service Members and Dependents*, 79 FR 58602, 58604 (Sept. 29, 2014).

<sup>17</sup> DoD, *Limitations on Terms of Consumer Credit Extended to Service Members and Dependents*, 80 FR 43560, 43564-43565 (July 22, 2015).

<sup>18</sup> 10 U.S.C. s. 987. 32 C.F.R. part 232. The MLA is implemented by the DoD and is enforced by the Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, National Credit Union Administration, Consumer Financial Protection Bureau, Federal Trade Commission, and other specified agencies.

<sup>19</sup> 10 U.S.C. s. 987(i)(1).

<sup>20</sup> 10 U.S.C. s. 987(i)(2).

<sup>21</sup> 32 C.F.R. 232.3. Consumer Financial Protection Bureau, *Ask CFPB: What types of loans are covered under the Military Lending Act?*, (updated Jan. 15, 2014), available at <http://www.consumerfinance.gov/askcfpb/1785/what-types-loans-are-covered-under-military-lending-act.html> (last visited Nov. 25, 2015).

Any loan that does not fall into one of the aforementioned three categories is not subject to the MLA's protections under the existing regulations. This narrow definition of "consumer credit" was perceived by the DoD to permit creditors to structure credit products in order to reduce or avoid altogether the obligations of the MLA.<sup>22</sup> As a result, the DoD significantly amended the regulations enforcing the MLA such that beginning generally in October 2016,<sup>23</sup> the definition of consumer credit is expanded to include a wider range of credit consistent with credit that is subject to the TILA, "namely: Credit offered or extended to a covered borrower primarily for personal, family, or household purposes, and that is (i) subject to a finance charge or (ii) payable by a written agreement in more than four installments."<sup>24</sup>

A creditor is not required to check the status of a consumer to determine if he or she is a covered borrower. Should the creditor choose to check a consumer's status as a covered borrower it may use its own assessment method. However, creditors are provided a safe harbor if they use either one or both of the methods provided: the DoD MLA database and consumer reports from a nationwide consumer credit reporting agency.<sup>25</sup> A status check to verify eligibility as a covered borrower is valid up to 60 days after a firm offer of credit is extended to the consumer.

The MLA regulations outline the following terms and conditions relating to the extension of consumer credit to a covered borrower:

- Caps the annual percentage rate of interest for consumer credit to covered borrowers at no more than 36 percent, which is known as the Military Annual Percentage Rate (MAPR);<sup>26</sup>
- Mandates certain disclosures (*e.g.*, a statement of the MAPR and disclosures consistent with TILA) before a loan is made;<sup>27</sup>
- Prohibits prepayment penalty fees if a covered borrower prepays all or part of the consumer credit;
- Prohibits a creditor from "rolling-over" or refinancing the same loan with exceptions for depository institutions;
- Prohibits a creditor from requiring the covered borrower to submit to arbitration in the event of a dispute;
- Prohibits a creditor from requiring a covered borrower to waive his or her rights under the Servicemembers Civil Relief Act;<sup>28</sup>
- Prohibits mandatory allotments to repay the loan as a condition for receiving the loan;

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<sup>22</sup> 79 FR 58603.

<sup>23</sup> The effective date of the final rule is October 1, 2015. Generally, compliance is required by October 3, 2016, for credit established on or after that date. The rule provides a temporary exemption for credit card accounts under an open-end consumer credit plan until October 3, 2017. See 32 C.F.R. 232.12.

<sup>24</sup> *Supra* note 17 at 43563. The scope of credit products covered under the MLA regulations are consistent with credit that is subject to TILA. In accordance with the MLA, the MLA regulation continues to exclude residential mortgages and credit extended to finance the purchase of, and secured by, personal property, such as vehicle purchase loans. See 10 U.S.C. 987(i)(6).

<sup>25</sup> 32 C.F.R. 232.5. The database is available at <https://www.dmdc.osd.mil/mla/welcome.xhtml>.

<sup>26</sup> For covered borrowers, the cost of such consumer credit is capped at the MAPR of 36 percent. The MAPR is calculated based on Regulation Z and also includes other costs, such as credit insurance premiums, and other specified fees. See 32 C.F.R. 232.4.

<sup>27</sup> 32 C.F.R. 232.6.

<sup>28</sup> The act provides for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service. 50 U.S.C. App. 501 *et. seq.*

- Prohibits a creditor from using the title of a vehicle as security for the obligation involving the consumer credit with exceptions for depository institutions; and
- Prohibits a creditor from using a check to access a financial account of covered borrower except in connection with a consumer credit transaction with an MAPR consistent with federal regulations.<sup>29</sup>

Penalties and remedies are provided for covered borrowers, including enforcement provisions that permit a covered borrower to recover damages from a creditor who violates a requirement of the MLA.<sup>30</sup> Any credit agreement that fails to comply with the MLA regulations or contains one or more prohibited provisions under the regulations is void from the inception of the contract.<sup>31</sup>

### III. Effect of Proposed Changes:

**Section 1** authorizes the Office of Financial Regulation (OFR) to deny an application for a consumer finance license or take disciplinary action against a consumer finance lender for violating any provision of the Military Lending Act (MLA) or the federal regulations implementing the MLA in connection with a consumer finance loan made under ch. 516, F.S. (amending s. 516.07, F.S.). For example, ch. 516, F.S. currently prescribes the calculation of the Annual Percentage Rate (APR) or interest cap pursuant to Regulation Z. The rate cap for loans made to the servicemembers and their dependents is capped at 36 percent Military Annual Percentage Rate (MAPR). The MAPR is calculated pursuant to the MLA, which requires the inclusion of additional fees and insurance products that are not included under Regulation Z.

**Section 2** provides that a violation of any provision of the MLA or implementing regulations in connection with a title loan made under ch. 537, F.S., is a prohibited act, which would authorize the OFR to take disciplinary action against a title loan lender or any agent or employee of a title loan lender (amending s. 537.013, F.S.).

**Section 3** authorizes the OFR to take disciplinary action against a money services business, authorized vendor, or affiliated party that violates any provision of the MLA or the implementing regulations in connection with a deferred presentment transaction (payday loan) conducted under part IV of ch. 560, F.S. (amending s. 560.114, F.S.).

**Section 4** authorizes the OFR to conduct an investigation to determine whether a financial institution, a subsidiary, a service corporation, an affiliate, or other person is engaging in or has engaged in conduct that is a violation of any provision of the MLA or implementing regulations (amending s. 655.035, F.S.). If the OFR has reason to believe that a person has violated any such provision or regulation, the OFR may initiate a proceeding against such person in accordance with s. 655.033 (cease and desist orders), s. 655.034 (injunctive relief), s. 655.037 (removal of a financial institution affiliated party), or s. 655.041 (administrative fines and enforcement), F.S., of the Financial Institution Codes.

**Section 5** provides that this act applies to a consumer credit transaction or account for consumer credit established on or after October 3, 2016, except it does not apply to a credit card account

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<sup>29</sup> 32 C.F.R. 232.8.

<sup>30</sup> 32 C.F.R. 232.9.

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

exempted under 32 C.F.R. s. 232.13(c) until the exemption expires. The MLA implementing regulations under 32 C.F.R. part 232 became effective October 1, 2015; however, compliance is only required for consumer credit transactions began or established on or after October 3, 2016. A limited exemption is provided for credit card accounts that delays compliance until October 3, 2017, which may be extended by the DoD until October 3, 2018.<sup>32</sup>

**Section 6** provides this act takes effect October 3, 2016.

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

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

None.

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

None.

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

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

By authorizing the state regulator, the OFR, to enforce the Military Lending Act and implementing regulations, servicemembers and their dependents will be provided greater consumer protections in connection with consumer credit transactions in Florida.

Additionally, while a business must already meet the requirements of the act, under the bill a business could be subject to penalties under state law for violations.

##### **C. Government Sector Impact:**

According to the OFR, the Division of Consumer Finance would incur additional duties and responsibilities to enforce the MLA and would need two additional FTEs to absorb the added duties. Salaries and benefits for the two positions would total \$126,132.<sup>33</sup>

Any positive fiscal impact due to the ability of the OFR to enforce penalties, including fines, is indeterminate at this time.

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<sup>32</sup> 32 C.F.R. 232.13.

<sup>33</sup> Office of Financial Regulation (OFR), *SB 626 Agency Bill Analysis*, (Oct. 3, 2015) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 516.07, 537.013, and 560.114.

This bill creates section 655.035 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Banking and Insurance on November 17, 2015:**

In addition to issuing a cease and desist order, the CS also authorizes the OFR to seek injunctive relief, to remove a financial-institution-affiliated party, and to impose administrative fines against any financial institution, a subsidiary, a service corporation, an affiliate, or other person subject to the Financial Institutions Code that violates the MLA or the implementing regulations.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Gaetz

597-01293-16

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A bill to be entitled

An act relating to consumer credit; amending s. 516.07, F.S.; authorizing the Office of Financial Regulation to deny a license or take disciplinary action against a person who violates the Military Lending Act or the regulations adopted under that act in connection with a consumer finance loan under the Florida Consumer Finance Act; amending s. 537.013, F.S.; prohibiting a title loan lender or its agent or employee from violating the Military Lending Act or the regulations adopted under that act; amending s. 560.114, F.S.; authorizing the office to take disciplinary action or deny a license of a money services business, authorized vendor, or affiliated party in connection with a deferred presentment transaction for violating the Military Lending Act or the regulations adopted under that act; creating s. 655.035, F.S.; authorizing the office to conduct an investigation to determine whether a person is violating the Military Lending Act or the regulations adopted under that act; authorizing the office to seek specified remedies for such violations; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (q) is added to subsection (1) of section 516.07, Florida Statutes, to read:  
516.07 Grounds for denial of license or for disciplinary

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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action.—

(1) The following acts are violations of this chapter and constitute grounds for denial of an application for a license to make consumer finance loans and grounds for any of the disciplinary actions specified in subsection (2):

(q) Violating any provision of the Military Lending Act, 10 U.S.C. s. 987, or the regulations adopted under that act in 32 C.F.R. part 232, in connection with a consumer finance loan made under this chapter.

Section 2. Paragraph (o) is added to subsection (1) of section 537.013, Florida Statutes, to read:

537.013 Prohibited acts.—

(1) A title loan lender, or any agent or employee of a title loan lender, shall not:

(o) Violate any provision of the Military Lending Act, 10 U.S.C. s. 987, or the regulations adopted under that act in 32 C.F.R. part 232, in connection with a title loan made under this chapter.

Section 3. Paragraph (cc) is added to subsection (1) of section 560.114, Florida Statutes, to read:

560.114 Disciplinary actions; penalties.—

(1) The following actions by a money services business, authorized vendor, or affiliated party constitute grounds for the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or taking any other action within the authority of the office pursuant to this chapter:

(cc) Violating any provision of the Military Lending Act, 10 U.S.C. s. 987, or the regulations adopted under that act in

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59 32 C.F.R. part 232, in connection with a deferred presentment  
60 transaction conducted under part IV of this chapter.

61 Section 4. Section 655.035, Florida Statutes, is created to  
62 read:

63 655.035 Military lending.—Pursuant to s. 655.032, the  
64 office may conduct an investigation that it deems necessary to  
65 determine whether a financial institution, a subsidiary, a  
66 service corporation, an affiliate, or other person is engaging  
67 in or has engaged in conduct that is a violation of any  
68 provision of the Military Lending Act, 10 U.S.C. s. 987, or the  
69 regulations adopted under that act in 32 C.F.R. part 232. If the  
70 office has reason to believe that a person has violated any such  
71 provision or regulation, the office may initiate a proceeding  
72 against such person in accordance with s. 655.033, s. 655.034,  
73 s. 655.037, or s. 655.041.

74 Section 5. This act applies to a consumer credit  
75 transaction or account for consumer credit established on or  
76 after October 3, 2016, except it does not apply to a credit card  
77 account exempted under 32 C.F.R. s. 232.13(c) until the  
78 exemption expires.

79 Section 6. This act shall take effect October 3, 2016.

**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 Military and Veterans Affairs, Space, and Domestic Security

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BILL: CS/SJR 778

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Altman

SUBJECT: Homestead Tax Exemption/Spouses of Combat-related Disabled Veterans

DATE: December 1, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Hrdlicka	MS	Fav/CS
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SJR 778 proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older to carry over to the spouse of the veteran if the veteran predeceases his or her spouse. The spouse is eligible for the tax relief while he or she remains unmarried and uses the residence as his or her primary residence. The discount applied to the residence is determined by the percentage of the veteran's disability.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property 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 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 Florida Constitution prohibits the state from levying ad valorem taxes,<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 Florida 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 receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and 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>

### **Property Tax Exemptions for Ex-Servicemembers**

Florida grants a number of property tax exemptions for disabled ex-servicemembers. Most of these exemptions carryover to the benefit of the surviving spouse after the ex-servicemember’s death.

#### ***\$5,000 Ad Valorem Tax Exemption for Ex-Servicemembers and Surviving Spouses***

Up to \$5,000 of property of an ex-servicemember is exempt if the ex-servicemember was honorably discharged and is at least 10 percent disabled by misfortune or while serving during a period of wartime service.<sup>11</sup> This exemption carries over to the un-remarried surviving spouse if he or she had been married to the disabled ex-servicemember for at least 5 years on the date of the ex-servicemember’s death.<sup>12</sup>

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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 (Fla. 1973).

<sup>3</sup> *See* s. 192.001(2) 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> Section 196.24, F.S.

<sup>12</sup> *Id.*

***Disabled Veterans Confined to Wheelchairs and Surviving Spouses***

Homestead property of an ex-servicemember is totally exempt if the ex-servicemember was honorably discharged with a service-connected total disability, is receiving or has received special pecuniary assistance due to a disability requiring specially adapted housing, and is required to use a wheelchair for his or her transportation.<sup>13</sup> The exemption carries over to the benefit of the surviving spouse in the event the ex-servicemember predeceases his or her spouse.<sup>14</sup>

***Ad Valorem Tax Exemption for Surviving Spouses of Veterans Who Died from Service-Connected Causes***

Homestead of a surviving spouse of an ex-servicemember is exempt if the ex-servicemember died from service-connected causes while on active duty.<sup>15</sup>

***Total Homestead Exemption for Ex-Servicemembers and Surviving Spouses***

Homestead property of an ex-servicemember is exempt if the ex-servicemember was honorably discharged with a service-connected total and permanent disability.<sup>16</sup> If the totally and permanently disabled ex-servicemember predeceases his or her spouse, the exemption carries over to the benefit of the surviving spouse until the spouse remarries or disposes of the property.<sup>17</sup>

***Combat-Related Partial Ad Valorem Tax Exemption (Discount) for Ex-Servicemembers***

Homestead property of an ex-servicemember receives an ad valorem discount if the ex-servicemember was honorably discharged, 65 years or older, and disabled.<sup>18</sup> The discount percentage is equal to the veteran's percentage of disability, as determined by the U.S. Department of Veterans Affairs.<sup>19</sup> The discount is not currently provided to the surviving spouse upon the death of the disabled veteran.

The Revenue Estimating Conference (REC) has not yet provided an analysis for CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 Regular Session. The REC determined that in 2014, 6,595 veterans received the discount, which amounted to a statewide property value discount of \$336,648,499.<sup>20</sup> There are currently 793,907 veterans over the age of 65 residing in Florida.<sup>21</sup> The U.S. Department of Veterans Affairs

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<sup>13</sup> Section 196.091, F.S.

<sup>14</sup> Id.

<sup>15</sup> Section 196.081(4), F.S.

<sup>16</sup> Section 196.081, F.S.

<sup>17</sup> Id.

<sup>18</sup> Section 196.082, F.S.

<sup>19</sup> The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0-percent to 100-percent (in 10-percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation. The USDVA does not make a definitive determination if a disability is combat-related.

<sup>20</sup> Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*, February 5, 2015.

<sup>21</sup> United States Department of Veterans Affairs Office of the Actuary, Office of Policy and Planning, *Veteran Population* (Oct. 2014), available at [http://www.va.gov/vetdata/Veteran\\_Population.asp](http://www.va.gov/vetdata/Veteran_Population.asp) (last visited Nov. 24, 2015).

indicates that there were 184,741 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Federal Fiscal Year 2014.<sup>22</sup>

### III. Effect of Proposed Changes:

CS/SJR 778 proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older to carry over to the spouse of the veteran if the veteran predeceases his or her spouse. To be eligible for the discount, the spouse must remain unmarried and use the residence as his or her primary residence. The discount is transferrable to another residence if the spouse remains unmarried and uses the residence as his or her primary residence.

If approved by the voters in the general election held November 2016, or at an earlier special election specifically authorized by law for that purpose, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property tax roll.

### IV. Constitutional Issues:

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

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

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

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the Florida 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, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief

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<sup>22</sup> The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2014*, available at <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY14-11052015.pdf> (last visited Nov. 24, 2015).

purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”<sup>23</sup>

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be approximately \$135.97 per word, for a total publishing cost of approximately \$146,303.72.<sup>24</sup>

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not yet provided an analysis for CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 Regular Session. The REC determined that the resolution will reduce local governments’ revenues by \$200,000 in Fiscal Year 2018-2019, with a negative \$200,000 recurring impact on local governments.<sup>25</sup>

### B. Private Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, surviving spouses of certain veterans could receive property tax relief.

### C. Government Sector Impact:

Article XI, section 5(d) of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be

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<sup>23</sup> *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

<sup>24</sup> Email correspondence with Florida Department of State staff (Nov. 24, 2015) (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

<sup>25</sup> Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*, February 5, 2015.

approximately \$135.97 per word, for a total publishing cost of approximately \$146,303.72.<sup>26</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This resolution amends Article VII, section 6 of the Florida Constitution.

**IX. Additional Information:**

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

**CS by Military and Veterans Affairs, Space, and Domestic Security Committee on December 1, 2015:**

The CS makes the constitutional amendment effective January 1, 2017, which allows the discount to apply to the 2017 property tax rolls.

- 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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<sup>26</sup> Email correspondence with Florida Department of State staff (Nov. 24, 2015) (on file with Senate Military and Veterans Affairs, Space, and Domestic Security Committee).



102162

LEGISLATIVE ACTION

Senate

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. .  
. .  
. .  
. .

House

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The Committee on Military and Veterans Affairs, Space, and Domestic Security (Altman) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 128 and 129

insert:

ARTICLE XII

SCHEDULE

Ad valorem tax discount for spouses of deceased veterans who had permanent, combat-related disabilities.—The amendment to Section 6 of Article VII, relating to ad valorem tax discount for spouses of deceased veterans who had permanent, combat-



102162

11 related disabilities, and this section shall take effect January  
12 1, 2017.

13

14 ===== T I T L E   A M E N D M E N T =====

15 And the title is amended as follows:

16       Delete line 12

17 and insert:

18       unmarried and provide an effective date.

By Senator Altman

16-00088-16

2016778\_\_

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII of the State Constitution to authorize the discount on ad valorem taxes on homestead property which is received by certain veterans who have permanent, combat-related disabilities to carry over upon the death of the veteran to the benefit of a surviving spouse until the surviving spouse remarries or sells or otherwise disposes of the property and to specify that the discount is transferrable to another permanent residence if the surviving spouse remains unmarried.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 6 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.-

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district

Page 1 of 5

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

16-00088-16

2016778\_\_

levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or

Page 2 of 5

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

16-00088-16

2016778\_\_

59 both of the following additional homestead tax exemptions:

60 (1) An exemption not exceeding fifty thousand dollars to  
61 any person who has the legal or equitable title to real estate  
62 and maintains thereon the permanent residence of the owner and  
63 who has attained age sixty-five and whose household income, as  
64 defined by general law, does not exceed twenty thousand dollars;  
65 or

66 (2) An exemption equal to the assessed value of the  
67 property to any person who has the legal or equitable title to  
68 real estate with a just value less than two hundred and fifty  
69 thousand dollars and who has maintained thereon the permanent  
70 residence of the owner for not less than twenty-five years and  
71 who has attained age sixty-five and whose household income does  
72 not exceed the income limitation prescribed in paragraph (1).  
73

74 The general law must allow counties and municipalities to grant  
75 these additional exemptions, within the limits prescribed in  
76 this subsection, by ordinance adopted in the manner prescribed  
77 by general law, and must provide for the periodic adjustment of  
78 the income limitation prescribed in this subsection for changes  
79 in the cost of living.

80 (e) (1) Each veteran who is age 65 or older who is partially  
81 or totally permanently disabled shall receive a discount from  
82 the amount of the ad valorem tax otherwise owed on homestead  
83 property the veteran owns and resides in if the disability was  
84 combat related and the veteran was honorably discharged upon  
85 separation from military service. The discount shall be in a  
86 percentage equal to the percentage of the veteran's permanent,  
87 service-connected disability as determined by the United States

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00088-16

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88 Department of Veterans Affairs. To qualify for the discount  
89 granted by this subsection, an applicant must submit to the  
90 county property appraiser, by March 1, an official letter from  
91 the United States Department of Veterans Affairs stating the  
92 percentage of the veteran's service-connected disability and  
93 such evidence that reasonably identifies the disability as  
94 combat related and a copy of the veteran's honorable discharge.  
95 If the property appraiser denies the request for a discount, the  
96 appraiser must notify the applicant in writing of the reasons  
97 for the denial, and the veteran may reapply. The Legislature  
98 may, by general law, waive the annual application requirement in  
99 subsequent years. This subsection is self-executing and does not  
100 require implementing legislation.

101 (2) If a veteran who is receiving the discount described in  
102 paragraph (1) predeceases his or her spouse and if, upon the  
103 death of the veteran, the surviving spouse holds the legal or  
104 beneficial title to the homestead property and permanently  
105 resides thereon, the discount carries over to the benefit of the  
106 surviving spouse until he or she remarries or sells or otherwise  
107 disposes of the property. If the surviving spouse sells the  
108 property, a discount not to exceed the amount granted from the  
109 most recent ad valorem tax roll may be transferred to his or her  
110 new residence if the residence is used as his or her permanent  
111 residence and he or she does not remarry.

112 (f) By general law and subject to conditions and  
113 limitations specified therein, the Legislature may provide ad  
114 valorem tax relief equal to the total amount or a portion of the  
115 ad valorem tax otherwise owed on homestead property to the:

116 (1) Surviving spouse of a veteran who died from service-

Page 4 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00088-16

2016778

117 connected causes while on active duty as a member of the United  
118 States Armed Forces.

119 (2) Surviving spouse of a first responder who died in the  
120 line of duty.

121 (3) As used in this subsection and as further defined by  
122 general law, the term:

123 a. "First responder" means a law enforcement officer, a  
124 correctional officer, a firefighter, an emergency medical  
125 technician, or a paramedic.

126 b. "In the line of duty" means arising out of and in the  
127 actual performance of duty required by employment as a first  
128 responder.

129 BE IT FURTHER RESOLVED that the following statement be  
130 placed on the ballot:

131 CONSTITUTIONAL AMENDMENT

132 ARTICLE VII, SECTION 6

133 AD VALOREM TAX DISCOUNT FOR SPOUSES OF DECEASED VETERANS  
134 WHO HAD PERMANENT, COMBAT-RELATED DISABILITIES.—Proposing an  
135 amendment to the State Constitution to authorize the discount on  
136 ad valorem taxes on homestead property which is received by  
137 certain veterans who have permanent, combat-related disabilities  
138 to carry over upon the death of the veteran to the benefit of a  
139 surviving spouse until the surviving spouse remarries or sells  
140 or otherwise disposes of the property. The discount is  
141 transferrable to another permanent residence if the surviving  
142 spouse remains unmarried.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/1/15

Meeting Date

SB 778

Bill Number (if applicable)

Topic Relating to Homestead Tax Exemption/Spouses Amendment Barcode (if applicable)

Name Col. Mike Prendergast of combat-related disabled veterans

Job Title Executive Director

Address Suite 2105, The Capitol

Phone (850) 487-1533

Tallahassee FL 32399

City

State

Zip

Email exdir@fdva.state.fl.us

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Florida Dept. of Veterans' Affairs

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

12/1/15

Meeting Date

SJR 778

Bill Number (if applicable)

Topic Homestead Tax Exemption/spouses of combat related

Amendment Barcode (if applicable)

Name Martha Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275

Street

Phone 850/491-1945

Tallahassee FL

32302

Email marthacleaver@fapa.net

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Association of Property Appraisers, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**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 Military and Veterans Affairs, Space, and Domestic Security

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BILL: SB 816

INTRODUCER: Senator Altman

SUBJECT: Homestead Property Tax Discount for Disabled Veterans

DATE: December 1, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Hrdlicka	MS	<b>Favorable</b>
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

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**I. Summary:**

SB 816 is the implementing legislation for CS/SJR 778. The bill establishes in statute that the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older may carry over to the spouse of the veteran if the veteran predeceases his or her spouse. The spouse is eligible for the tax relief while he or she remains unmarried and uses the residence as his or her primary residence. The discount applied to the residence is determined by the percentage of the veteran’s disability.

This bill takes effect on the same date that CS/SJR 778, or a similar joint resolution, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property 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 property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property

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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.

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 Florida Constitution prohibits the state from levying ad valorem taxes,<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 Florida 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 receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and 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>

### **Property Tax Exemptions for Ex-Servicemembers**

Florida grants a number of property tax exemptions for disabled ex-servicemembers. Most of these exemptions carryover to the benefit of the surviving spouse after the ex-servicemember's death.

#### ***\$5,000 Ad Valorem Tax Exemption for Ex-Servicemembers and Surviving Spouses***

Up to \$5,000 of property of an ex-servicemember is exempt if the ex-servicemember was honorably discharged and is at least 10 percent disabled by misfortune or while serving during a period of wartime service.<sup>11</sup> This exemption carries over to the un-remarried surviving spouse if he or she had been married to the disabled ex-servicemember for at least 5 years on the date of the ex-servicemember's death.<sup>12</sup>

#### ***Disabled Veterans Confined to Wheelchairs and Surviving Spouses***

Homestead property of an ex-servicemember is totally exempt if the ex-servicemember was honorably discharged with a service-connected total disability, is receiving or has received special pecuniary assistance due to a disability requiring specially adapted housing, and is required to use a wheelchair for his or her transportation.<sup>13</sup> The exemption carries over to the

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1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>3</sup> See s. 192.001(2) 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> Section 196.24, F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 196.091, F.S.

benefit of the surviving spouse in the event the ex-servicemember predeceases his or her spouse.<sup>14</sup>

***Ad Valorem Tax Exemption for Surviving Spouses of Veterans Who Died from Service-Connected Causes***

Homestead of a surviving spouse of an ex-servicemember is exempt if the ex-servicemember died from service-connected causes while on active duty.<sup>15</sup>

***Total Homestead Exemption for Ex-Servicemembers and Surviving Spouses***

Homestead property of an ex-servicemember is exempt if the ex-servicemember was honorably discharged with a service-connected total and permanent disability.<sup>16</sup> If the totally and permanently disabled ex-servicemember predeceases his or her spouse, the exemption carries over to the benefit of the surviving spouse until the spouse remarries or disposes of the property.<sup>17</sup>

***Combat-Related Partial Ad Valorem Tax Exemption (Discount) for Ex-Servicemembers***

Homestead property of an ex-servicemember receives an ad valorem discount if the ex-servicemember was honorably discharged, 65 years or older, and disabled.<sup>18</sup> The discount percentage is equal to the veteran's percentage of disability, as determined by the U.S. Department of Veterans Affairs.<sup>19</sup> The discount is not currently provided to the surviving spouse upon the death of the disabled veteran.

The Revenue Estimating Conference (REC) has not yet provided an analysis for CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 Regular Session. The REC determined that in 2014, 6,595 veterans received the discount, which amounted to a statewide property value discount of \$336,648,499.<sup>20</sup> There are currently 793,907 veterans over the age of 65 residing in Florida.<sup>21</sup> The U.S. Department of Veterans Affairs indicates that there were 184,741 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Federal Fiscal Year 2014.<sup>22</sup>

<sup>14</sup> Id.

<sup>15</sup> Section 196.081(4), F.S.

<sup>16</sup> Section 196.081, F.S.

<sup>17</sup> Id.

<sup>18</sup> Section 196.082, F.S.

<sup>19</sup> The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0-percent to 100-percent (in 10-percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation. The USDVA does not make a definitive determination if a disability is combat-related.

<sup>20</sup> Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*, February 5, 2015.

<sup>21</sup> United States Department of Veterans Affairs Office of the Actuary, Office of Policy and Planning, *Veteran Population* (Oct. 2014), available at [http://www.va.gov/vetdata/Veteran\\_Population.asp](http://www.va.gov/vetdata/Veteran_Population.asp) (last visited Nov. 24, 2015).

<sup>22</sup> The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2014*, available at <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY14-11052015.pdf> (last visited Nov. 24, 2015).

### III. Effect of Proposed Changes:

SB 816 establishes in statute that the ad valorem tax exemption (discount) on homestead property for combat-disabled veterans age 65 or older may carry over to the spouse of the veteran if the veteran predeceases his or her spouse. The spouse is eligible for the tax relief while he or she remains unmarried and uses the residence as his or her primary residence. The discount applied to the residence is determined by the percentage of the veteran's disability.

This bill takes effect on the same date that CS/SJR 778, or a similar joint resolution, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property tax roll.<sup>23</sup>

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not yet provided an analysis for either SB 816 or its accompanying resolution CS/SJR 778; however, HJR 299 and SJR 910 are similar bills reviewed by the REC during the 2015 legislative session. The REC determined that the resolution will reduce local governments' revenues by \$200,000 in Fiscal Year 2018-2019, with a negative \$200,000 recurring impact on local governments.<sup>24</sup>

#### B. Private Sector Impact:

If the proposed constitutional amendment in CS/SJR 778 is approved by the electorate and implemented by the Legislature, surviving spouses of certain veterans could receive property tax relief.

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<sup>23</sup> FLA. CONST. art. XI, s. 5(e).

<sup>24</sup> Revenue Estimating Conference, *Spouses/Combat Disabled Vets Exemption: HJR 299 (companion to SJR 910)*. February 5, 2015.

C. Government Sector Impact:

There is no impact to state government. See Tax/Fee Issues.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill implements CS/SJR 778.

**VIII. Statutes Affected:**

This bill creates section 196.082 of the 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.

By Senator Altman

16-01034A-16

2016816\_\_

1 A bill to be entitled  
 2 An act relating to a homestead property tax discount  
 3 for disabled veterans; amending s. 196.082, F.S.;  
 4 providing for the transfer of a certain discount on ad  
 5 valorem taxes on homestead property to the surviving  
 6 spouse of a specified disabled veteran under certain  
 7 circumstances; providing for the transfer of the  
 8 discount by the surviving spouse to a new residence  
 9 under certain circumstances; providing a contingent  
 10 effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Present subsections (3) through (6) of section  
 15 196.082, Florida Statutes, are redesignated as subsections (4)  
 16 through (7), respectively, and a new subsection (3) is added to  
 17 that section, to read:

18 196.082 Discounts for disabled veterans.—

19 (3) If a veteran who is receiving the discount under this  
 20 section predeceases his or her spouse and if, upon the death of  
 21 the veteran, the surviving spouse holds the legal or beneficial  
 22 title to the homestead and permanently resides thereon as  
 23 specified in s. 196.031, the discount carries over to the  
 24 benefit of the surviving spouse until he or she remarries or  
 25 sells or otherwise disposes of the property. If the surviving  
 26 spouse sells the property, a discount not to exceed the amount  
 27 granted from the most recent ad valorem tax roll may be  
 28 transferred to his or her new residence if the residence is used  
 29 as his or her primary residence and he or she does not remarry.

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

16-01034A-16

2016816\_\_

30 Section 2. This act shall take effect on the same date that  
 31 SJR 778, or a similar joint resolution, is approved by the  
 32 electors at the general election to be held in November 2016 or  
 33 at an earlier special election specifically authorized by law  
 34 for that purpose.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Communications, Energy, and Public Utilities  
Environmental Preservation and Conservation  
Military and Veterans Affairs, Space, and  
Domestic Security  
Transportation

## SENATOR GREG EVERS

2nd District

November 17, 2015

Honorable Thad Altman, Chair  
Military and Veterans Affairs, Space, and Domestic Security  
215 Knott Building  
Tallahassee, FL 32399

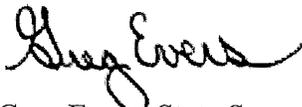
RE: Military and Veterans Affairs, Space, and Domestic Security Committee  
Tuesday, December 1, 2015

Dear Senator Altman:

Please excuse my absence from the Military and Veterans Affairs, Space, and Domestic Security Committee meeting on Tuesday, December 1, 2015. Due to the personal reasons, I will not be able to be in Tallahassee the week of December 1, 2015.

Your consideration of this request would be deeply appreciated.

Sincerely,



Greg Evers, State Senator  
District 2

Cc: Elizabeth Ryon

### REPLY TO:

- 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- 5234 Willing Street, Milton, FL 32570 (850) 564-1026 FAX: (850) 564-1170

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

# CourtSmart Tag Report

**Room:** LL 37

**Case No.:**

**Type:**

**Caption:** Senate Military and Veterans Affairs, Space, and Domestic Security Committee

**Judge:**

**Started:** 12/1/2015 1:14:00 PM

**Ends:** 12/1/2015 1:29:51 PM **Length:** 00:15:52

1:13:59 PM Chairman Altman comments and calls meeting to order  
1:14:13 PM CAA Lois Graham calls the roll and announces a quorum  
1:14:26 PM Chairman Altman with opening comments  
1:14:35 PM Chairman Altman recognizes Senator Gaetz to explain SB 626  
1:14:47 PM Chairman Altman announces that Senator Evers is excused  
1:15:55 PM Senator Gaetz explains the bill  
1:16:45 PM Senator Sachs asks a question  
1:17:16 PM Senator Gaetz responds  
1:17:36 PM Senator Sachs with follow-up  
1:18:19 PM Senator Gaetz with answer  
1:18:33 PM Chairman Altman asks for questions/comments/appearance cards  
1:18:46 PM Senator Gibson with comments  
1:19:49 PM Senator Gaetz with response  
1:20:11 PM Chairman Altman with comments  
1:20:20 PM CAA Graham calls roll on SB 626  
1:20:28 PM SB 626 is reported favorably  
1:20:36 PM Chairman with comments thanking Senator Gaetz  
1:21:01 PM Chairman moves to Tab 2 - SJR 778  
1:21:11 PM Relinquishes chair to Vice-Chair Gibson  
1:21:17 PM Senator Gibson calls for explanation of SJR 778  
1:21:22 PM Senator Altman explains the bill  
1:21:54 PM Vice-Chairman Gibson introduces amendment 102162  
1:22:04 PM Senator Altman explains amendment  
1:22:14 PM Vice-Chair Gibson calls for questions/debate on amendment  
1:22:45 PM Senator Sachs with questions on amended bill  
1:23:24 PM Senator Altman answers question  
1:24:43 PM Senator Sachs with follow-up  
1:25:22 PM Senator Altman with response  
1:25:59 PM Vice-Chairman Gibson with comments/question  
1:26:10 PM Senator Altman responds  
1:26:16 PM Vice-Chairman Gibson with comments-asks for debate  
1:26:26 PM Vice Chairman recognizes appearance cards  
1:26:43 PM Colonel Mike Prendergast, Executive Director, Florida Veterans' Affairs, waives in support  
1:26:47 PM Martha Cleaver, Florida Association of Property Appraisers, Inc., waives in support  
1:26:56 PM Vice-Chairman Gibson calls for debate  
1:26:59 PM Senator Altman waives closing  
1:27:05 PM CAA Graham calls roll on SJR 778  
1:27:13 PM SJR 778 is reported favorably  
1:27:32 PM Vice-Chairman Gibson recognizes Senator Altman to explain SJR 816  
1:27:46 PM Senator Altman explains bill

**1:28:28 PM** Vice-Chair Gibson asks for questions/debate?  
**1:28:53 PM** Senator Altman waives closing  
**1:28:58 PM** CAA Graham calls roll on SJR 816  
**1:29:05 PM** SJR 816 is reported favorably  
**1:29:16 PM** Vice-Chairman Gibson relinquishes chair to Chairman Altman  
**1:29:23 PM** Chairman Altman with comments - Senator Stargel moves to rise  
**1:29:51 PM** Meeting adjourned