

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2014

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee and Senator Futch

SUBJECT: The Additional Homestead Exemption for Persons 65 and Older

DATE: February 19, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CA	Favorable/CS
2.	_____	_____	FT	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS revises the requirements with respect to the taxpayer's statement of household income and supporting documents required to obtain the additional homestead exemption for persons 65 and older in counties and municipalities that grant the exemption. This bill also provides for penalties and a lien on property for taxpayers who improperly take this exemption.

This CS amends s. 196.075 of the Florida Statutes

II. Present Situation:

Florida Constitutional Provisions on Property Taxation

Article VII, s. 4 of the State Constitution requires that all property be assessed at its just value for ad valorem tax purposes. Just value has been interpreted to mean fair market value. Section 4 provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or totally exempted.

Article VII, s. 4(c) of the State Constitution, provides for a homestead property assessment increase limitation. Annual increases in homestead property values is limited to 3 percent or the Consumer Price Index percentage, whichever is lower, not to exceed just value. If there is a change in ownership, the property is to be assessed at its just value on the following January 1. The value of changes, additions, reductions or improvements to the homestead property is assessed as provided by general law.

Article VII, s. 3 of the Florida Constitution, provides authority for the following property tax exemptions:

- All property owned by a municipality and used exclusively by it for municipal or public purposes;
- Portions of property used predominantly for educational, literary, scientific, religious or charitable purposes, as provided in general law;
- Property owned by a widow or widower or person who is blind or totally and permanently disabled, not less than five hundred dollars, as provided in general law;
- Property used for community and economic development, by local option and as defined by general law;
- Renewable energy source devices and real property on which the device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years; and
- Historic properties, by local option and as defined by general law.

Homestead Exemption

Article VII, s. 6 of the Florida Constitution authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another legally or naturally dependent upon the owner. The value of the homestead exemption is currently \$25,000 of the assessed value of the real estate.

Additional Homestead Exemption

In November 1998, the electors of Florida approved Amendment 3, to the Florida Constitution. This amendment created subsection (f), of Section 6, of Article VII, of the Florida Constitution, which provides:

"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 an additional homestead tax exemption not exceeding twenty-five thousand dollars to any person who has the legal or equitable title to real estate . . . and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living."

Pursuant to the authority provided in Section 6(f), Article VII, of the Florida Constitution, subsection (2) of s. 196.075, F.S., allows both counties and municipalities, through adoption of an ordinance, to each grant an additional homestead tax exemption of up to \$25,000 to resident homeowners who have legal or equitable title to the real estate who are at least 65 years of age and whose household income does not exceed \$20,000.

Subsection (1) defines "household" to exclude persons boarding or renting a portion of a dwelling. Persons living together in a room or group of rooms as a housing unit meet the definition of "household." Marital or relational status is not a factor. Accordingly, all

"household" members' income is considered. "Household income" is defined to mean the adjusted gross income, as defined in s. 62 of the U.S. Internal Revenue Code, of all members of a household.

Subsection (3) provides that beginning January 1, 2001, the \$20,000 income limitation must be adjusted annually on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer price index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

Subsection (4) sets forth the requirements for counties and municipalities to follow when establishing, by ordinance, any additional homestead exemption. The ordinance must:

- be adopted pursuant to the procedures for adoption of a non-emergency ordinance;
- specify that the exemption applies only to taxes levied by the unit of government granting the exemption; and, unless otherwise specified, such exemption will apply to all tax levies of the county or municipality granting the exemption, including dependent special districts and municipal service taxing units;
- specify the amount of the exemption, which cannot exceed \$25,000, and if the unit of government granting the exemption specifies a different exemption amount for dependent special districts or municipal service taxing units, the exemption amount must be uniform in all dependent special districts or municipal service taxing units within the county or municipality;
- require a taxpayer claiming the exemption to annually submit to the property appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue.

Subsection (5) provides that the Department of Revenue must require by rule that the filing of such a sworn statement be supported by copies of federal income tax returns for the prior year, if any; wage and earnings statements (W-2 forms), if any; and other documents it deems necessary, for each member of the household by June 1. This gives an applicant taxpayer who submits his or her sworn statement of household income on March 1 two months (until June 1) to provide the necessary supporting documentation.

Subsection (6) requires that the board of county commissioners or municipal governing authority notify the property appraiser of the adoption of such an ordinance no later than December 1 of the year prior to the year the exemption takes effect. If the ordinance is repealed, the board of county commissioners or municipal governing authority must notify the property appraiser no later than December 1 of the year prior to the year the exemption expires.

Subsection (7) provides that persons entitled to the homestead exemption in s. 196.031, F.S., may apply for and receive an additional exemption as provided in this section, and that receipt of the additional exemption is subject to the provisions of s. 196.131 and s. 196.161, F.S.

Subsection (8) provides that if title is held jointly with right of survivorship, the person residing on the property, and otherwise qualifying, may receive the entire amount of the additional homestead exemption.

III. Effect of Proposed Changes:

Section 1 amends s. 196.075(5), F.S., to revise requirements relating to a taxpayer's statement of household income and supporting documents. The subsection is amended to delete the due date for submitting supporting information relating to household income, and to specify that the submission of documentation is "for inspection by the property appraiser." In addition, the subsection is amended to add to the list of supporting documentation a copy of "any request for an extension of time to file income tax returns."

The subsection is amended to require a taxpayer's sworn statement attesting the accuracy of documents provided to the property appraiser to grant permission to allow review of the documents if requested by the property appraiser. Submission of supporting documentation is not required for the renewal of an exemption unless the property appraiser requests such documentation. Once the documents have been inspected by the property appraiser, they must be returned to the taxpayer or otherwise destroyed. The subsection is further amended to authorize the property appraiser to generate random audits of the taxpayers' sworn statements to ensure the accuracy of the household income reported and to provide that if selected for an audit, a taxpayer must execute IRS Form 8821 or 4506 to allow release of tax information to the property appraiser's office. All such reviews must be completed on or before June 1. Finally, current language prohibiting a property appraiser from granting an exemption without the required documentation is amended to prohibit a property appraiser from granting "or renewing" an exemption if the required documentation requested is not provided.

A new subsection (9) is added to s. 196.075, F.S., to provide that upon a determination by the property appraiser that, for any year within the immediately preceding 10 years, a person who was not entitled to the additional homestead exemption under this section was granted such exemption, the property appraiser must serve upon such person a notice of intent to record a tax lien against any property owned by such person in the county. Any property in the state owned by such person is subject to all the unpaid taxes on the property receiving the exemption, plus a penalty of 50 percent on such unpaid taxes for each year and 15 percent interest per annum on such unpaid taxes. However, if such exemption was improperly granted as a result of a clerical mistake or omission by the property appraiser, the person improperly receiving the exemption would not be assessed any penalty and interest. Before any lien is filed, the person notified under this subsection must be given 30 days to pay the taxes, penalties, and interest. Liens imposed under this section are subject to the procedures and provisions of s. 196.161(3), F.S.

Section 2 provides that the CS will become effective January 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
