

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

BILL: SPB 7032

INTRODUCER: For consideration by the Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Homestead Property Tax Exemptions

DATE: March 19, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ryon</u>	<u>Ryon</u>	_____	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SPB 7032 removes the requirement that a veteran must have been a resident of Florida at the time the veteran entered the military to be eligible for the property tax discount available to veterans with a combat-related disability. This change is consistent with the adoption of Amendment 2 during the 2012 General Election. In the November 2012 General Election, Florida voters approved Amendment 2 to expand the availability of the property tax discount on the homesteads of veterans who became disabled as the result of a combat injury to include those who were not Florida residents when they entered the military.

The bill also further refines the required evidence a veteran must provide to be eligible for the combat disabled property tax discount. The bill requires a veteran applying for the property tax discount to provide proof to the property appraiser that:

- The veteran is a Purple Heart medal recipient; or
- The veteran’s disability is directly related to an injury, wound, or condition sustained through combat.

The bill defines the term “combat” for purposes of determining eligibility for the property tax discount and requires a veteran applying for the discount who is not a Purple Heart medal recipient to provide a sworn statement attesting that the veteran has a service-connected disability that is directly related to combat. The bill provides examples of proof which may evidence a combat-related disability and provides that that the diagnosis of a presumptive disease recognized by the USDVA does not in itself constitute evidence of a combat-related disability.

The bill substantially amends section 196.082 of the Florida Statutes.

II. Present Situation:

Exemptions and Property Classifications

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.¹ However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.² Available exemptions include homestead exemptions and exemptions for property used for education, religious, or charitable purposes.³

Homestead Exemption

Every person who maintains his or her permanent residence⁴ on property to which he or she holds legal and equitable title is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies, including school districts.⁵ An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.⁶

Additional Discounts for Ex-Service Members

In recognition of their service and sacrifice for our country the State of Florida has granted a number of ad valorem tax exemptions for ex-service members.

Total Ad Valorem Tax Exemption for Ex-Service Members

Section 196.081(1), F.S., provides that:

Any real estate that is owned and used as a homestead by a veteran who was honorably discharged with a service-connected total and permanent disability and for whom a letter from the United States Government or United States Department of Veterans or its predecessor has been issued certifying that the veteran is totally and permanently disabled is exempt from taxation, [provided] the veteran is a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or . . . on January 1 of the year the veteran died.

¹ Fla. Const. Art. VII, s. 4.

² See s. 196.031, F.S.

³ Fla. Const. Art. VII, ss. 3 and 6.

⁴ Pursuant to s. 196.012(18), F.S., “permanent residence” means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. Intention to establish a permanent residence in Florida is a factual determination to be made, in the first instance, by the property appraiser.

⁵ Fla. Const. Art. VII, s. 6.

⁶ *Ibid.*

Section 196.091(1), F.S., further provides that:

Any real estate used and owned as a homestead by an ex-service member who has been honorably discharged with a service-connected total disability and who has a certificate from the United States Government or United States Department of Veterans Affairs or its predecessor, or its successors, certifying that the ex-service member is receiving or has received special pecuniary assistance due to disability requiring specially adapted housing and required to use a wheelchair for his or her transportation is exempt from taxation.

\$5,000 Ad Valorem Tax Exemption for Ex-Service Members

Section 196.24, F.S., provides a \$5,000 property tax exemption to any ex-service member who is a bona fide resident of the state and who has a service-connected disability to a degree of 10 percent or more. This exemption also applies to the un-remarried surviving spouse of a disabled ex-service member who had been married to such ex-service member for at least 5 years on the date of the ex-service member's death.

Property Tax Discount for Veterans with a Combat-related Disability

Section 196.082, F.S., provides a discount on ad valorem taxes owed on homestead property for veterans age 65 or older who have a disability that is combat related. The discount is commensurate with the veteran's service-connected disability rating from the United States Department of Veterans Affairs (USDVA).

Property Tax Discount for Veterans with a Combat-related Disability

Article VII, section 6(e) of the Florida Constitution, grants a discount on ad valorem taxes owed on homestead property for veterans age 65 or older who have a disability that is combat related. In order to qualify for the discount, the veteran must submit to the county property appraiser, by March 1, the following:

- An official letter from the USDVA stating the percentage of the veteran's service-connected disability;
- Evidence that reasonably identifies the disability as combat related; and
- A copy of the veteran's honorable discharge.⁷

The property tax discount percentage is equal to the veteran's service-connected disability percentage, as determined by the USDVA. Although the Constitution requires the veteran's disability be combat-related in order to qualify, the total service-connected disability percentage is used to determine the discount amount even though one or more combat disabilities may be only part of the veteran's total compensable disabilities.

If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for denial, and the veteran may reapply.

⁷ See also s. 196.082, F.S.

The combat-disabled property tax discount was enacted in November 2006 with the adoption of Constitutional Amendment 7 by Florida voters. This constitutional provision was subsequently amended during the 2012 General Election with the adoption of Amendment 2.

Amendment 2: 2012 General Election

In the November 2012 General Election, Florida voters approved Amendment 2 which expanded the availability of the combat-disabled property tax discount to include those otherwise qualified veterans who were not Florida residents when they entered the military. Prior to the adoption of Amendment 2, an otherwise qualified veteran must have resided in Florida at the time the veteran entered the service to be eligible for the property tax discount. Amendment 2 took effect January 1, 2013.

In 2010, prior to the removal of the residency requirement, 1,206 veterans received the combat-disabled property tax discount, which amounted to a statewide property value discount of \$28,749,630. During that time, the average individual discount in taxable value was \$23,839.⁸

The removal of the residency requirement is expected to significantly expand the number of veterans eligible for the combat-disabled property tax discount. However, the estimates of the impact of Amendment 2 vary. The Revenue Estimating Conference estimated in February 2011 that approximately 40 percent of the 77,535 veterans in Florida age 65 or older receiving compensation for service related conditions have a combat-related disability.⁹ The Florida Department of Veterans Affairs estimated that 6,000 veterans are eligible to apply as a result of the adoption of Amendment 2.¹⁰

Evidence of a Combat-related Disability

The Constitution requires a veteran applying for the combat disabled property tax discount to provide to the county property appraiser, in addition to an official USDVA letter stating the percentage of the service-connected disability, evidence that reasonably identifies the disability as combat-related. While the USDVA provides an official determination as to whether a disability is service-connected, it does not make a determination as to whether the service-connected disability is a result of combat. As such, there is no standard, across-the-board evidence that proves a service-connected disability is related to combat. Furthermore, section 196.082, F.S., the corresponding Florida Statutes for the constitutional provision, does not provide guidance on acceptable evidence that would suffice as proof that a disability is combat-related for the purposes of qualifying for the property tax discount. As such, each county property appraiser has the discretion to determine what constitutes reasonable evidence of a combat-related disability. This allows for great subjectivity on the part of the property appraiser and the standards of eligibility vary from county to county.

⁸ Revenue Estimating Conference, *Disabled Veterans' Property Tax Discount SJR 592 & HJR 439* (March 11, 2011)

⁹ *Id.* This estimate does not take into account homeownership.

¹⁰ Florida Department of Veterans' Affairs. Frequently Asked Questions. Constitutional Amendment 2. January 1, 2013. On file with the Military and Veterans Affairs, Space, and Domestic Security.

Disability Compensation Rating for Veterans

The USDVA is the federal agency tasked with making the official determination of the existence of a service-connected disability. Veterans who have been determined by the USDVA to have a service-connected disability are eligible for monthly disability compensation. Disability compensation is a monetary benefit paid by the USDVA to veterans who are disabled by an injury or illness that was incurred or aggravated during active military service. These disabilities are considered to be service-connected. Monthly disability compensation varies with the degree of disability and the number of dependents of a veteran. The USDVA assigns a veteran a disability rating in ten percent increments from 10-percent-100-percent. A disability rating of 100-percent is considered a total and permanent service-connected disability. Compensation may also be paid for post-service disabilities that are considered related or secondary to disabilities occurring in service and for disabilities presumed to be related to circumstances of military service, even though they may arise after service.¹¹

The USDVA assumes that certain diseases can be related to a veteran's qualifying military service. These are known as "presumptive diseases." For the purposes of disability compensation, the USDVA presumes that veterans were exposed to Agent Orange¹² or other herbicides if they served:

- In Vietnam anytime between January 9, 1962 and May 7, 1975; or
- In or near the Korean demilitarized zone anytime between April 1, 1968 and August 31, 1971.

These veterans do not need to prove that they were exposed to Agent Orange or other herbicides to qualify for disability compensation for diseases related to Agent Orange exposure.¹³

III. Effect of Proposed Changes:

The bill amends s. 196.082, F.S., to remove the requirement that a veteran must have been a resident of Florida at the time the veteran entered the military to be eligible for the property tax discount available to veterans with a combat-related disability. This change is consistent with the adoption of Amendment 2 during the 2012 General Election.

The bill also further refines the required evidence a veteran must provide to be eligible for the property tax discount. The bill requires a veteran applying for the property tax discount to provide proof to the property appraiser that:

- The veteran is a Purple Heart medal recipient; or
- The veteran's disability is directly related to an injury, wound, or condition sustained through combat.

¹¹ Federal Benefits for Veterans, Dependents and Survivors, Chapter 2 Service-Connected Disabilities, Disability Compensation, http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp, last viewed March 18, 2013.

¹² Agent Orange is a blend of tactical herbicides the U.S. military sprayed from 1962 to 1971 during Operation Ranch Hand in the Vietnam War to remove trees and dense tropical foliage that provided enemy cover.

¹³ USDVA. Disability Compensation for Agent Orange Diseases. Available at:<http://www.publichealth.va.gov/exposures/agentorange/disability-compensation.asp>

The bill requires a veteran applying for the discount who is not a Purple Heart medal recipient to provide a sworn statement attesting that the veteran has a service-connected disability that is directly related to combat.

The bill defines the term “combat” to mean “active, armed fighting with enemy forces while under threat of immediate physical harm” for the purpose of determining eligibility for the property tax discount.

The bill also provides that examples of proof may include, but are not limited to:

- Pay records showing combat-related pay;
- Medical records showing the date the injury, wound, or condition sustained;
- Service records showing deployment to a combat zone; or
- Other official documentation that demonstrates a direct link to combat.

Additionally, the bill provides that the diagnosis of a presumptive disease recognized by the USDVA does not in itself constitute evidence of a combat-related disability. To be eligible for the discount, a veteran must provide proof that the disease is directly related to combat.

The bill provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill amends s. 196.082, F.S., relating to the residency requirement for veterans applying for the combat disabled property tax discount. This change is consistent with the adoption of Constitutional Amendment 2 during the 2012 General Election.

The bill also amends s. 196.082, F.S., to further refine the required evidence a veteran must provide to be eligible for the combat disabled property tax discount provided in Article VII, section 6(e) of the Florida Constitution.

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

The further refined eligibility requirements outlined in the bill may impact the number of veterans eligible for the property tax discount. Veterans who were previously eligible for the property tax discount may not meet the eligibility requirements outlined in the bill.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

None.

B. Amendments:

None.