

**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 Community Affairs

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**BILL:** CS/SB 160

**INTRODUCER:** Community Affairs Committee and Senator Gaetz

**SUBJECT:** Ad Valorem Tax Exemption for Deployed Servicemembers

**DATE:** October 19, 2015      **REVISED:** \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	<b>Fav/CS</b>
2.			FT	
3.			FP	

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

**I. Summary:**

CS/SB 160 provides 11 new designated operations for which deployed servicemembers may qualify for an ad valorem tax exemption and removes one operation for which the time to qualify for exemption has expired. A servicemember may receive the exemption on homestead property for the portion of the preceding calendar year which the servicemember was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of statutorily-identified military operations.

The bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016. Even if an application has not been timely filed by June 1, 2016, the bill allows a property appraiser to grant the exemption under certain circumstances and provides for the ability to petition for review by a value adjustment board (VAB) without paying the associated filing fee.

The bill also provides refund procedures for servicemembers who were on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years.

**II. Present Situation:**

**Property Valuation in Florida**

Florida law provides a number of options to reduce property tax liability. Article VII, section 2 of the Florida Constitution provides for uniform ad valorem taxation, stating that “all ad valorem taxation shall be at a uniform rate within each taxing unit.”<sup>1</sup> The property tax burden for an

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<sup>1</sup> FLA. CONST. art. VII, s. 2.

owner of any particular piece of real estate will depend on the property's just value, its assessed value, and whether the property benefits from any tax exemptions or assessment limitations.

### ***Just Value***

Article VII, section 4 of the Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value or what a willing buyer would pay a willing seller for the property in an arms-length transaction.<sup>2</sup>

### ***Assessed Value***

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>3</sup> Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of its character or use.<sup>4</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>5</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>6</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 or older.<sup>7</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>8</sup> Certain working waterfront property is assessed based upon the property's current use.<sup>9</sup>

### ***Taxable Value***

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes. Such exemptions include, but are not limited to, homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.<sup>10</sup>

### ***Property Tax Exemptions for Homesteads***

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>11</sup>

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<sup>2</sup> 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> The constitutional provisions in Art. VII, section 4 of the Florida Constitution are implemented in Part II of ch. 193, F.S.

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

<sup>5</sup> FLA. CONST. art. VII, s. 4(b).

<sup>6</sup> FLA. CONST. art. VII, s. 4(e).

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

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

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

<sup>10</sup> FLA. CONST. art. VII, ss. 3 and 6.

<sup>11</sup> *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); See also *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including levies by school districts. 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 school districts.

### **Ad Valorem Exemption for Deployed Servicemembers**

Article VII, section 3(g) of the Florida Constitution extends the homestead exemption to members of the military who were deployed outside of the United States “in support of military operations designated by the legislature.” Section 196.173, F.S., implements the ad valorem tax exemption for homestead property owned by a military servicemember<sup>12</sup> deployed outside of the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.<sup>13</sup>

#### ***Eligible Military Operations***

The exemption is currently available to servicemembers who had a qualifying deployment in support of:

- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001;
- Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010;
- Operation New Dawn, which began September 1, 2010, and ended on December 15, 2011; or
- Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011.<sup>14</sup>

#### ***Annual Report of All Known and Unclassified Military Operations***

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.<sup>15</sup>

To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and

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<sup>12</sup> The term “servicemember” is defined as a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard. See s. 196.173(7), F.S.

<sup>13</sup> Section 196.173(4), F.S.

<sup>14</sup> Section 196.173(2), F.S.

<sup>15</sup> Section 196.173(3), F.S.

- The date each military operation terminated, unless the operation is ongoing.<sup>16</sup>

### ***Exemption Application***

A servicemember who seeks to claim the tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment.<sup>17</sup> The application for the exemption must be made on a form prescribed by the Department of Revenue and furnished by the property appraiser. The servicemember must provide with the application:

- Proof of a qualifying deployment;
- The dates of the qualifying deployment; and
- Other information necessary to verify eligibility for and the amount of the exemption.

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later.<sup>18</sup> If a servicemember's application is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board along with the procedures for filing such appeal.<sup>19</sup>

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

**Section 1** amends s. 196.173, F.S., to add 11 unclassified military operations for which deployed servicemembers may qualify for the exemption. These 11 operations are identified in the statutorily required report submitted to the Legislature by the Department of Military Affairs<sup>20</sup> and include the following operations:

- Operation Joint Guardian, which began on June 12, 1999;
- Operation Octave Shield, which began in 2000;
- Operation Trans-Sahara Counterterrorism Partnership, which began in June 2005;
- Operation Nomad Shadow, which began in 2007;
- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Objective Voice, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation Copper Dune, which began in 2010;
- Operation Observant Compass, which began in October 2011;
- Operation Juniper Shield, which began in 2013; and
- Operation Inherent Resolve, which began on August 8, 2014.

The bill removes Operation Iraqi Freedom from the list of qualifying operations because the time for claiming an exemption for the applicable tax rolls has expired.

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<sup>16</sup> *Id.*

<sup>17</sup> Section 196.173(5)(a), F.S.

<sup>18</sup> Section 196.173(6), F.S.

<sup>19</sup> Sections 194.015 and 194.011, F.S.

<sup>20</sup> State of Florida Department of Military Affairs Office of the Adjutant General, *Named Operations Report* (February 17, 2015).

**Section 2** provides an extension of the application deadline for qualifying deployments during the 2014 and 2015 calendar years. The bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016.

Additionally, the bill specifies that a property appraiser may grant the exemption to an otherwise qualifying applicant who fails to meet the June 1, 2016, deadline, under the following conditions:

- The applicant files on or before the 25<sup>th</sup> day after the mailing by the property appraiser during the 2016 calendar year;
- The applicant is qualified under the exemption; and
- The applicant produces sufficient evidence to demonstrate that they were unable to apply in a timely manner.

Furthermore, the bill provides an opportunity for review by a VAB, if the applicant files a petition on or before the 25th day following the mailing by the property appraiser of the notices required under s. 194.011(1), F.S., and demonstrates extenuating circumstances that warrant granting the exemption. Payment of the filing fee is waived.

The bill also provides that if the number of days that a servicemember was on qualifying deployments in the 2014 and 2015 calendar years exceeds 365 days, the servicemember may receive a refund of taxes paid for the 2015 tax year. The amount of the 2015 tax year refund is equal to the number of days in excess of 365 that the servicemember was on qualifying deployments in the 2014 and 2015 calendar years divided by 365.

**Section 3** provides that the bill is effective upon becoming law and first applies to ad valorem tax rolls for 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:**

During the 2015 session, the Revenue Estimating Conference determined that a similar bill, CS/SB 7052, would have reduced local governments' revenues by \$200,000 annually.<sup>21</sup>

**B. Private Sector Impact:**

If the bill becomes law, servicemembers deployed to one of the aforementioned military operations may receive property tax relief.

**C. Government Sector Impact:**

The bill provides additional duties to county property appraisers and VABs, which must consider servicemembers' applications for exemption that would otherwise not have met the filing deadline. The bill may also require a tax collector to issue a refund to a servicemember if the servicemember was on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 196.173 of the Florida Statutes.

This bill creates an undesignated section of the Florida law.

**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 Community Affairs on October 20, 2015:**

Provides an extension of the application deadline for qualifying deployments during the 2014 and 2015 calendar years, rather than the 2014 calendar year only. Similarly, the bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016.

Furthermore, the bill provides refund procedures for servicemembers who were on

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<sup>21</sup> Revenue Estimating Conference, *Deployed Service Members Exemptions, Proposed Language*, (March 6, 2015) available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/\\_pdf/page230-232.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page230-232.pdf) (last visited September 18, 2015).

qualifying deployments for more than 365 days during the 2014 and 2015 calendar years. The bill also provides that the bill first applies to ad valorem tax rolls for 2016.

**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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