

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 Finance and Tax

BILL: CS/CS/SJR 778

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

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

DATE: January 12, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SJR 778 proposes an amendment to the Florida Constitution to allow the ad valorem tax discount on homestead property owned by combat-disabled veterans age 65 or older to carry over to the spouse if the veteran predeceases his or her spouse. The spouse is eligible for the discount while he or she remains unmarried and permanently resides on the property. If the spouse sells the property, a discount not to exceed the dollar amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence if it is used as his or her permanent residence and he or she does not remarry.

The 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.

The Revenue Estimating Conference has analyzed similar legislation (HJR 811 (2016)) and determined that it has an indeterminate impact because it requires voter approval. If approved by the voters, local property taxes will decrease by \$2 million, beginning in Fiscal Year 2017-2018, with a \$2 million recurring, negative impact. By Fiscal Year 2020-2021, the recurring, negative impact increases to \$3.5 million.

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.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ 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,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ 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;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Property Tax Exemptions for Ex-Servicemembers

There are currently 793,907 veterans over the age of 65 residing in Florida.¹¹ 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 2014.¹²

¹ 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.

² 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).

³ See s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ 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 (last visited Nov. 24, 2015).

¹² The USDVA provides data in 20-year increments; there is no data available that provides the number of veterans aged 65 and older that receive disability compensation. U.S. Department of Veterans Affairs, Veterans Benefits Administration,

Florida grants a number of property tax exemptions for disabled ex-servicemembers. Most of these exemptions carry over 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 is a bona fide resident of the state, was discharged under honorable conditions, and has been disabled to a degree of 10 percent or more by misfortune or while serving during a period of wartime service.¹³ 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 five years on the date of the ex-servicemember's death.¹⁴

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.¹⁵ The exemption carries over to the benefit of the surviving spouse in the event the ex-servicemember predeceases his or her spouse, until the spouse no longer resides on the property, remarries or otherwise disposes of the property.¹⁶

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

Homestead property of a surviving spouse of an ex-servicemember is exempt if the ex-servicemember died from service-connected causes while on active duty.¹⁷

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.¹⁸ 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 no longer resides on the property, remarries or disposes of the property.¹⁹

Combat-Related Partial Ad Valorem Tax Discount for Ex-Servicemembers

Homestead property of an ex-servicemember receives an ad valorem discount if the ex-servicemember was honorably discharged, is 65 years or older, is disabled, and the disability is

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).

¹³ Section 196.24, F.S.

¹⁴ *Id.*

¹⁵ Section 196.091, F.S.

¹⁶ *Id.*

¹⁷ Section 196.081(4), F.S.

¹⁸ Section 196.081(1), F.S.

¹⁹ Section 196.081(3), F.S.

combat-related.²⁰ The discount percentage is equal to the veteran's percentage of disability, as determined by the U.S. Department of Veterans Affairs.²¹ The discount is not currently provided to the surviving spouse upon the death of the disabled veteran.

III. Effect of Proposed Changes:

CS/CS/SJR 778 proposes an amendment to Article VII, section 6 of the Florida Constitution to allow the ad valorem tax discount on homestead property owned by combat-disabled veterans age 65 or older to carry over to the spouse 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 permanent residence. The discount is transferable to another residence if the spouse remains unmarried and uses the new residence as his or her permanent residence. The transferred discount may not exceed the dollar amount granted on the most recent ad valorem tax roll.

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

²⁰ Section 196.082, F.S.

²¹ 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 determine whether a disability is combat-related.

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 purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²²

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 on the first Tuesday after the first Monday in January following the election, or on such other date specified in the amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has analyzed similar legislation (HJR 811 (2016)) and determined that it has an indeterminate impact because it requires voter approval. If approved by the voters, local property taxes will decrease by \$2 million, beginning in Fiscal Year 2017-2018, with a \$2 million recurring, negative impact. By Fiscal Year 2020-2021, the recurring, negative impact increases to \$3.5 million.²³

B. Private Sector Impact:

If the proposed amendment is approved by the electorate, surviving spouses of certain veterans will receive property tax relief.

C. Government Sector Impact:

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 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 \$146,303.72.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²² *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).

²³ Revenue Estimating Conference, *Combat-Related Disability/Surviving Spouse: HJR 811 (Dec. 17, 2015)*.

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

VIII. Statutes Affected:

The joint 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/CS by Finance and Tax on January 11, 2016:

The CS/CS clarifies that if the spouse transfers the discount to another property, the transferred discount is limited to the dollar amount of the discount on the prior property.

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.