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CS/CS/HB 455, Engrossed 1

2017 Legislature

1
2 An act relating to tax exemptions for first responders
3 and surviving spouses; amending s. 196.011, F.S.;
4 specifying the information to be included in an
5 application for certain tax exemptions; creating s.
6 196.102, F.S.; providing definitions; providing an
7 exemption from ad valorem taxation for certain first
8 responders under specified conditions; providing
9 procedures for applying for the exemption; specifying
10 requirements for documents that serve as prima facie
11 evidence of entitlement to the exemption; providing
12 that total and permanent disabilities resulting from
13 cardiac events do not qualify for the exemption except
14 when certain conditions are met; providing that
15 applicants have a continuing duty to notify property
16 appraisers of certain changes; providing that the
17 exemption carries over to the benefit of surviving
18 spouses under certain circumstances; providing
19 requirements relating to the date of granting an
20 exemption and the refund of excess taxes; providing a
21 criminal penalty for knowingly or willfully giving
22 false information to claim the exemption; specifying a
23 deadline and procedures for applying for the exemption
24 for the 2017 tax year; specifying procedures for
25 petitioning a denial with the value adjustment board;

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26 | authorizing the Department of Revenue to adopt
 27 | emergency rules; providing retroactive applicability;
 28 | providing an effective date.

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

32 | Section 1. Paragraph (b) of subsection (1) of section
 33 | 196.011, Florida Statutes, is amended to read:

34 | 196.011 Annual application required for exemption.—

35 | (1)

36 | (b) The form to apply for an exemption under s. 196.031,
 37 | s. 196.081, s. 196.091, s. 196.101, s. 196.102, s. 196.173, or
 38 | s. 196.202 must include a space for the applicant to list the
 39 | social security number of the applicant and of the applicant's
 40 | spouse, if any. If an applicant files a timely and otherwise
 41 | complete application, and omits the required social security
 42 | numbers, the application is incomplete. In that event, the
 43 | property appraiser shall contact the applicant, who may refile a
 44 | complete application by April 1. Failure to file a complete
 45 | application by that date constitutes a waiver of the exemption
 46 | privilege for that year, except as provided in subsection (7) or
 47 | subsection (8).

48 | Section 2. Section 196.102, Florida Statutes, is created
 49 | to read:

50 | 196.102 Exemption for certain totally and permanently

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51 disabled first responders; surviving spouse carryover.—

52 (1) As used in this section, the term:

53 (a) "Cardiac event" means a heart attack, stroke, or
 54 vascular rupture.

55 (b) "First responder" has the same meaning as in s.
 56 196.081.

57 (c) "In the line of duty" has the same meaning as in s.
 58 196.081.

59 (d) "Total and permanent disability" means an impairment
 60 of the mind or body that renders a first responder unable to
 61 engage in any substantial gainful occupation and that is
 62 reasonably certain to continue throughout his or her life.

63 (2) Any real estate that is owned and used as a homestead
 64 by a person who has a total and permanent disability as a result
 65 of an injury or injuries sustained in the line of duty while
 66 serving as a first responder in this state or during an
 67 operation in another state or country authorized by this state
 68 or a political subdivision of this state is exempt from taxation
 69 if the first responder is a permanent resident of this state on
 70 January 1 of the year for which the exemption is being claimed.

71 (3) An applicant may qualify for the exemption under this
 72 section by applying by March 1, pursuant to subsection (4) or
 73 subsection (5), to the property appraiser of the county where
 74 the property is located.

75 (4) An applicant may qualify for the exemption under this

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76 section by providing the employer certificate described in
77 paragraph (5)(b) and satisfying the requirements for the totally
78 and permanently disabled exemption in s. 196.101; however, for
79 purposes of this section, the applicant is not required to
80 satisfy the gross income requirement in s. 196.101(4)(a).

81 (5) An applicant may qualify for the exemption under this
82 section by providing all of the following documents to the
83 county property appraiser, which serve as prima facie evidence
84 that the person is entitled to the exemption:

85 (a) Documentation from the Social Security Administration
86 stating that the applicant is totally and permanently disabled.
87 The documentation must be provided to the property appraiser
88 within 3 months after issuance. An applicant who is not eligible
89 to receive a medical status determination from the Social
90 Security Administration due to his or her ineligibility for
91 Social Security benefits or Medicare benefits may provide
92 documentation from the Social Security Administration stating
93 that the applicant is not eligible to receive a medical status
94 determination from the Social Security Administration, and
95 provide physician certifications as required by paragraph (c)
96 from two professionally unrelated physicians, rather than the
97 one certification required by that paragraph.

98 (b)1. A certificate from the organization that employed
99 the applicant as a first responder or supervised the applicant
100 as a volunteer first responder at the time that the injury or

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101 injuries occurred. The employer certificate must contain, at a
 102 minimum:

- 103 a. The title of the person signing the certificate;
- 104 b. The name and address of the employing entity;
- 105 c. A description of the incident that caused the injury or
 106 injuries;
- 107 d. The date and location of the incident; and
- 108 e. A statement that the first responder's injury or
 109 injuries were:

110 (I) Directly and proximately caused by service in the line
 111 of duty.

112 (II) Without willful negligence on the part of the first
 113 responder.

114 (III) The sole cause of the first responder's total and
 115 permanent disability.

116 2. If the first responder's total and permanent disability
 117 was caused by a cardiac event, the employer must also certify
 118 that the requirements of subsection (6) are satisfied.

119 3. The employer certificate must be supplemented with
 120 extant documentation of the incident or event that caused the
 121 injury, such as an accident or incident report. The applicant
 122 may deliver the original employer certificate to the property
 123 appraiser's office or the employer may directly transmit the
 124 employer certificate to the applicable property appraiser.

125 (c) A certificate from a physician licensed in this state

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126 | under chapter 458 or chapter 459 which certifies that the
 127 | applicant has a total and permanent disability and that such
 128 | disability renders the applicant unable to engage in any
 129 | substantial gainful occupation due to an impairment of the mind
 130 | or body, which condition is reasonably certain to continue
 131 | throughout the life of the applicant. The physician certificate
 132 | shall read as follows:

133 |
 134 | FIRST RESPONDER'S
 135 | PHYSICIAN CERTIFICATE OF
 136 | TOTAL AND PERMANENT DISABILITY
 137 |

138 | I, ... (name of physician) ..., a physician licensed pursuant to
 139 | chapter 458 or chapter 459, Florida Statutes, hereby certify
 140 | that Mr.....Mrs.....Miss.... Ms.....(applicant name and
 141 | social security number) ..., is totally and permanently disabled
 142 | due to an impairment of the mind or body, and such impairment
 143 | renders him or her unable to engage in any substantial gainful
 144 | occupation, which condition is reasonably certain to continue
 145 | throughout his or her life. Mr.....Mrs.....Miss....
 146 | Ms.....(applicant name) ... has the following mental or
 147 | physical condition(s):

148 |
 149 | It is my professional belief that within a reasonable degree of
 150 | medical certainty, the above-named condition(s) render

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151 Mr.....Mrs.....Miss.... Ms.....(applicant name)... totally
 152 and permanently disabled and that the foregoing statements are
 153 true, correct, and complete to the best of my knowledge and
 154 professional belief.

155
 156 Signature....

157 Address...(print)...

158 Date....

159 Florida Board of Medicine or Osteopathic Medicine license number

160 Issued on.....

161
 162 NOTICE TO TAXPAYER: Each Florida resident applying for an
 163 exemption due to a total and permanent disability that occurred
 164 in the line of duty while serving as a first responder must
 165 present to the county property appraiser the required physician
 166 certificate(s), the required documentation from the Social
 167 Security Administration, and a certificate from the employer for
 168 whom the applicant worked as a first responder at the time of
 169 the injury or injuries, as required by section 196.102(5),
 170 Florida Statutes. This form is to be completed by a licensed
 171 Florida physician.

172
 173 NOTICE TO TAXPAYER AND PHYSICIAN: Section 196.102(10), Florida
 174 Statutes, provides that any person who knowingly and willingly
 175 gives false information for the purpose of claiming the

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176 homestead exemption for totally and permanently disabled first
 177 responders commits a misdemeanor of the first degree, punishable
 178 by a term of imprisonment not exceeding 1 year or a fine not
 179 exceeding \$5,000, or both.

180 (6) A total and permanent disability that results from a
 181 cardiac event does not qualify for the exemption provided in
 182 this section unless the cardiac event occurs no later than 24
 183 hours after the first responder performed nonroutine stressful
 184 or strenuous physical activity in the line of duty and the first
 185 responder provides the employer with a certificate from the
 186 first responder's treating cardiologist for the cardiac event
 187 along with any pertinent supporting documentation, stating,
 188 within a reasonable degree of medical certainty, that:

189 (a) The nonroutine stressful or strenuous activity
 190 directly and proximately caused the cardiac event that gave rise
 191 to the total and permanent disability; and

192 (b) The cardiac event was not caused by a preexisting
 193 vascular disease.

194 (7) An applicant who is granted the exemption under this
 195 section has a continuing duty to notify the property appraiser
 196 of any changes in his or her status with the Social Security
 197 Administration or in employment or other relevant changes in
 198 circumstances which affect his or her qualification for the
 199 exemption.

200 (8) The tax exemption carries over to the benefit of the

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201 surviving spouse as long as the surviving spouse holds the legal
202 or beneficial title to the homestead, permanently resides
203 thereon as specified in s. 196.031, and does not remarry. If the
204 surviving spouse sells the property, an exemption not to exceed
205 the amount granted under the most recent ad valorem tax roll may
206 be transferred to the new residence if it is used as the
207 surviving spouse's primary residence and he or she does not
208 remarry.

209 (9) An applicant may apply for the exemption before
210 producing the necessary documentation described in subsection
211 (4) or subsection (5). Upon receipt of the documentation, the
212 exemption must be granted as of the date of the original
213 application and the excess taxes paid must be refunded. Any
214 refund of excess taxes paid must be limited to those paid during
215 the 4-year period of limitation set forth in s. 197.182(1)(e).

216 (10) A person who knowingly or willfully gives false
217 information for the purpose of claiming the exemption provided
218 in this section commits a misdemeanor of the first degree,
219 punishable by a term of imprisonment not exceeding 1 year or a
220 fine of not more than \$5,000, or both.

221 (11) Notwithstanding s. 196.011 and this section, the
222 deadline for a first responder to file an application with the
223 property appraiser for an exemption under this section for the
224 2017 tax year is August 1, 2017.

225 (12) If an application is not timely filed under

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226 subsection (11), a property appraiser may grant the exemption
227 if:

228 (a) The applicant files an application for the exemption
229 on or before the 25th day after the mailing of the notice
230 required under s. 194.011(1) by the property appraiser during
231 the 2017 calendar year;

232 (b) The applicant is qualified for the exemption; and

233 (c) The applicant produces sufficient evidence, as
234 determined by the property appraiser, which demonstrates that
235 the applicant was unable to apply for the exemption in a timely
236 manner or otherwise demonstrates extenuating circumstances that
237 warrant granting the exemption.

238 (13) If the property appraiser denies an exemption under
239 subsection (11) or subsection (12), the applicant may file,
240 pursuant to s. 194.011(3), a petition with the value adjustment
241 board requesting that the exemption be granted. Notwithstanding
242 s. 194.013, the eligible first responder is not required to pay
243 a filing fee for such petition filed on or before December 31,
244 2017. Upon review of the petition, the value adjustment board
245 shall grant the exemption if it determines the applicant is
246 qualified and has demonstrated the existence of extenuating
247 circumstances warranting the exemption.

248 (14) The Department of Revenue may, and all conditions are
249 deemed to be met to, adopt emergency rules pursuant to ss.
250 120.536(1) and 120.54 to administer the application process for

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251 | the 2017 calendar year. This subsection expires August 30, 2018.
252 | Section 3. This act shall take effect upon becoming a law
253 | and shall operate retroactively to January 1, 2017.