

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1249 Transfer of Tax Exemption for Veterans  
**SPONSOR(S):** Local, Federal & Veterans Affairs Subcommittee, Sullivan  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1662

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Darden	Miller
2) Ways & Means Committee	16 Y, 0 N	Curry	Langston
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Property assessments are used to calculate ad valorem taxes that fund counties, municipalities, district school boards and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first \$25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between \$50,000 and \$75,000, which is exempt from all taxes other than school district taxes.

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation. To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed. The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.

The bill allows a veteran who was honorably discharged with a service-connected total and permanent disability to apply for this homestead property exemption in the current tax year for a property acquired after January 1 of the tax year if the veteran had received the exemption on another property in the immediately preceding tax year.

The bill provides that notwithstanding the exemption filing deadline established by statute, the veteran may file for the exemption with the property appraiser at any time during the current tax year. The application for the exemption must identify both the previous homestead and new property. The applicant must also certify under oath that he or she:

- Is otherwise qualified to receive the tax exemption for permanently and totally disabled veterans;
- Holds legal or beneficial title to the new property; and
- Intends to use the new property as his or her homestead.

The bill provides that if the application for the exemption is received more than 25 days after the property appraiser mails the TRIM notice, the property appraiser shall correct the assessment to reflect the exemption.

The Revenue Estimating Conference estimates that the bill would reduce local government revenue by \$4.4 million, beginning in Fiscal Year (FY) 2020-21, growing to an annual reduction of \$6.2 million by FY 2024-25.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Ad Valorem Taxation

The Florida Constitution reserves to local governments the authority to levy ad valorem taxes on real and tangible personal property.<sup>1</sup> Ad valorem taxes are levied annually by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a parcel of real property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

Each property appraiser must complete an assessment of the value of all property within the appraiser's jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue (DOR).<sup>6</sup> The taxable value of a parcel includes both the value of structures and other improvements on the parcel and the value of the land on which those structures and improvements sit.<sup>7</sup> The property appraiser also ensures that all real property is listed on the real property assessment roll.<sup>8</sup>

Each taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate that is levied on each parcel's taxable value.<sup>9</sup> Each taxing authority must compute proposed or final millage rates based on utilizing at least 95 percent of the taxable value of the property within the boundaries of the taxing authority. Each taxing authority must prepare and submit its tentative budget in accordance with applicable law.<sup>10</sup>

Within 35 days of the certification of value by the property appraiser, each taxing authority must inform the property appraiser of its proposed millage rate, its rolled-back rate,<sup>11</sup> and the date, time, and

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<sup>1</sup> Art. VII, ss. 1(a), 9(a), Fla. Const.

<sup>2</sup> S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. S. 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in Art. VII, s. 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> S. 196.031, F.S.

<sup>6</sup> S. 193.023(1), F.S.

<sup>7</sup> See *The Appraisal Process and Your Taxes*, Hillsborough County Property Appraiser, available at <http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes> (last visited Jan. 24, 2020) (process for calculating property tax values).

<sup>8</sup> S. 193.085(1), F.S.

<sup>9</sup> S. 200.065(2)(a)1., F.S.

<sup>10</sup> See s. 200.065(2)(a)2.-4., F.S. (requiring county commissions to prepare and submit budgets in accordance with s. 129.03, F.S., requiring school districts to prepare and submit budgets in accordance with Ch. 1011, F.S., and requiring other taxing authorities to prepare and consider budgets in accordance with s. 200.065 and other provisions of law).

<sup>11</sup> The "rolled-back rate" is defined as "[A] millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value." S. 200.065(1), F.S.

location of the public hearing to be held to consider the proposed millage rate and tentative budget.<sup>12</sup> This information is used by the property appraiser to prepare notices of proposed property taxes.<sup>13</sup> The notice must be mailed by the later of 55 days after the certification of value by the property appraiser or 10 days after the tax roll is approved or statutory interim roll procedures<sup>14</sup> have been instituted. If the notice is not mailed until 10 days after the tax roll is approved or interim roll procedures are instituted, all statutory deadlines<sup>15</sup> are extended by a number of days equal to the difference between the deadline for the mailing of proposed notices and 55 days after the certification of value.

### Corrections

The property appraiser may correct a material mistake of fact concerning “an essential condition of the subject property,” if the correction would reduce the assessed value of the property.<sup>16</sup> The property appraiser may make a correction within one year of the approval of the tax roll.<sup>17</sup> A correction does not impact the ability of the tax collector to enforce collection of taxes owed. If an error is corrected in the current year’s tax roll, the property appraiser may send a refund request to DOR or directly to the tax collector. Errors in a previous year’s tax roll must be sent to DOR.

### Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.<sup>18</sup> An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

### Exemption for Permanently and Totally Disabled Veterans

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.<sup>19</sup> To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1 of the year the veteran died. If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse and the spouse is unmarried.<sup>20</sup>

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.<sup>21</sup> A veteran may apply for the exemption before receiving documentation from the United States Government or the United States Department of Veterans Affairs.<sup>22</sup> When the property appraiser receives the documentation, the exemption is granted as of the date of the original application, with excess taxes paid refunded (subject to the four-year period of limitation under s. 197.182(1)(e), F.S.).

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<sup>12</sup> S. 200.065(2)(b), F.S.

<sup>13</sup> This notice is commonly referred to as a truth-in-millage, or TRIM, notice.

<sup>14</sup> See s. 193.1145, F.S.

<sup>15</sup> See s. 200.065, F.S.

<sup>16</sup> S. 197.122(3), F.S. “[A]n essential condition of the subject property” is defined as environmental restrictions, zoning restrictions, or restrictions on permissible use; acreage; wetlands or other environmental lands that are or have been restricted in use because of such environmental features; access to usable land; any characteristic of the subject parcel which, in the property appraiser’s opinion, caused the appraisal to be clearly erroneous; or depreciation of the property that was based on a latent defect of the property which existed but was not readily discernible by inspection on January 1, but not depreciation from any other cause. S. 197.122(3)(a), F.S.

<sup>17</sup> S. 197.122(3)(b), F.S.

<sup>18</sup> Art. VII, s. 6(a), Fla. Const.

<sup>19</sup> S. 196.081(1), F.S.

<sup>20</sup> S. 196.081(3), F.S.

<sup>21</sup> S. 196.081(2), F.S.

<sup>22</sup> S. 196.081(5), F.S.

## Annual Application

Each person or organization who meets the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.<sup>23</sup> The application for exemption must be filed with the property appraiser on or before March 1 and failure to make an application constitutes a waiver of the exemption for that year. The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis, unless the property appraiser (subject to approval by a vote of the governing body of the county) has waived the annual application requirement for property after an initial application is made and the exemption granted.<sup>24</sup>

## Effect of Proposed Changes

The bill would allow a veteran who was honorably discharged with a service-connected total and permanent disability to apply for the homestead property exemption under s. 196.081(1), F.S., in the current tax year for a property acquired after January 1 of that year if the veteran had received the exemption on another property in the immediately preceding tax year.

The bill provides that notwithstanding the exemption filing deadline established by s. 196.011, F.S., the veteran may file for the exemption with the property appraiser at any time during the current tax year. The application for the exemption must list and describe both the previous homestead and new property. The applicant must also certify under oath that he or she:

- Is otherwise qualified to receive the tax exemption for permanently and totally disabled veterans;
- Holds legal or beneficial title to the new property; and
- Intends to use the new property as his or her homestead.

The bill provides that if the application for the exemption is received more than 25 days after the property appraiser mails the TRIM notice, the property appraiser shall correct the assessment to reflect the exemption.

Also, to accommodate the above changes, the bill amends property appraisers' authority to make corrections to the tax roll.

### B. SECTION DIRECTORY:

Section 1: Amends s. 196.011, F.S., to provide an exception.

Section 2: Amends s. 196.081, F.S., to authorize a tax exemption for certain permanently and totally disabled veterans to be applied to property acquired in the current tax year under certain conditions.

Section 3: Amends s. 197.122, F.S., to require the property appraiser to correct an assessment under certain circumstances.

Section 4: Provides an effective date of July 1, 2020.

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<sup>23</sup> S. 196.011(1)(a), F.S.

<sup>24</sup> S. 196.011(5), (9)(a), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The Revenue Estimating Conference estimates that the bill would reduce local government revenue by \$4.4 million, beginning in FY 2020-21, eventually growing to an annual reduction of \$6.2 million by FY 2024-25.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce ad valorem tax liability for those who qualify for the exemption for certain permanently and totally disabled veterans, to the extent those veterans would not currently receive the benefit of the exemption in the year a new homestead property was purchased.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces ad valorem tax revenues to the extent qualified veterans will receive the benefit of ad valorem tax exemption on two parcels in the year of transfer. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 3, 2020, the Local, Federal and Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment allows a qualifying veteran to apply for the exemption at any time during the tax year. If the application is filed more than 25 days after the TRIM notice is mailed, the amendment requires the property appraiser to correct the assessment to reflect

the exemption. The amendment also clarifies that a veteran may apply for the exemption if he or she holds beneficial title to the property.

The analysis is drafted to the committee substitute as approved by the Local, Federal and Veterans Affairs Subcommittee.