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 Community Affairs

BILL: CS/SB 1256

INTRODUCER: Community Affairs Committee and Senator Polsky

SUBJECT: Homestead Exemption for Seniors 65 and Older

DATE: March 17, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	**Fav/CS**
2.			FT	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1256 alters the process by which a senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions. Current law authorizes local governments to enact ordinances granting additional homestead exemptions for low-income seniors over the age of 65. The bill removes the requirement that a qualifying senior annually submit a sworn statement of his or her income to the property appraiser, and instead establishes a process by which the senior must notify a property appraiser upon a change in income that may disqualify him or her for the exemption.

Specifically, the bill requires that an ordinance enacted by a local government authorizing an additional homestead exemption for low-income seniors must require the taxpayer to submit a sworn statement of household income when claiming the exemption for the first time only, rather than annually. The property appraiser must annually notify each taxpayer claiming the exemption of the adjusted income limitation for that year. The taxpayer must then notify the property appraiser if his or her income exceeds such income limitation.

The bill takes effect July 1, 2021.

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 assessed or "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 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 Homesteads

Statewide 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.[11] An additional

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[1] Both real property and tangible personal property are 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] FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

$25,000 exemption applies to homestead property value between $50,000 and $75,000.[12] This exemption does not apply to ad valorem taxes levied by school districts.

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed $20,000 (low-income seniors).[13] That income limitation is adjusted each year according to changes in the consumer price index. The 2020 household income threshold for these exemptions is $31,100.[14] Qualifying seniors must hold legal or equitable title to the real estate and maintain thereon their permanent residence.

Section 196.075, F.S., implements those constitutional amendments approved by voters in 1999 and 2012 allowing local governments to grant low-income seniors these additional homestead exemptions. The first additional homestead exemption so authorized,[15] approved by voters in 1999, is an additional homestead exemption not exceeding $50,000 in home value for any low-income senior. The second additional homestead exemption,[16] approved by voters in 2012, exempts the entire assessed value of a low-income senior's homestead with a just value less than $250,000 if he or she has maintained that homestead for not less than 25 years.[17] A county or municipality may choose to instate one or both of these additional homestead exemptions by passing an ordinance subject to certain statutory requirements.

Requirements for Ordinances Granting Additional Homestead Exemptions

An ordinance granting an additional homestead exemption for low-income seniors as authorized by s. 196.075, F.S., must follow certain statutory requirements. The ordinance must be adopted under the typical procedures for adoption of a nonemergency ordinance.[18] Additionally, an ordinance granting a full exemption for homestead property valued less than $250,000 must be approved by a super majority vote (majority plus one) of the members of the governing body.[19] An ordinance must specify that the exemption applies only to taxes levied by the governmental entity granting the exemption,[20] and specify the amount of the exemption, not to exceed the limits provided in statute.[21] Finally, an ordinance granting an additional homestead exemption must require the taxpayer claiming the exemption to submit to the property appraiser a sworn statement of household income each year.[22]

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[12] Section 196.031(1)(b), F.S.
[13] FLA. CONST. Art. VII, s. 6(d)(1) and (2).
[14] Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates, available at* https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf (last visited March 10, 2021).
[15] Implementing FLA. CONST. art. VII, s. 6(d)(1).
[16] Implementing FLA. CONST. art. VII, s. 6(d)(2)
[17] Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds $250,000.
[18] Section 196.075(4)(a), F.S.
[19] *Id.*
[20] Section 196.075(4)(b), F.S.
[21] Section 196.075(4)(c), F.S.
[22] Section 196.075(4)(d), F.S.

Requirements for Sworn Statements of Household Income

The Department of Revenue (department) is required by statute to regulate the annual statement of household income. The statement must be supported by copies of federal income tax returns for the prior year, W-2 forms, any request for an extension of time to file such statement, and any other document the department finds necessary.[23] The taxpayer's sworn statement must attest to the accuracy of such documents and agree to their inspection by the property appraiser.[24] Supporting documents are not required, unless requested, for a renewal of an existing exemption.[25] The property appraiser is authorized to randomly audit such statements.[26]

Penalties for Failure to Notify and Tax Liens

Under s. 196.075, F.S., if the property appraiser determines that for any year within the last ten years the taxpayer received an exemption for which they were not entitled, the taxpayer shall be subject to the taxes exempted as a result of such failure and a penalty of 50 percent of the taxes exempted plus 15 percent interest per annum. If such penalty is not paid in 30 days, the property appraiser must record a notice of tax lien against any property in the county owned by that person, or property in other counties if that person no longer owns property in the appraiser's county.

This penalty, its valuation and lien provision, is equivalent to the penalty associated with receiving a general homestead exemption to which a taxpayer was not entitled.[27]

III. Effect of Proposed Changes:

The bill amends s. 196.075, F.S., to require that an ordinance enacted by a local government authorizing an additional homestead exemption for low-income seniors must require the taxpayer to submit a sworn statement of household income only when initially claiming the exemption, rather than annually.

The bill provides that the property appraiser must annually notify each taxpayer claiming an income-based senior homestead exemption of the adjusted income limitation for that year. The taxpayer must then notify the property appraiser by May 1 of that year if his or her household income exceeds such income limitation.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[23] Section 196.075(5), F.S.
[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] Section 193.155(10), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will have an indeterminate positive or negative impact on local government revenue.

B. Private Sector Impact:

The bill amends the process by which a senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions, in order to reduce the burden of submitting sworn statements annually. As is the case with current law, a senior may be subject to penalties for receiving a homestead exemption for which he or she is not eligible; such penalties are not changed by the bill.

C. Government Sector Impact:

Property appraisers may see insignificant expenses as a result of implementing the new notification procedures required in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.075 of the Florida Statutes.

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 March 16, 2021:
The committee substitute:
- Deletes a provision in current law regarding the submission of supporting documentation when renewing a homestead exemption for low-income seniors.
- Moves the date by which a taxpayer must notify the property appraiser that their income has exceeded the income limitation from March 1 to May 1, annually.
- Removes duplicate reference to penalties for a taxpayer receiving an additional homestead exemption to which he or she is not entitled. With the amendment, taxpayers are still subject to such penalties under s. 196.075(9), F.S.

B. Amendments:

None.