

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/SB 1256

INTRODUCER: Community Affairs Committee and Senator Polsky

SUBJECT: Homestead Exemption for Seniors 65 and Older

DATE: March 24, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1256 amends 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 grant additional homestead exemptions for low-income persons over the age of 65 and requires the person to submit, annually, a sworn statement that his or her income still qualifies for the exemption. The bill removes the annual requirement to submit a sworn statement and requires the person to notify the property appraiser upon a change in income that may result in disqualification.

The Revenue Estimating Conference analyzed the original filed version of the bill and determined that it will have an indeterminate positive or negative impact on local property tax revenue beginning in Fiscal Year 2022-23. The changes made by the committee substitute have not been analyzed by the conference and may result in a different fiscal impact.

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 jurisdiction 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 taxes⁴ 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 \$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.

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.

¹² Section 196.031(1)(b), F.S.

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution authorizes the Legislature to allow counties and municipalities to grant one or both of the following additional homestead property tax exemptions for persons aged 65 years or over who hold title to the property.¹³ By adoption of an ordinance, a county or municipality may:

- Exempt up to \$50,000 of homestead value if the person's household income, for tax roll year 2021, does not exceed \$31,100.¹⁴
- Exempt the homestead entirely if the subject property's just value is less than \$250,000, the person has maintained the property as his or her permanent residence for at least 25 years, and whose income, for tax roll year 2021, does not exceed \$31,100.¹⁵

Requirements for Ordinances Granting Additional Homestead Exemptions

The ordinance granting an additional homestead exemption for low-income seniors must:

- Follow the typical procedures for adoption of a nonemergency ordinance. 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.¹⁶
- Specify that the exemption applies only to taxes levied by the governmental entity granting the exemption.¹⁷
- Specify the amount of the exemption, which may not exceed the limits provided in statute.¹⁸
- Require the taxpayer claiming the exemption to submit to the property appraiser a sworn statement of household income each year.¹⁹

Requirements for Sworn Statements of Household Income

The Department of Revenue (department) must require the sworn statement to 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. The person's sworn statement must attest to the accuracy of such documents and the person must agree that the property appraiser may inspect such documents. Upon renewal of the exemption, the supporting documents are not required, unless requested by the property appraiser. In addition, the property appraiser may randomly audit such statements.²⁰

Failure to Comply

A person who is found by the property appraiser to have improperly received an exemption in any year within the last ten years is subject to repayment of the taxes exempted plus a penalty of

¹³ FLA. CONST. Art. VII, s. 6(d)(1) and (2).

¹⁴ The original statutory income threshold of \$20,000 is adjusted annually by the percentage change in the average cost-of-living index. See s. 196.075(3), F.S. For the current income threshold, see: Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates*, available at <https://floridarevenue.com/property/Documents/AdditionalHomesteadExemptions.pdf> (last visited March 19, 2021).

¹⁵ *Id.*

¹⁶ Section 196.075(4)(a), F.S.

¹⁷ Section 196.075(4)(b), F.S.

¹⁸ Section 196.075(4)(c), F.S.

¹⁹ Section 196.075(4)(d), F.S.

²⁰ Section 196.075(5), F.S.

50 percent of the unpaid taxes plus interest at a rate of 15 percent per year. 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.²¹

A person granted an exemption as a result of a clerical mistake or omission by the property appraiser may not be assessed a penalty or interest.²²

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 eligible taxpayers of the adjusted income limitation. The taxpayer must then notify the property appraiser by May 1 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:

Article VII, Subsection (b) of section 18 of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant fiscal impact,^{23, 24} which for Fiscal Year 2021-2022 is forecast at approximately \$2.2 million.²⁵

The Revenue Estimating Conference determined that the bill will have an indeterminate positive or negative impact on local property tax revenues. If the actual reductions exceed \$2.2 million, the mandates provisions may apply.

²¹ Section 196.075(9), F.S.

²² *Id.*

²³ FLA. CONST. art. VII, s. 18(d).

²⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 03, 2021).

²⁵ Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference analyzed the original filed version of the bill and determined that it will have an indeterminate positive or negative impact on local property tax revenue beginning in Fiscal Year 2022-23. The changes made by the committee substitute have not been analyzed by the conference and may result in a different fiscal impact.

B. Private Sector Impact:

The bill amends the process by which an eligible senior verifies his or her income for purposes of receiving certain income-based homestead property tax exemptions, which may reduce the burden of submitting sworn statements annually.

C. Government Sector Impact:

Property appraisers may incur 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.