

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: SB 1748

INTRODUCER: Senator Brodeur

SUBJECT: Homestead Property Tax Exemptions for Classroom Teachers, Law Enforcement Officers, Firefighters, Child Welfare Professionals, and Servicemembers

DATE: January 24, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Pre-meeting
2.	_____	_____	FT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1748 is linked to SJR 1746, which proposes an amendment to the Florida Constitution to authorize the Legislature to provide for a new homestead tax exemption for classroom teachers, law enforcement officers, firefighters, child welfare professionals, and active duty United States Armed Forces and Florida National Guard servicemembers.

The bill provides that provides that any of the defined people who hold legal or beneficial title in equity to real property in this state and makes such property their or their dependent’s permanent residence is entitled to an exemption of up to \$50,000 on the property’s value between \$100,000 and \$150,000.

The bill will take effect on the effective date of the amendment proposed by SJR 1746 or a similar joint resolution having substantially the same specific intent and purpose. If approved by the electors in the next general election in November 2022, the proposed amendment (SJR 1746) and SB 1748 will take effect on January 1, 2023.

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 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 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.

Property Tax Exemptions for Veterans, First Responders, and Surviving Spouses

Florida provides several property tax exemptions for disabled veterans and first responders and their surviving spouses. These include exemptions for the following persons:

- A veteran or first responder¹⁸ with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead.¹⁹
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead. Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.²⁰
- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption for any property up to \$5,000. Upon the death of the veteran, the exemption carries over to the veteran's unremarried surviving spouse.²¹
- The unremarried surviving spouse of a veteran or first responder who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.²²

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 January 20, 2022).

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 "First responder" in this context means a law enforcement officer or correctional officer as defined in s. 943.10, a firefighter as defined in s. 633.102, or an emergency medical technician or paramedic as defined in s. 401.23 who is a full-time paid employee, part-time paid employee, or unpaid volunteer. Section 196.081(6)(c)1., F.S.

¹⁹ Sections 196.081 and 196.102, F.S.

²⁰ Section 196.091(1) and (3), F.S.

²¹ Section 196.24, F.S.

²² Section 196.081(4), (6) F.S.

Tax Discount on Homestead Property for a Combat-disabled Veteran

In addition to the property tax exemptions described above, certain combat-disabled veterans are entitled to a discount on their homestead property taxes.²³ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁴ The discount is applied as a reduction to the taxable value of the homestead property.²⁵

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.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 196.011 to provide a cross reference related to annual forms required to apply for the new homestead exemption provided in section 2.

Section 2 creates s. 196.077 to provide for a new homestead tax exemption for classroom teachers, law enforcement officers, firefighters, child welfare professionals, and servicemembers.

The bill provides the following definitions:

- “Child welfare professional” means a state employee engaged in child welfare services as defined in s. 402.40(2), F.S., who holds a child welfare certification as defined in s. 402.40(2), F.S.;
- “Classroom teacher” means a staff member assigned the professional activity of instructing K-12 students in courses and classroom situations, including basic instruction, exceptional student education, and career education;
- “Firefighter” means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division under s. 633.408, F.S.;

²³ Section 196.082, F.S.

²⁴ Section 196.082(2), F.S.

²⁵ Section 196.082(5), F.S.

²⁶ Section 193.155(10), F.S.

- “Law enforcement officer” means a law enforcement officer²⁷ or correctional officer²⁸ as defined by s. 943.10, F.S.; and
- “Servicemember” means a person serving as an active duty member of the United States Armed Forces or as a member of the Florida National Guard.

The bill provides that any of the defined people who hold legal or beneficial title in equity to real property in this state and makes such property their or their dependent’s permanent residence is entitled to an exemption of up to \$50,000 on the property’s value between \$100,000 and \$150,000.

The bill further provides that such a person must file an annual application for exemption with the property appraiser on or before March 1 of the year for which the exemption is claimed. Such form will be prescribed by the Department of Revenue and require the person to provide proof of employment.

Section 3 provides that the Department of Revenue may adopt emergency rules to administer this bill.

Section 4 provides that the provisions of this bill will first apply to the 2023 tax roll.

Section 5 provides that this bill will take effect on the effective date of the constitutional amendment proposed by SJR 1746.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) 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 mandates requirements do not apply to laws having an insignificant impact.^{29, 30}

²⁷ Section 943.10(1), F.S.: “Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

²⁸ Section 943.10(2), F.S.: “Correctional officer” means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.

²⁹ FLA. CONST. art. VII, s. 18(d).

³⁰ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. The Florida Demographic Estimating Conference adopted estimations that the 2021 population will be 21,893,919, which makes the threshold for insignificant fiscal impact \$2.19 million. Executive Summary, Demographic

The mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because the bill reduces local governments' authority to raise revenue by reducing ad valorem tax bases compared to the tax bases that would exist under current law. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill provides that the homestead exemption may extend to a qualified person's dependents, while the constitutional amendment within the linked Senate Joint Resolution does not contemplate dependents receiving the benefit. Additionally, this bill specifies the exemption applies to all levies "other than school district levies," which is not contemplated by the Senate Joint Resolution. Implementing statutes such as this generally should be narrowly tailored to match the power granted by the Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference reviewed this bill and stated the impact of the implementing bill to a constitutional amendment is zero/negative indeterminate due to the requirement for a statewide referendum. If the constitutional amendment does not pass, the impact is zero. If approved, the impact is an indeterminate negative amount.

B. Private Sector Impact:

If the proposed amendment (SJR 1746) is approved by 60 percent of voters in November 2022, homeowners with certain employment will be entitled to reduced property taxation. This will result in an indeterminate positive fiscal impact as homeowners take advantage of ad valorem tax savings.

C. Government Sector Impact:

If the proposed amendment (SJR 1746) is approved by 60 percent of voters in November 2022, homeowners with certain employment will be entitled to reduced property taxation. This will result in an indeterminate negative fiscal impact on local governments as homeowners may be subject to lower ad valorem taxes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.011 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.