

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 672

INTRODUCER: Finance and Tax Committee and Senator Avila

SUBJECT: Homestead Property Tax Exemptions

DATE: March 21, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 672 clarifies that veterans, first responders, and surviving spouses receiving homestead exemptions related to disability or death sustained in the line of duty who purchase a new homestead property are entitled to transfer and retain the amount of the exemption. The bill also similarly clarifies that, upon establishing a new homestead, a person who applies for and receives such an exemption is entitled to receive a refund for the taxes paid on the homestead property in the year of acquisition.

The bill does not substantively change the procedure for applying for or being granted such an exemption or refund.

The Revenue Estimating Conference analyzed the prior version of the bill and determined the bill would have no impact on local government ad valorem receipts. Staff does not expect the committee substitute to change the determination.

The bill takes effect July 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 a property as of January 1 of each year.¹ The property appraiser annually determines the “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 Property tax bills are mailed in November of each year based on the previous January 1 valuation.⁴ If a taxpayer furnishes the outstanding taxes within 30 days after the tax collector mailed the tax notice, the taxpayer will receive a 4 percent discount on the total amount of taxes due.⁵ The full amount of taxes is due by March 31 of the following year.⁶

The Florida Constitution prohibits the state from levying ad valorem taxes⁷ and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁸

Homestead Exemptions

The Florida Constitution establishes homestead protections for certain residential real estate in the state in three distinct ways. First, it provides homesteads, property owned and maintained as a person’s primary residence, with an exemption from taxes.⁹ Second, the homestead provisions protect the homestead from forced sale by creditors.¹⁰ Third, the homestead provisions delineate the restrictions a homestead owner faces when attempting to alienate or devise the homestead property.¹¹

Every person having legal or equitable title to real estate and who maintains a permanent residence on the real estate is eligible for a \$25,000 tax exemption applicable to all ad valorem

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, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

³ *See* ss. 192.001(2) and (16), F.S.

⁴ Section 197.322, F.S.; *see also* Florida Department of Revenue, Florida Property Tax Calendar, *available at*: <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Mar. 15, 2023).

⁵ Section 197.162, F.S.; *see also* Florida Department of Revenue, Tax Collector Calendar, *available at*: <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Mar. 15, 2023).

⁶ Section 197.162, F.S.

⁷ FLA. CONST. art. VII, s. 1(a).

⁸ *See* FLA. CONST. art. VII, s. 4.

⁹ FLA. CONST. art. VII, s. 6.

¹⁰ FLA. CONST. art. X, s. 4.

¹¹ *Id.* at (c).

tax levies, including levies by school districts.¹² 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.¹³

Annual Application

Each person or organization meeting 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 1.¹⁴ 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.¹⁵ The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property.¹⁶ 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 a property after an initial application is made and the exemption granted.¹⁷

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

The Florida Constitution provides several property tax exemptions for disabled veterans and first responders and their surviving spouses.¹⁸ These include exemptions for the following persons:

- A veteran or first responder¹⁹ with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead.²⁰
- 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.²¹ Upon the veteran's death, the exemption carries over to the veteran's unremarried surviving spouse.²²
- 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.²³

¹² FLA. CONST. art VII, s. 6(a); s. 196.031, F.S.

¹³ FLA. CONST. art VII, s. 6(a); s. 196.031(1)(b), F.S.

¹⁴ Section 196.011(1)(a), F.S.

¹⁵ Section 196.011(1), F.S. But see s. 196.011(7) and (8), F.S., for conditions when the exemption may be granted if an application is filed after March 1.

¹⁶ Section 196.011(1)(a), F.S.

¹⁷ Section 196.011(5) and (9)(a), F.S.

¹⁸ FLA. CONST. art VII, s. 6(f).

¹⁹ "First responder" in this context means a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is a full-time paid employee, part-time paid employee, or unpaid volunteer. Section 196.081(6)(c)1., F.S.

²⁰ FLA. CONST. art. VII, s. 3(b); ss. 196.081 and 196.102, F.S.

²¹ FLA. CONST. art. VII, s. 3(b); s. 196.091(1), F.S.

²² Section 196.091(3), F.S.

²³ Section 196.24, F.S. This statutory provision was created by ch. 69-55, L.O.F. However, it was preceded by s. 192.11, F.S., as authorized by Art. IX, s. 9 of the State Constitution (1885). That provision in the constitution provided that: "There shall be exempt from taxation property to the value of five hundred dollars to every widow and to every person who is a bona fide resident of the State and has lost a limb or been disabled in war or by misfortune."

- 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.²⁴

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.²⁵ The discount is calculated as a percentage equal to the percentage of the veteran's permanent, service-connected disability.²⁶ The discount is applied as a reduction to the taxable value of the homestead property.²⁷

Carry-Over of Exemptions to New Residences by Surviving Spouses

An exemption granted to a surviving spouse of a disabled or deceased veteran or first responder continues so long as the surviving spouse holds title to the homestead property, permanently resides thereon, and does not remarry.²⁸ The amount exempted may be carried forward to a new homestead if the first property is sold, the newly acquired property is established as a homestead, and the surviving spouse does not remarry.²⁹ Additionally, a veteran or surviving spouse who acquires new homestead property between January 1 and November 1 may receive a refund, prorated as of the date of transfer, of the ad valorem taxes paid in the year of acquisition if they apply for and receive an exemption under 198.081, F.S., in the following tax year.³⁰

III. Effect of Proposed Changes:

The bill amends s. 196.081, F.S., to clarify throughout that veterans, first responders, and surviving spouses receiving homestead exemptions related to disability or death sustained in the line of duty who purchase a new homestead property are entitled to transfer and retain the amount of the exemption.

The bill also similarly clarifies that upon establishing a new homestead a person who applies for and receives such an exemption is entitled to receive a refund for the taxes paid on the homestead property in the year of acquisition.

In order to transfer an exemption or receive a refund under these provisions, the property owner must still notify the property appraiser and apply for the exemption. The bill does not substantively change the procedure for applying for or being granted such an exemption.

The language changed by the bill is, in several places, the replacement of the word "may." The permissive nature of statutory language on homestead exemptions applies to the property owner's actions in applying for the exemption, for transferring an exemption, or to receive a refund. Because such a property owner may decide not to seek an exemption to which they are

²⁴ Section 196.081(4) and (6) F.S.

²⁵ FLA. CONST. art. VII, s. 6(e); s. 196.082, F.S.

²⁶ Section 196.082(2), F.S.

²⁷ Section 196.082(6), F.S.

²⁸ Section 196.081(3), (4)(b), and (6)(b), F.S.

²⁹ *Id.*

³⁰ Section 198.081(1)(b).

entitled, the clarification of the exemption in the bill has no substantive effect. The bill may, however, clarify that property appraisers do not have discretion in the discussed transfer of exemptions and issuance of refunds.

The bill takes effect July 1, 2023.

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 mandate requirement does not apply to laws having an insignificant impact,³¹ which for Fiscal Year 2022-2023 is forecast at approximately \$2.3 million.³² As the Revenue Estimating Conference estimates no impact on local governments from this bill, the county and municipality mandate provisions of Article VII, section 18 of the Florida Constitution likely do not apply.³³

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires that legislation that increases or creates taxes or fees be passed by a 2/3 vote of each chamber in a bill with no other subject. The bill does not increase or create new taxes or fees. Thus, the constitutional requirements related to new or increased taxes or fees do not apply.

E. Other Constitutional Issues:

None identified.

³¹ FLA. CONST. art. VII, s. 18(d).

³² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 15, 2023).

³³ Office of Economic and Demographic Research, *Revenue Estimating Conference Impact Results: SB 672 & HB 717*, 106-107, (Feb. 17, 2023), available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2023/_pdf/page106-107.pdf (last visited Mar. 16, 2023).

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

The Revenue Estimating Conference analyzed the prior version of the bill and determined the bill would have no impact on local government ad valorem receipts.³⁴ Staff does not expect the committee substitute to change the determination.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.081, 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 Finance and Tax on March 21, 2023:

The committee substitute made several clarifying changes to eliminate ambiguity regarding veterans' and surviving spouses' entitlement to refunds and their authority to transfer exemptions.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³⁴ *Id.*