

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 95 Homestead Property Tax Exemptions

**SPONSOR(S):** Harrison and others

**TIED BILLS:** HJR 93 **IDEN./SIM. BILLS:** SB 1058

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	24 Y, 0 N, As CS	Aldridge	Langston
2) Community & Military Affairs Subcommittee		Tait	Hoagland
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

CS/HB 95 implements the proposed constitutional amendment contained in CS/HJR 93.

The bill creates a new statutory provision that creates and sets forth the requirements for a full exemption from ad valorem taxes authorized by the proposed constitutional amendment in CS/HJR 93. The exemption is available under specified conditions to the surviving spouse of a "first responder" who died in the line of duty when the real estate is owned and used by the surviving spouse as a homestead. The bill defines the terms "first responder" and "in the line of duty."

The bill provides a General Revenue appropriation of \$100,302 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 93 in newspapers in each county as required by Art. XI, s. 5(d) of the Florida Constitution.

The Revenue Estimating Conference has estimated that, if the amendment proposed by CS/HJR 93 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in school tax revenues of \$0.3 million beginning in fiscal year 2013-14. Annual reductions in local government non-school tax revenues under those circumstances are estimated to be \$0.3 million beginning in fiscal year 2013-14.

The bill takes effect upon the approval of the amendment proposed by CS/HJR 93 by the voters. The bill will operate prospectively to tax rolls submitted to the Department of Revenue by each county tax collector beginning January 2013 and each January thereafter and do not provide a basis for relief from or assessment of taxes not paid or for determining any denial of or a right to a refund of taxes paid before the effective date of this bill. The provisions of the bill that relate to the surviving spouses of first responders apply for surviving spouses of first responders whose deaths occur before, on, or after the effective date of the bill.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### **Just Value**

Article VII, s. 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. “Just value” is synonymous with “fair market value” and is defined as what a willing buyer would pay a willing seller for the property in an arm’s length transaction.<sup>1</sup>

##### **Assessed Value**

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.<sup>2</sup> Agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.<sup>3</sup> Land used for conservation purposes must be assessed solely on the basis of character or use.<sup>4</sup> Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.<sup>5</sup> Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.<sup>6</sup> Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.<sup>7</sup> The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property’s wind resistance or the installation of renewable energy source devices in the assessment of the property.<sup>8</sup> Certain working waterfront property is assessed based upon the property’s current use.<sup>9</sup>

##### **Assessment Limitations**

##### ***Save Our Homes***

The “Save Our Homes” provision in art. VII, s. 4 of the Florida Constitution, limits the amount a homestead’s assessed value can increase annually to the lesser of 3 percent or the inflation rate as measured by the consumer price index (CPI).<sup>10</sup> Homestead property owners that establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to a new homestead.<sup>11</sup>

##### ***Additional Assessment Limitations***

Article VII, s. 4(g) and (h), of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more

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<sup>1</sup> See *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

<sup>2</sup> The constitutional provisions in art. VII, s.4 of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

<sup>3</sup> Art. VII, s. 4(a) of the Florida Constitution.

<sup>4</sup> Art. VII, s. 4(b) of the Florida Constitution.

<sup>5</sup> Art. VII, s. 4(c) of the Florida Constitution.

<sup>6</sup> Art. VII, s. 4(e) of the Florida Constitution.

<sup>7</sup> Art. VII, s. 4(f) of the Florida Constitution.

<sup>8</sup> Art. VII, s. 4(i) of the Florida Constitution.

<sup>9</sup> Art. VII, s. 4(j) of the Florida Constitution.

<sup>10</sup> Art. VII, s. 4(d) of the Florida Constitution.

<sup>11</sup> Art. VII, s. 4(d) of the Florida Constitution.

than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law.

## Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>12</sup>

### *Homestead Exemption*

Article VII, s. 6 of the Florida Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

### *Other Exemptions*

Article VII, s. 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.<sup>13</sup> Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.<sup>14</sup> A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.<sup>15</sup> A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.<sup>16</sup> Tangible personal property is exempt up to \$25,000 of its assessed value.<sup>17</sup> There is an exemption for real property dedicated in perpetuity for conservation purposes.<sup>18</sup> There is an exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.<sup>19</sup>

### *Exemption for Surviving Spouses of Certain Veterans*

Section 196.081(4), F.S., currently provides, under specified conditions, a full exemption from ad valorem taxes on property that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran died from service-connected causes while on active duty. Additionally, the veteran must have been a permanent resident of this state on January 1 of the year in which he or she died. The current exemption does not require the surviving spouse to have been a Florida resident on January 1 of the year in which the veteran died.

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<sup>12</sup>See *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>13</sup> Art. VII, s. 3(a) of the Florida Constitution.

<sup>14</sup> Art. VII, s. 3(b) of the Florida Constitution.

<sup>15</sup> Art. VII, s. 3(c) of the Florida Constitution.

<sup>16</sup> Art. VII, s. 3(d) of the Florida Constitution.

<sup>17</sup> Art. VII, s. 3(e) of the Florida Constitution.

<sup>18</sup> Art. VII, s. 3(f) of the Florida Constitution.

<sup>19</sup> Art. VII, s. 3(g) of the Florida Constitution.

## **Taxable Value**

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes.

## **Effect of Proposed Changes**

The bill implements the proposed constitutional amendment contained in CS/HJR 93.

## **Exemption for Surviving Spouses of First Responders**

The bill creates a new statutory provision that creates and sets forth the requirements for a full exemption from ad valorem taxes authorized by the proposed constitutional amendment in CS/HJR 93. The exemption is available under specified conditions to the surviving spouse of a “first responder” who died in the line of duty when the real estate is owned and used by the surviving spouse as a homestead.

The bill defines the terms “first responder” to mean a law enforcement officer or correctional officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.30, 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.

The bill defines “in the line of duty” to mean:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities enumerated in this subparagraph if the training has been authorized by the employing entity.

The bill specifies that these terms are defined for the purposes of this exemption only and do not apply to the payment of benefits under ss. 112.19 or 112.191, F.S.

The bill provides that a heart attack or stroke that causes death or causes an injury resulting in death must occur within 24 hours after an event or activity enumerated above and must be directly and proximately caused by the event or activity in order to be considered as having occurred in the line of duty.

The bill specifies the documentation required to qualify for the exemption to be a letter from the state or appropriate political subdivision of the state or other authority or special district that has been issued legally recognizing and certifying that the individual died in the line of duty while employed as a first responder. The bill provides that presentation by the surviving spouse of this letter that attests the individual’s death was in the line of duty is prima facie evidence that the surviving spouse is entitled to this exemption.

The bill provides that the exemption may apply as long as the spouse holds the legal or beneficial title to the homestead, permanently resides thereon, and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may

be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.

### **Applicability of Changes**

The bill takes effect upon the approval of the amendment proposed by CS/HJR 93 by the voters. The bill will operate prospectively to tax rolls submitted to the Department of Revenue by each county tax collector beginning January 2013 and each January thereafter and do not provide a basis for relief from or assessment of taxes not paid or for determining any denial of or a right to a refund of taxes paid before the effective date of this bill. The revisions in the bill to the exemption for surviving spouses of veterans only apply to when the veteran's death occurs after the effective date of the bill and do not affect the homestead exemptions of surviving spouses of veterans whose deaths occurred before the effective date of the bill. The provisions of the bill that relate to the surviving spouses of first responders apply for surviving spouses of first responders whose deaths occur before, on, or after the effective date of the bill.

### **Appropriation**

The bill provides a General Revenue appropriation of \$100,302 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 93 in newspapers in each county as required by art. XI, s. 5(d) of the Florida Constitution.

#### **B. S. DIRECTORY:**

**Section 1:** Provides that the act may be cited as the "Fallen Heroes Family Tax Relief Act."

**Section 2:** Amends s. 196.081(4)(a), F.S., modifying the qualifications for an ad valorem exemption for surviving spouses of veterans and creates s. 196.081(5), F.S., implementing an ad valorem exemption for surviving spouses of first responders.

**Section 3:** Provides rules of construction.

**Section 4:** Provides an appropriation.

**Section 5:** Provides an effective date.

## **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 has estimated that, if the amendment proposed by CS/HJR 93 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in school tax revenues of \$0.3 million beginning in fiscal year 2013-14. Annual reductions in local government non-school tax revenues under those circumstances are estimated to be \$0.3 million beginning in fiscal year 2013-14.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the amendment proposed by CS/HJR 93 is approved by the voters, the bill would provide property tax relief to surviving spouses of certain first responders.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the Florida Constitution, does not apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2012, the Finance and Tax Committee adopted an amendment that:

- Removes changes dealing with the current exemption for surviving spouses of military veterans who died from service-connected causes while on active duty.
- Clarifies that the terms “first responder” and “in the line of duty” are defined only for purposes of this exemption.
- Clarifies that the exemption begins with the 2013 tax roll.
- Provides an appropriation to publish the proposed constitutional amendment in newspapers in each county as required by the constitution [\$100,302].

This analysis is updated to reflect the above changes.