**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 1330

INTRODUCER: Community Affairs Committee and Senator Rodriguez and others

SUBJECT: Ad Valorem Tax Exemption for Nonprofit Homes for the Aged

DATE: April 13, 2021 REVISED:

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Hackett | Ryon | CA | **Fav/CS** |
| 2. | Gross | Babin | FT | **Favorable** |
| 3. | | | AP | |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

## I. Summary:

CS/SB 1330 expands the ownership options that would allow a nonprofit home for the aged to qualify for an exemption from ad valorem taxation. Currently, the taxpayer may be a Florida limited partnership the sole general partner of which is a not-for-profit corporation. The bill allows the sole general partner to be another entity wholly owned by a not-for-profit corporation.

The Revenue Estimating Conference estimates that the bill will reduce local government revenue by $100,000 beginning in Fiscal Year 2022-2023.

The bill takes effect January 1, 2022.

## 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 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; land used for conservation purposes; historic properties when authorized by the county or municipality; and certain working waterfront property.[7]

**Ad Valorem Tax Exemption for Homes for the Aged**

Florida exempts nonprofit homes for the aged from property tax; however, the home must be owned in one of two ways. The home can qualify for an exemption by being owned directly by a not-for-profit corporation or by being owned by a Florida limited partnership whose sole general partner is a not-for-profit corporation.[8]

If the home qualifies, the exemption applies to units or apartments reserved for or occupied by a permanent resident of this state who is:

- An individual with a gross income of no more than $34,374 per year who is at least 62 years of age or is totally and permanently disabled;[9]
- A couple with a combined gross income of no more than $38,590 per year, or the surviving spouse of such a couple, if the surviving spouse lived with the deceased at the time of the

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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.

[8] Section 196.1975, F.S.

[9] The original statutory income thresholds are adjusted annually by the percentage change in the average cost-of-living index. See s. 196.1975(4), F.S. For the current income threshold, see: Florida Department of Revenue, *Cost of Living Adjustments, available at:* https://floridarevenue.com/property/Documents/CostofLivingAdjust.pdf (last visited April 7, 2021).

deceased's death in a home for the aged, at least one of whom must be at least 62 years of age or is totally and permanently disabled;[10] or

- A totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S., regardless of income.

Common areas of the home for the aged are exempt if 25 percent or more of the units or apartments are restricted to or occupied by persons who meet the income requirements.[11]

The facility must annually file an application for exemption with the property appraiser[12] and submit an affidavit from each person residing in a unit or apartment claiming an exemption.[13] The person signing the affidavit must attest that he or she resides in the unit or apartment claiming the exemption and, in good faith, makes that unit or apartment his or her permanent residence.[14]

## III. Effect of Proposed Changes:

The bill amends s. 196.1975, F.S., to authorize a third ownership option that would allow a nonprofit home for the aged to qualify for a property tax exemption; a home owned by a Florida limited partnership the sole general partner of which is an entity wholly owned by a not-for-profit corporation.

The bill takes effect January 1, 2022.

## 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 cities 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 fiscal impact, which for Fiscal Year 2021-2022, is forecast at $2.2 million.[15]

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[10] *Id.*

[11] Section 196.1975(8), F.S.

[12] Section 196.1975(9)(b), F.S.

[13] Section 196.1975(9)(b), F.S.

[14] *Id.*

[15] 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 March 10, 2021). $2.2 Million is based on the Florida Demographic Estimating Conference's Nov. 13, 2020 population forecast for 2021 of 21,925,785. The conference packet is available at: http://edr.state.fl.us/content/conferences/population/demographicsummary.pdf (last visited March 29, 2021).

The Revenue Estimating Conference determined that the bill will reduce local government revenues by $100,000 beginning in Fiscal Year 2022-2023. Therefore, this bill might not be a mandate subject to Article VII, s. 18(b) of the Florida Constitution.

### 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 identical House companion and determined that the bill will reduce local government revenue by $100,000 beginning in Fiscal Year 2022-2023.[16]

### B. Private Sector Impact:

The bill will enable additional homes for the aged operated by not-for-profit corporations to qualify for the ad valorem tax exemption.

### C. Government Sector Impact:

None.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

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[16] Revenue Estimating Impact Conference, *Ad Valorem Tax Exemption for Nonprofit Homes for the Aged, CS/HB 571*, (March 19, 2021), *available at:* http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page234-237.pdf (last visited April 9, 2021).

## VIII. Statutes Affected:

This bill substantially amends section 196.1975 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.)

**CS by Community Affairs on March 30, 2021:**
The CS removes the provision reducing the minimum tenant age requirement for the ad valorem tax exemption for a unit or apartment.

### B. Amendments:

None.