

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 1330

INTRODUCER: Community Affairs Committee and Senator Rodriguez

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

DATE: April 1, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Ryon	CA	Fav/CS
2.			FT	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1330 revises eligibility for the ad valorem tax exemption for property used as a home for the aged by non-profit corporations to include property operated by a Florida limited partnership, the sole general partner of which is an entity wholly owned by a corporation not-for-profit.

The Revenue Estimating Conference estimates that the bill will reduce local government revenue by \$100,000 annually 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.<sup>1</sup> The property appraiser annually determines the assessed or “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> 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<sup>4</sup> and limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> 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;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

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

Florida law exempts from ad valorem taxation property used as a home for the aged by certain non-profit corporations.<sup>11</sup> In order to qualify for the exemption, the following criteria must be met:<sup>12</sup>

- The applicant for the exemption must be qualified as a 501(c)(3) exempt charitable organization under federal law by January 1 of the year it requests to be exempt from Florida ad valorem taxation; and is either:
  - A corporation not-for-profit pursuant to ch. 617, F.S.; or
  - A Florida limited partnership, the sole general partner of which is a corporation not-for-profit pursuant to ch. 617, F.S.;

<sup>1</sup> 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.

<sup>2</sup> 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).

<sup>3</sup> *See* Section 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> *See* FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> FLA. CONST. Sections 3(a), 6(c), art. VII, implemented by s. 196.1975, F.S.

<sup>12</sup> Section 196.1975, F.S.

- 75 percent of the occupants of the facility must be over the age of 62 years or be totally and permanently disabled; and
- Certain facilities must also acquire licensing by the Agency for Health Care Administration.<sup>13</sup>

Upon sufficient proof that the applicant meets the above criteria, the property appraiser will exempt the portions of the facility which are devoted exclusively to the conduct of religious services or the rendering of nursing or medical services.<sup>14</sup>

In addition, the property appraiser may exempt individual units or apartments in the facility if residency in those units or apartments is reserved for or restricted to, or the unit or apartment is occupied by, a permanent resident of the state who is:

- An individual with a gross income<sup>15</sup> of no more than \$34,374 per year who is either at least 62 years of age or is totally and permanently disabled;
- 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 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; or
- A totally and permanently disabled veteran who meets the requirements of s. 196.081, F.S., who meets one of the above categories not including the income limitation.<sup>16</sup>

If any portion of the facility is used for a non-exempt purpose, those portions may be valued and placed upon the tax rolls separately from any portion entitled to the exemption.<sup>17</sup> Common areas of the home are exempt from taxation as long as at least 25 percent of the units or apartments of the home are restricted to or are occupied by persons who meet the income requirements.<sup>18</sup>

In order to demonstrate to the property appraiser that the facility is qualified for the exemption, the facility must annually file an application for exemption with the property appraiser.<sup>19</sup> The facility must also file an affidavit from each person residing in a unit or apartment in the facility that meets the disability or income requirements described above.<sup>20</sup> 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.<sup>21</sup>

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<sup>13</sup> Sections 196.1975(1)-(2), F.S. Licensure by the Agency for Health Care Administration is required for facilities that furnish medical facilities or nursing services to residents or that qualifies as an assisted living facility under ch. 429, F.S. Sections 196.1975(2)(a)-(b), F.S.

<sup>14</sup> Section 196.1975(3), F.S.

<sup>15</sup> Social security benefits are considered gross income for the purposes of this exemption. Section 196.1975(6), F.S.

<sup>16</sup> Section 196.1975(4)(a), F.S. Statute defines the maximum income limitation as \$7,000 (for individuals) or \$8,000 (for couples) in the year the provision was passed (1977), adjusted annually by the percentage change in U.S. Department of Labor's cost-of-living index. See Section 196.1975(4)(a)-(b), F.S. The values above reflect those present adjustments for 2021. Fla. Dept. of Revenue, *Cost of Living Adjustments*,

<https://floridarevenue.com/property/Documents/CostofLivingAdjust.pdf> (last accessed Mar. 4, 2021).

<sup>17</sup> Section 196.1975(11), F.S.

<sup>18</sup> Section 196.1975(8), F.S.

<sup>19</sup> Section 196.1975(9)(b), F.S. This application is known as a DR-504HA form. Fla. Dept. of Revenue, *Property Tax Oversight Forms*, <https://floridarevenue.com/property/pages/forms.aspx> (last accessed Mar. 4, 2021).

<sup>20</sup> Section 196.1975(9)(b), F.S. This application is known as a DR-504S form.

<sup>21</sup> *Id.*

### III. Effect of Proposed Changes:

The bill amends s. 496.1975, F.S., to revise the eligibility for the ad valorem tax exemption for property used as a home for the aged by non-profit corporations to include property operated by a Florida limited partnership, the sole general partner of which is an entity wholly owned by a corporation not-for-profit under ch. 617, F.S.

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 2020-2021, is forecast at \$2.2 million.<sup>22</sup>

Under the bill, cities and counties may realize a reduction in ad valorem revenue as a result of the expansion of the exemption for homes for the aged. The Revenue Estimating Conference has determined the bill will reduce local government revenues by \$100,000 annually, beginning in fiscal year 2022-2023. Therefore, the fiscal impact of the bill on local governments appears to be insignificant.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None identified.

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<sup>22</sup> 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).

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

The Revenue Estimating Conference has determined that the bill will reduce local government revenue by \$100,000 annually beginning in fiscal year 2022-2023.<sup>23</sup>

**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.

**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.

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

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<sup>23</sup> Revenue Estimating Conference analysis of CS/HB 571, March 19, 2021, *available at*: [http://www.edr.state.fl.us/content/conferences/revenueimpact/archives/2021/\\_pdf/Impact0319.pdf](http://www.edr.state.fl.us/content/conferences/revenueimpact/archives/2021/_pdf/Impact0319.pdf) (list accessed March 31, 2021).