



Veteran & Military Affairs Subcommittee

Meeting Packet

**Monday, January 11, 2016
4:00 pm – 6:00 pm
12 HOB**



The Florida House of Representatives

Veteran & Military Affairs Subcommittee

Steve Crisafulli
Speaker

Jimmie T. Smith
Chair

Monday, January 11, 2016
Meeting Agenda
Room 12, House Office Building
04:00 p.m. – 06:00 p.m.

- I. Call to Order**

- II. Roll Call**

- III. Welcome and Opening Remarks**

- IV. Consideration of the Following Bill(s):**
 - HB 611 Homestead Property Tax Exemptions by Hager**

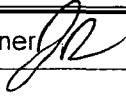
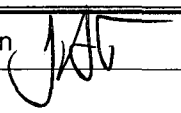
 - PCS for HJR 811 -- Homestead Tax Exemption/Spouses of Deceased Combat-disabled Veterans**

 - PCS for HB 813 -- Homestead Property Tax Discount for Disabled Veterans**

- V. Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 611 Homestead Property Tax Exemptions
SPONSOR(S): Hager
TIED BILLS: None **IDEN./SIM. BILLS:** SB 804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Veteran & Military Affairs Subcommittee		Renner 	Thompson 
2) Finance & Tax Committee			
3) Appropriations Committee			

SUMMARY ANALYSIS

Section 196.081, F.S., currently provides a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran who has a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is claimed or was a permanent resident on January 1 of the year he or she died. This exemption may be carried over to the benefit of the veteran's unremarried surviving spouse, provided the residency requirement is met.

This section also provides a full exemption on property that is owned and used as a homestead by the surviving spouse of veteran who died from service-connected causes while on active duty. The veteran must have been a permanent Florida resident on January 1 of the year in which he or she died.

The bill expands the above homestead exemptions by including an unremarried surviving spouse of a veteran who was totally and permanently disabled upon death from payment of ad valorem taxes for a homestead property in this state if the veteran, at the time of his or her death, owned homestead property in another state and had received a partial or full homestead exemption on that property on January 1 of the year the veteran died. To qualify for the tax exemption, after the veteran's death, the unremarried surviving spouse must purchase and hold the legal or beneficial title to the homestead property in this state and permanently reside on the property.

Additionally, the surviving spouse must provide the county property appraiser with documentation that verifies the partial or full homestead exemption that applied to the veteran's property in the other state and any prima facie evidence that the surviving spouse is entitled to the exemption. The exemption:

- Is effective beginning with the 2016-2017 fiscal year.
- Applies until the surviving spouse remarries.
- May be transferred to a new residence under certain conditions.
- Does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2017.

On December 18, 2015, the Revenue Estimating Conference (REC) estimated the bill's impact on local government revenue in Fiscal Year 2016-17 would be -\$0.9 million for schools and -\$0.7 million for non-school purposes (growing to -\$1.0 million for schools and -\$1.1 million for non-school purposes in FY 2020-21), holding the 2014 statewide average property tax rates constant.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Exemptions

Article VII, section 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.

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁶

Article VII, section 3 of the Florida Constitution provides for other specific exemptions from property taxes, including, but not limited to, exemptions for widows and widowers, blind persons, and persons who are totally and permanently disabled.

Veteran Exemptions

Totally and Permanently Disabled Veterans/Surviving Spouses

Article VII, section 3(b) of the Florida Constitution authorizes the Legislature by general law to provide, in part, a property tax exemption in an amount not less than five hundred dollars for every widow or widower, and for persons who are permanently disabled. The Legislature implemented this provision through s. 196.081(1)-(3), F.S. These subsections currently provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of

¹ Fla. Const. art. VII, s. 1(a)

² Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4

⁴ Fla. Const., art. VII, ss. 3, 4, and 6.

⁵ Section 196.031, F.S.

⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

the tax year for which the exemption is being claimed or in which the veteran died.⁷ This exemption may be carried over to the benefit of the veteran's surviving spouse.⁸ If the deceased veteran does not meet these criteria, the surviving spouse is not eligible for the carry-over of the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.⁹

Veterans Who Died from Service-connected Causes While on Active duty/Surviving Spouses

Article VII, section 6(f) of the Florida Constitution authorizes the Legislature to provide ad valorem tax relief to 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. The Legislature implemented this provision through s. 196.081(4), F.S.

Unlike the tax exemption in section 196.081(1)-(3), F.S., that is granted to a totally and permanently disabled veteran and passes to the surviving spouse upon the veteran's death, the exemption in section 196.081(4), F.S., applies directly to the surviving spouse of a veteran. This subsection provides 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 and is a permanent Florida resident on January 1 of the tax year for which the veteran died.¹⁰ If the surviving spouse does not meet these criteria, the surviving spouse is not eligible to receive the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.¹¹

Portability

While current law allows the surviving spouse of a disabled veteran to transfer the veteran's disability exemption to a new property if they are moving within Florida, this portability is not available to a surviving spouse who is coming from another state. In other words, if a surviving spouse owned a permanent residence in another state and was receiving an exemption or similar benefit based on their veteran spouse's disability, they could not transfer that benefit to a new Florida residence. However, a similarly situated surviving spouse who was moving within Florida would be able to transfer their benefit.

Proposed Changes

The bill expands the above homestead exemptions to include the surviving spouse of such veterans who, at the time of death, owned homestead property in another state.

Specifically, the bill exempts an unremarried surviving spouse of a veteran who was totally and permanently disabled upon death from payment of ad valorem taxes for a homestead property in this state if the veteran, at the time of his or her death, owned homestead property in another state and had received a partial or full homestead exemption on that property on January 1 of the year the veteran died. To qualify for the tax exemption, after the veteran's death, the unremarried surviving spouse must purchase and hold the legal or beneficial title to the homestead property in this state and permanently reside on the property.¹²

⁷ Section 196.081(1), F.S.

⁸ Section 196.081(2) and (3), F.S.

⁹ Section 196.081(3), F.S.

¹⁰ Section 196.081(4), F.S.

¹¹ Section 196.081(4)(b), F.S.

¹² See section 196.031, F.S.

Additionally, the surviving spouse must provide the county property appraiser with documentation that verifies the partial or full homestead exemption that applied to the veteran's property in the other state and any prima facie evidence that the surviving spouse is entitled to the exemption.

Lastly, the tax exemption:

- Is effective beginning with the 2016-2017 fiscal year.
- Applies until the surviving spouse remarries.
- May be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as it is used as the surviving spouse's primary residence and he or she does not remarry.
- Does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2017.

B. SECTION DIRECTORY:

Section 1 Amends s. 196.081, F.S., relating to homestead exemptions for certain totally and permanently disabled veterans and for surviving spouses of veterans.

Section 2 Provides an effective date of July 1, 2016.

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:

On December 18, 2015, the Revenue Estimating Conference estimated the bill's impact on local government revenue beginning in Fiscal Year 2016-17 would be -\$0.9 million for schools, growing to -\$1.0 million in FY 2020-21. For non-school purposes, the recurring impact is estimated to be -\$0.7 million in FY 2016-17, growing to -\$1.1 million in FY 2020-21. The estimates assume the 2014 statewide average property tax rates. The Fiscal Year 2016-17 cash impact is zero because of the effective date.¹³

2. Expenditures:

None.

¹³ Revenue Estimating Conference, *Surviving Spouse/Disabled Veterans-Residency: HB 611* (December 18, 2015).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The surviving spouse of a veteran who was totally and permanently disabled upon death could receive property tax relief in this state, if the veteran, at the time of his or her death, owned homestead property in another state and had received a partial or full homestead exemption on that property on January 1 of the year the veteran died.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality provisions of Art. VII, s. 18, of the Florida Constitution may apply because the provisions of the bill would reduce the authority that local governments have to raise revenues. 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. However, if the bill results in an insignificant fiscal impact to county or municipal governments, an exemption from the county/municipality provisions of Art. VII, s. 18, of the Florida Constitution may apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 26 of the bill, there is a scrivener's error. The line should read "received a partial or full homestead exemption on that property".

The proposed exemption expansion, as drafted, grants the homestead exemption to the surviving spouse of a veteran who died from service-connected causes while on active duty and who was totally and permanently disabled. The current law does not require this. Present subsection (4) only requires the "veteran" die from service-connected causes while on active duty. The proposed exemption expansion appears to be more restrictive.

Moreover, the bill refers to a homestead property tax exemption as it is used in the Florida Constitution and the Florida statutes. The bill also uses this to refer to other states' similarly situated property tax exemptions. However, not all states provide the same defined homestead exemption. For example, some states may offer a residency tax credit, a role back or school tax relief. The proposed exemption expansion requires the unremarried surviving spouse to provide documentation to the property appraiser that verifies the partial or full homestead exemption that applied to the veteran's property in the other state. Consequently, it may be difficult for property appraisers to administer this proposal.

Lastly, the proposed exemption expansion exempts an unremarried surviving spouse of a veteran who was *totally and permanently* disabled upon death from payment of ad valorem taxes for a homestead property in this state if the veteran, at the time of his or her death, owned homestead property in another state. Other states provide exemptions to veterans and surviving spouses based on a variety of

criteria. Some may provide it with no disability requirement, while others provide it based on income. Consequently, it may be difficult for property appraisers to administer this proposal.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to homestead property tax exemptions;
 3 exempting the unremarried surviving spouse of certain
 4 deceased veterans from payment of ad valorem taxes for
 5 certain homesteads in this state, irrespective of the
 6 state in which the veteran's homestead was located at
 7 the time of death, if certain conditions are met;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsections (5) and (6) of section 196.081,
 13 Florida Statutes, are renumbered as subsections (6) and (7),
 14 respectively, and a new subsection (5) is added to that section
 15 to read:

16 196.081 Exemption for certain totally and permanently ~~and~~
 17 ~~totally~~ disabled veterans and for surviving spouses of veterans;
 18 exemption for surviving spouses of first responders who die in
 19 the line of duty.—

20 (5)(a) The unremarried surviving spouse of a veteran who
 21 was totally and permanently disabled upon death is entitled to
 22 the same homestead exemption that would otherwise be granted to
 23 a surviving spouse of a veteran as described in subsections (1)-
 24 (4), if the veteran, at the time of his or her death, owned
 25 homestead property in another state in the United States and had
 26 received a partial of full homestead exemption on that property

27 on January 1 of the year the veteran died. To qualify for the
 28 tax exemption, the unremarried surviving spouse, subsequent to
 29 the death of the veteran, must purchase and hold the legal or
 30 beneficial title to homestead property in this state and
 31 permanently reside thereon as specified in s. 196.031.

32 (b) The surviving spouse must provide to the property
 33 appraiser in the county in which the property is located
 34 documentation that verifies the partial or full homestead
 35 exemption that applied to the veteran's property in the other
 36 state.

37 (c) The surviving spouse must provide documentation as set
 38 forth in subsection (2) or paragraph (4)(a), as appropriate, to
 39 the property appraiser in the county in which the property is
 40 located.

- 41 (d) The tax exemption provided by this subsection:
 42 1. Is effective beginning with the 2016-2017 fiscal year.
 43 2. Applies until the surviving spouse remarries.
 44 3. May be transferred to a new residence, in an amount not
 45 to exceed the amount granted from the most recent ad valorem tax
 46 roll, as long as it is used as the surviving spouse's primary
 47 residence and he or she does not remarry.
 48 4. Does not provide a basis for relief from an assessment
 49 of taxes not paid or create a right to a refund of taxes paid
 50 before January 1, 2017.

51 Section 2. This act shall take effect July 1, 2016.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Veteran & Military Affairs
 2 Subcommittee
 3 Representative Hager offered the following:

Amendment

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (4) of section 196.081, Florida
 8 Statutes, is amended, subsections (5) and (6) are renumbered as
 9 subsections (6) and (7), respectively, and a new subsection (5)
 10 is added to that section to read:

11 196.081 Exemption for certain total and permanently ~~and~~
 12 ~~totally~~ disabled veterans and for surviving spouses of veterans;
 13 exemption for surviving spouses of first responders who die in
 14 the line of duty.-

15 (4) Any real estate that is owned and used as a homestead
 16 by the surviving spouse of a servicemember ~~veteran~~ who died from
 17 service-connected causes while on active duty as a member of the



Amendment No.

18 United States Armed Forces and for whom a letter from the United
19 States Government or United States Department of Veterans
20 Affairs or its predecessor has been issued certifying that the
21 servicemember ~~veteran~~ who died from service-connected causes
22 while on active duty is exempt from taxation ~~if the veteran was~~
23 ~~a permanent resident of this state on January 1 of the year in~~
24 ~~which the veteran died.~~

25 (5) (a) The unremarried surviving spouse of a veteran who
26 was honorably discharged with a service-connected total and
27 permanent disability is entitled to the same exemption that
28 would otherwise be granted to a surviving spouse as described in
29 subsections (1)-(3), if the veteran, at the time of death, owned
30 property in another state in the United States and used it in a
31 manner that would have qualified for homestead exemption under
32 s. 196.031 if the property was located in this state on January
33 1 of the year the veteran died. To qualify for the exemption
34 under this subsection, the unremarried surviving spouse,
35 subsequent to the death of the veteran, must hold the legal or
36 beneficial title to homestead property in this state and
37 permanently reside thereon as specified in s. 196.031 as of
38 January 1 of the tax year for which the exemption is being
39 claimed.

40 (b) The surviving spouse must provide documentation as set
41 forth in subsection (2) to the property appraiser in the county
42 in which the property is located.

43 (c) The tax exemption provided by this subsection:



Amendment No.

- 44 1. Is available until the surviving spouse remarries.
- 45 2. May be transferred to a new residence, in an amount not
- 46 to exceed the amount granted from the most recent ad valorem tax
- 47 roll, as long as it is used as the surviving spouse's primary
- 48 residence and he or she does not remarry.

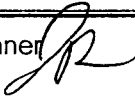
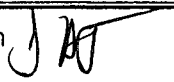
49 Section 2. This act shall take effect January 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HJR 811 Homestead Tax Exemption/Spouses of Deceased Combat-disabled Veterans

SPONSOR(S): Veteran & Military Affairs Subcommittee

TIED BILLS: PCS for HB 813 **IDEN./SIM. BILLS:** CS/SJR 778

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Veteran & Military Affairs Subcommittee		Renner 	Thompson 

SUMMARY ANALYSIS

The Florida Constitution provides a discount from the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat. The discount is equal to the percentage of the veteran's disability as determined by the United States Department of Veterans Affairs.

PCS for HJR 811 proposes an amendment to the Florida Constitution to expand the discount to also include surviving spouses. Specifically, the joint resolution would allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon. The discount would apply to the property until the surviving spouse remarries, sells, or otherwise disposes of, the property. If the surviving spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

On December 18, 2015, the Revenue Estimating Conference (REC) estimated the bill to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the electorate and further implementation by the Legislature (See Fiscal Analysis Section).

Additionally, the Division of Elections within the Department of State estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$146,167.75.

The joint resolution provides an effective date of January 1, 2017.

A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Exemptions

Article VII, section 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.

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁶

Article VII, section 3 of the Florida Constitution provides for other specific exemptions from property taxes, including, but not limited to, exemptions for widows and widowers, blind persons, and persons who are totally and permanently disabled.

Military Service

Article VII, section 6(e) of the Florida Constitution provides a discount on the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat.⁷ The discount is equal to the percentage of the veteran's permanent, service-connected disability as determined by the United

¹ Fla. Const. art. VII, s. 1(a).

² Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4.

⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

⁷ s.196.082, F.S., implements this provision.

States Department of Veterans Affairs.⁸ The discount is limited to veterans with a combat related disability, and not all service-connected disabilities are combat related.⁹ Further, current law does not allow the spouse of a veteran receiving this discount to claim the benefit if he or she survives the veteran. This provision is self-executing and does not require implementing legislation. However, the Legislature appears to have implemented this provision through s. 196.182, F.S.

In 2015, 8,510 veterans received the combat-disabled ad valorem tax discount.¹⁰ According to the Florida Department of Veterans Affairs, there are more than 731,000 veterans over the age of 65 residing in Florida.¹¹ The U.S. Department of Veterans Affairs indicates that there were 177,664 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Fiscal Year 2013.¹²

Effect of Proposed Changes

PCS for HJR 811 proposes an amendment to Article VII, section 6(e) of the Florida Constitution to expand the discount to also include surviving spouses. Specifically, the joint resolution would allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon..

Correspondingly, the discount would be equal to the percentage of discount received by the veteran, which is based on the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.

The discount would apply to the property until the surviving spouse remarries, sells, or otherwise disposes of the property. If the spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁸ The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0-percent to 100-percent (in 10-percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation.

⁹ United States Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, Federal Benefits for Veterans, Dependents and Survivors, Chapter 2-Service-connected Disabilities, available at:

http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp (last viewed December 14, 2015)

¹⁰ Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).

¹¹ Florida Department of Veterans Affairs website, Fast Facts, available at: <http://floridavets.org/our-veterans/profilefast-facts/> (last viewed December 14, 2015).

¹² The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2013*, <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY13-09262014.pdf> (last visited December 14, 2015).

2. Expenditures:

Article XI, s. 5(d) of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be approximately \$135.97 per word, for a total publishing cost of approximately \$146,167.75.¹³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On December 18, 2015, the REC estimated the bill to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the electorate and further implementation by the Legislature. However, if approved by the electorate and implemented by the Legislature, the REC determined the bill would have a local government revenue impact beginning in Fiscal Year 2016-17 of -\$1.5 million (-\$0.8 million school and -\$0.7 million non-school purposes), growing to -\$3.5 million in 2020-21 (-\$1.9 million school and -\$1.6 million non-school purposes), holding the 2014 statewide average property tax rates constant. The 2016-17 cash impact is zero because of the effective date.¹⁴

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate and implemented by the Legislature, surviving spouses of certain deceased veterans would be eligible to receive property tax relief.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.¹⁵ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election

¹³ Department of State, Agency Analysis 2016 HJR 811 (December 21, 2015)

¹⁴ Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).

¹⁵ Art. XI, s. 1 of the Florida Constitution.

held more than ninety days after such filing.¹⁶

Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose. Without an effective date, the amendment becomes effective on the first Tuesday after the first Monday in the January following the election, which will be January 3, 2017. However, the joint resolution provides an effective date of January 1, 2017.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The ballot summary is 83 words in length. Section 101.161, F.S., requires that the ballot summary not exceed 75 words. The Florida Supreme Court has found such a requirement implicit in Article XI, s. 5 of the Florida Constitution. See *Armstrong v. Harris*, 773 So.2d 7 (Fla. 2000).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹⁶ Art. XI, s. 5 of the Florida Constitution.

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1 House Joint Resolution

2 A joint resolution proposing an amendment to Section 6
3 of Article VII and the creation of a new section in
4 Article XII of the State Constitution to authorize the
5 discount on ad valorem taxes on homestead property
6 which is received by certain veterans who have
7 permanent, combat-related disabilities to carry over
8 upon the death of the veteran to the benefit of a
9 surviving spouse until the surviving spouse remarries
10 or sells or otherwise disposes of the property and to
11 specify that the discount is transferrable to another
12 permanent residence if the surviving spouse remains
13 unmarried.

14
15 Be It Resolved by the Legislature of the State of Florida:

16
17 That the following amendment to Section 6 of Article VII
18 and the creation of a new section in Article XII of the State
19 Constitution are agreed to and shall be submitted to the
20 electors of this state for approval or rejection at the next
21 general election or at an earlier special election specifically
22 authorized by law for that purpose:

23 ARTICLE VII

24 FINANCE AND TAXATION

25 SECTION 6. Homestead exemptions.—

26 (a) Every person who has the legal or equitable title to

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27 real estate and maintains thereon the permanent residence of the
 28 owner, or another legally or naturally dependent upon the owner,
 29 shall be exempt from taxation thereon, except assessments for
 30 special benefits, up to the assessed valuation of twenty-five
 31 thousand dollars and, for all levies other than school district
 32 levies, on the assessed valuation greater than fifty thousand
 33 dollars and up to seventy-five thousand dollars, upon
 34 establishment of right thereto in the manner prescribed by law.
 35 The real estate may be held by legal or equitable title, by the
 36 entireties, jointly, in common, as a condominium, or indirectly
 37 by stock ownership or membership representing the owner's or
 38 member's proprietary interest in a corporation owning a fee or a
 39 leasehold initially in excess of ninety-eight years. The
 40 exemption shall not apply with respect to any assessment roll
 41 until such roll is first determined to be in compliance with the
 42 provisions of section 4 by a state agency designated by general
 43 law. This exemption is repealed on the effective date of any
 44 amendment to this Article which provides for the assessment of
 45 homestead property at less than just value.

46 (b) Not more than one exemption shall be allowed any
 47 individual or family unit or with respect to any residential
 48 unit. No exemption shall exceed the value of the real estate
 49 assessable to the owner or, in case of ownership through stock
 50 or membership in a corporation, the value of the proportion
 51 which the interest in the corporation bears to the assessed
 52 value of the property.

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53 (c) By general law and subject to conditions specified
 54 therein, the Legislature may provide to renters, who are
 55 permanent residents, ad valorem tax relief on all ad valorem tax
 56 levies. Such ad valorem tax relief shall be in the form and
 57 amount established by general law.

58 (d) The legislature may, by general law, allow counties or
 59 municipalities, for the purpose of their respective tax levies
 60 and subject to the provisions of general law, to grant either or
 61 both of the following additional homestead tax exemptions:

62 (1) An exemption not exceeding fifty thousand dollars to
 63 any person who has the legal or equitable title to real estate
 64 and maintains thereon the permanent residence of the owner and
 65 who has attained age sixty-five and whose household income, as
 66 defined by general law, does not exceed twenty thousand dollars;
 67 or

68 (2) An exemption equal to the assessed value of the
 69 property to any person who has the legal or equitable title to
 70 real estate with a just value less than two hundred and fifty
 71 thousand dollars and who has maintained thereon the permanent
 72 residence of the owner for not less than twenty-five years and
 73 who has attained age sixty-five and whose household income does
 74 not exceed the income limitation prescribed in paragraph (1).

75
 76 The general law must allow counties and municipalities to grant
 77 these additional exemptions, within the limits prescribed in
 78 this subsection, by ordinance adopted in the manner prescribed

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79 by general law, and must provide for the periodic adjustment of
 80 the income limitation prescribed in this subsection for changes
 81 in the cost of living.

82 (e) (1) Each veteran who is age 65 or older who is
 83 partially or totally permanently disabled shall receive a
 84 discount from the amount of the ad valorem tax otherwise owed on
 85 homestead property the veteran owns and resides in if the
 86 disability was combat related and the veteran was honorably
 87 discharged upon separation from military service. The discount
 88 shall be in a percentage equal to the percentage of the
 89 veteran's permanent, service-connected disability as determined
 90 by the United States Department of Veterans Affairs. To qualify
 91 for the discount granted by this subsection, an applicant must
 92 submit to the county property appraiser, by March 1, an official
 93 letter from the United States Department of Veterans Affairs
 94 stating the percentage of the veteran's service-connected
 95 disability and such evidence that reasonably identifies the
 96 disability as combat related and a copy of the veteran's
 97 honorable discharge. If the property appraiser denies the
 98 request for a discount, the appraiser must notify the applicant
 99 in writing of the reasons for the denial, and the veteran may
 100 reapply. The Legislature may, by general law, waive the annual
 101 application requirement in subsequent years. This subsection is
 102 self-executing and does not require implementing legislation.

103 (2) If a veteran who is receiving the discount described
 104 in paragraph (1) predeceases his or her spouse and if, upon the

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105 death of the veteran, the surviving spouse holds the legal or
 106 beneficial title to the homestead property and permanently
 107 resides thereon, the discount carries over to the benefit of the
 108 surviving spouse until he or she remarries or sells or otherwise
 109 disposes of the property. If the surviving spouse sells the
 110 property, a discount not to exceed the dollar amount granted
 111 from the most recent ad valorem tax roll may be transferred to
 112 his or her new residence if the residence is used as his or her
 113 permanent residence and he or she does not remarry.

114 (f) By general law and subject to conditions and
 115 limitations specified therein, the Legislature may provide ad
 116 valorem tax relief equal to the total amount or a portion of the
 117 ad valorem tax otherwise owed on homestead property to the:

118 (1) Surviving spouse of a veteran who died from service-
 119 connected causes while on active duty as a member of the United
 120 States Armed Forces.

121 (2) Surviving spouse of a first responder who died in the
 122 line of duty.

123 (3) As used in this subsection and as further defined by
 124 general law, the term:

125 a. "First responder" means a law enforcement officer, a
 126 correctional officer, a firefighter, an emergency medical
 127 technician, or a paramedic.

128 b. "In the line of duty" means arising out of and in the
 129 actual performance of duty required by employment as a first
 130 responder.

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131 ARTICLE XII

132 SCHEDULE

133 Ad valorem tax discount for spouses of deceased veterans
134 who had permanent, combat-related disabilities.--The amendment to
135 Section 6 of Article VII, relating to ad valorem tax discount
136 for spouses of deceased veterans who had permanent, combat-
137 related disabilities, and this section shall take effect January
138 1, 2017.

139 BE IT FURTHER RESOLVED that the following statement be
140 placed on the ballot:

141 CONSTITUTIONAL AMENDMENT

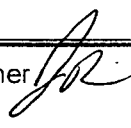

142 ARTICLE VII, SECTION 6

143 ARTICLE XII

144 AD VALOREM TAX DISCOUNT FOR SPOUSES OF DECEASED VETERANS
145 WHO HAD PERMANENT, COMBAT-RELATED DISABILITIES.--Proposing an
146 amendment to the State Constitution to authorize the discount on
147 ad valorem taxes on homestead property which is received by
148 certain veterans who have permanent, combat-related disabilities
149 to carry over upon the death of the veteran to the benefit of a
150 surviving spouse until the surviving spouse remarries or sells
151 or otherwise disposes of the property. The discount is
152 transferrable to another permanent residence if the surviving
153 spouse remains unmarried.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 813 Homestead Property Tax Discount for Disabled Veterans
SPONSOR(S): Veteran & Military Affairs Subcommittee
TIED BILLS: PCS for HJR 811 **IDEN./SIM. BILLS:** SB 816

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Veteran & Military Affairs Subcommittee		Renner 	Thompson 

SUMMARY ANALYSIS

PCS for HB 813 is the implementing legislation for PCS for HJR 811.

HJR 811 proposes an amendment to the Florida Constitution to allow the same ad valorem tax discount on homestead property for combat-disabled veterans age 65 or older to carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon. The discount would apply to the property until the surviving spouse remarries, sells, or otherwise disposes of, the property. If the surviving spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

PCS for HB 813 establishes this legislation in statute.

On December 18, 2015, the Revenue Estimating Conference (REC) estimated that if HJR 811 should pass, the local government revenue impact of HB 813 beginning in Fiscal Year 2016-17 would be -\$1.5 million, growing to -\$3.5 million in 2020-21, holding the 2014 statewide average property tax rates constant.

This bill takes effect on the same date that PCS for HJR 811, or a similar joint resolution, is approved by the electors at the general election to be held in November 2016 or at an earlier special election specifically authorized for that purpose. If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017, and will first apply to the 2017 property tax roll.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Exemptions

Article VII, section 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.

Case law precedent provides that the Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁶

Article VII, section 3 of the Florida Constitution provides for other specific exemptions from property taxes, including, but not limited to, exemptions for widows and widowers, blind persons, persons who are totally and permanently disabled.

Military Service

Article VII, section 6(e) of the Florida Constitution provides a discount on the amount of ad valorem tax otherwise owed on the homestead property of an honorably discharged veteran who is age 65 or older and is partially or totally permanently disabled as a result of combat. Section 196.082, F.S., implements this provision. The discount is equal to the percentage of the veteran's permanent, service-connected

¹ Fla. Const. art. VII, s. 1(a).

² Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ Fla. Const., art. VII, s. 4.

⁴ Fla. Const. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

disability as determined by the United States Department of Veterans Affairs.⁷ The discount is limited to veterans with a combat related disability, and not all service-connected disabilities are combat related.⁸ Further, current law does not allow the spouse of a veteran receiving this discount to claim the benefit if he or she survives the veteran.

In 2015, 8,510 veterans received the combat-disabled ad valorem tax discount.⁹ According to the Florida Department of Veterans Affairs, there are more than 731,000 veterans over the age of 65 residing in Florida.¹⁰ The U.S. Department of Veterans Affairs indicates that there were 177,664 veterans over the age of 55 in Florida receiving compensation for service-related conditions at the end of Fiscal Year 2013.¹¹

Effect of Proposed Changes

PCS for HB 813 is the implementing legislation for PCS for HJR 811. The bill establishes in statute that the ad valorem discount on homestead property for combat-disabled veterans age 65 or older must carry over to the surviving spouse of a veteran receiving the discount if the surviving spouse holds legal or beneficial title to the homestead and permanently resides thereon.

The discount would apply to the property until the surviving spouse remarries, sells, or otherwise disposes of the property. If the surviving spouse sells the property, the discount may be transferred to the surviving spouse's new residence, not to exceed the dollar amount granted from the most recent ad valorem tax roll, as long as the residence is used as the surviving spouse's permanent residence and he or she does not remarry.

B. SECTION DIRECTORY:

Section 1 Amends s. 196.082, F.S., relating to discounts for disabled veterans.

Section 2 Provides for a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

⁷ The U.S. Department of Veterans Affairs (USDVA) assigns a percentage evaluation from 0-percent to 100-percent (in 10-percent increments) for the amount of disability that the USDVA determines the veteran has sustained. The resulting disability percentage rating determines the level of a veteran's monthly disability compensation.

⁸ United States Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, Federal Benefits for Veterans, Dependents and Survivors, Chapter 2-Service-connected Disabilities, available at:

http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp (last viewed December 14, 2015)

⁹ Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).

¹⁰ Florida Department of Veterans Affairs website, Fast Facts, available at: <http://floridavets.org/our-veterans/profilefast-facts/> (last viewed December 14, 2015).

¹¹ The USDVA provides data in 20 year increments. There was no data available that provided the number of veterans receiving disability compensation in a range that began at age 65. U.S. Department of Veterans Affairs, Veterans Benefits Administration, *Annual Benefits Report: Fiscal Year 2013*, <http://www.benefits.va.gov/REPORTS/abr/ABR-Combined-FY13-09262014.pdf> (last visited December 14, 2015).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On December 18, 2015, the REC estimated the bill to have a zero or negative indeterminate impact on local government revenue due to the need for approval by the electorate and further implementation by the Legislature. However, if the PCS for HJR 811 is approved by the electorate and implemented by the Legislature, the REC determined this bill would have a local government revenue impact beginning in Fiscal Year 2016-17 of -\$1.5 million (-\$0.8 million school and -\$0.7 million non-school), growing to -\$3.5 million in 2020-21 (-\$1.9 million school and -\$1.6 million non-school), holding the 2014 statewide average property tax rates constant. The Fiscal Year 2016-17 cash impact is zero because of the effective date.¹²

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill is approved and implemented by the Legislature, surviving spouses of certain veterans could receive property tax relief.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹² Revenue Estimating Conference, *Combat-related Disability/Surviving Spouse Discount: HJR 811* (December 18, 2015).

PCS for HB 813

ORIGINAL

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1 A bill to be entitled
 2 An act relating to a homestead property tax discount
 3 for disabled veterans; amending s. 196.082, F.S.;
 4 providing for the transfer of a certain discount on ad
 5 valorem taxes on homestead property to the surviving
 6 spouse of a specified disabled veteran under certain
 7 circumstances; providing for the transfer of the
 8 discount by the surviving spouse to a new residence
 9 under certain circumstances; providing a contingent
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Present subsections (3), (4), (5), and (6) of
 15 section 196.082, Florida Statutes, are renumbered as subsections
 16 (4), (5), (6), and (7), respectively, and a new subsection (3)
 17 is added to that section, to read:

18 196.082 Discounts for disabled veterans.—

19 (3) If a veteran who is receiving the discount under this
 20 section predeceases his or her spouse and if, upon the death of
 21 the veteran, the surviving spouse holds the legal or beneficial
 22 title to the homestead and permanently resides thereon as
 23 specified in s. 196.031, the discount carries over to the
 24 benefit of the surviving spouse until he or she remarries or
 25 sells or otherwise disposes of the property. If the surviving
 26 spouse sells the property, a discount not to exceed the dollar

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27 amount granted from the most recent ad valorem tax roll may be
 28 transferred to his or her new residence if the residence is used
 29 as his or her permanent residence and he or she does not
 30 remarry.

31 Section 2. This act shall take effect on the same date
 32 that HJR 811, or a similar joint resolution, is approved by the
 33 electors at the general election to be held in November 2016 or
 34 at an earlier special election specifically authorized by law
 35 for that purpose.