HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 689 Ad Valorem Tax Exemption for Nonprofit Homes for the Aged
SPONSOR(S): Smith and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 220

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	23 Y, 0 N	Rexford	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N	Burgess	Darden
3) State Affairs Committee		Burgess	Williamson

SUMMARY ANALYSIS

Florida law exempts from ad valorem taxation property used as a home for the aged by certain non-profit corporations if at least 75 percent of the occupants of the facility are over the age of 62 years or totally and permanently disabled. The exemption also applies to the extent these properties are used exclusively to conduct religious services or render nursing or medical services.

Individual units and apartments in such a facility may be exempt from ad valorem taxation if the units or apartments are reserved for, restricted to, or actually occupied by a permanent resident of the state who is at least 62 years of age or totally and permanently disabled and who meets certain income qualifications.

The bill revises eligibility for the ad valorem tax exemption for property used as a home for the aged by nonprofit corporations to include property owned by a Florida limited partnership where an entity not licensed under ch. 429, F.S., and wholly owned by a corporation not-for-profit under ch. 617, F.S., is the sole general partner. The changes made by the bill will first apply to the 2025 ad valorem tax roll.

The Revenue Estimating Conference estimates that the bill will not impact state government revenues and will have a recurring negative impact on local government revenues of -$0.1 million beginning in Fiscal Year 2025-26.

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad Valorem Taxes

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] Ad valorem taxes are annual taxes levied by counties, municipalities, school districts, and certain special districts. These taxes are based on the just value (fair market value) of real and tangible personal property as determined by county property appraisers on January 1 of each year.[2] The just value may be subject to limitations and exemptions, which factor in to the property appraiser's calculation of taxable value. Each year, local governing boards levy millage rates (i.e., tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

Exemption for Property Used by Nonprofit Homes for the Aged

Florida law exempts from ad valorem taxation property used as a home for the aged by certain nonprofit corporations.[3] In order to qualify for the exemption, the following criteria must be met:

- The applicant for 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 be 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.;
- 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.[4]

Upon sufficient proof that the applicant meets the above criteria, the property appraiser will exempt the portions of the facility that are devoted exclusively to the conduct of religious services or the rendering of nursing or medical services.[5] 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[6] of no more than $38,869[7] 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 $43,636 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.[8]

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.[9] Common areas of the home

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[1] Art. VII, s. 1(a), Fla. Const.
[2] Art. VII, s. 4, Fla. Const.
[3] Art. VII, ss. 3(a) and 6(c), Fla. Const., implemented by s. 196.1975, F.S.
[4] Ss. 196.1975(1) and (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.
[5] S. 196.1975(3), F.S.
[6] Social security benefits are considered gross income for the purposes of this exemption. S. 196.1975(6), F.S.
[7] S. 196.1975(4)(b), F.S. *See also* Fla. Dept. of Revenue, Cost of Living Adjustments, https://www.floridarevenue.com/property/Documents/CostofLivingAdjust.pdf (last accessed Jan. 24, 2024).
[8] S. 196.1975(4)(a), F.S. Current law defines the maximum income limitation as $7,200 (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* s. 196.1975(4)(a) and (b). The values above reflect those present adjustments for 2023 Fla. Dept. of Revenue, Cost of Living Adjustments, https://www.floridarevenue.com/property/Documents/CostofLivingAdjust.pdf (last accessed Jan. 24, 2024).

are exempt from taxation as long as at least 25 percent of the units or apartments of the home are restricted to or occupied by persons who meet the income requirements.[10]

The facility must file an application annually with the property appraiser to demonstrate continuing qualification for the exemption.[11] The facility must also file an affidavit from each person residing in a unit or apartment in the facility who meets the disability or income requirements described above.[12] 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.[13]

Licensure of Assisted Care Communities
In order to operate an assisted living facility, an adult family-care home, or an adult day care center, Florida law requires the Agency for Health Care Administration to issue a license authorizing operation.[14] Current law prescribes a handful of exemptions from the ch. 429, F.S., licensure requirements. For example, a facility operated by the federal government[15] or licensed by the Agency for Persons with Disabilities[16] is not required to be licensed as an assisted living facility under ch. 429, F.S.

Effect of Proposed Changes

The bill revises eligibility for the ad valorem tax exemption for property used as a home for the aged by nonprofit corporations to include property owned by a Florida limited partnership where an entity not licensed under ch. 429, F.S., and wholly owned by a corporation not-for-profit under ch. 617, F.S., is the sole general partner.

The changes made by the bill will first apply to the 2025 ad valorem tax roll.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.1975, F.S., revising criteria for the ad valorem taxation exemption for property used by nonprofit homes for the aged.

Section 2: Clarifies that changes made to the ad valorem tax exemption for nonprofit homes for the aged will first apply to the 2025 ad valorem tax roll.

Section 3: Provides an effective date of January 1, 2025.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

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[9] S. 196.1975(11), F.S.
[10] S. 196.1975(8), F.S.
[11] S. 196.1975(9)(b), F.S. This application is known as a Form DR-504HA, Fla. Dept. of Revenue, Property Tax Oversight Forms, https://floridarevenue.com/property/Documents/dr504ha.pdf (last accessed Jan. 24, 2024).
[12] S. 196.1975(9)(b), F.S. This application is known as a Form DR-504S.
[13] *Id.*
[14] Ss. 429.07(1), 429.67(1), and 429.907(1), F.S.
[15] Ss. 429.04(2)(a) and 429.905(1)(a), F.S.
[16] S. 429.04(2)(b), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference estimates that the bill will not impact state government revenues and will have a recurring negative impact on local government revenues of -$0.1 million beginning in Fiscal Year 2025-26.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Article VII, Section 18 of the Florida Constitution may apply because this bill reduces ad valorem tax revenues to the extent it enables additional homes for the aged operated by not-for-profit corporations to qualify for an ad valorem tax exemption; however, an exemption may apply because the bill may have an insignificant fiscal impact.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.