

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – provides for greater accessibility for tax exemptions on homestead property for disabled persons.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Tax Exemption

Unless expressly exempted, all real and personal property belonging to residents of Florida is subject to taxation.¹ Current statute provides that any real estate used and owned as a homestead² by a totally and permanently disabled person,³ who is legally blind, is exempt from taxation.⁴

Determination of Disability

Any person seeking the total and permanent disability exemption must produce a certificate of disability from two licensed doctors of this state or certification from the U.S. Department of Veteran Affairs⁵ to the property appraiser of the county wherein the property lies. The certificate of disability will serve as prima facie evidence of entitlement to the exemption.⁶

The physician's certification requires an affirmation, by a physician licensed pursuant to chapter 458 or chapter 459, F.S, that a person is totally and permanently disabled due to the following mental or physical condition(s): quadriplegia, paraplegia, hemiplegia, other total and permanent disability requiring use of a wheelchair for mobility, or legal blindness.

The certification provides a notice to the taxpayer that on or before March 1 of each year, he or she must present a copy of the certification form or a letter from the U.S. Department of Veteran Affairs to the county property appraiser to apply for a total and permanent disability exemption. The certification also notifies both taxpayers and physicians that there are criminal penalties for any person found guilty of knowingly and willfully providing false information for the purpose of claiming a disability exemption.

Pursuant to chapter 458, physician means a person who is licensed to practice medicine in this state. Moreover, the practice of medicine is the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition.⁷

According to chapter 459, an osteopathic physician is a person who is licensed to practice osteopathic medicine in this state. The practice of osteopathic medicine is defined as the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental

¹ Fla. Stat. § 196.001(1) (2006).

² "Real estate used and owned as a homestead" means real property to the extent provided in s. 6(a), Art. VII of the Florida Constitution, but less any portion thereof used for commercial purposes, with the title of such property being recorded in the official records of the county in which the property is located. Fla. Stat. §196.012(13) (2006).

³ "Totally and permanently disabled person" means a person who is currently certified by two licensed physicians of this state who are professionally unrelated, by the U.S. Department of Veterans Affairs or its predecessor, or by the Social Security Administration, to be totally and permanently disabled. Fla. Stat. § 196.012(11) (2006).

⁴ Fla. Stat. §196.101(2) (2006).

⁵ The predecessor to the U.S. Department of Veteran Affairs is an acceptable substitute for certification of disability. Fla. Stat. § 196.101(3) (2006).

⁶ Fla. Stat. § 196.101(3) (2006).

⁷ Fla. Stat. § 458.305(3) (2006).

condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.⁸

Legal blindness is statutorily defined as central visual acuity of 20/200 or less in the better eye with the use of a correcting glasses or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter or visual field subtends an angular distance no greater than 20 degrees.⁹

Income Limitation

Additionally, applicants seeking to qualify for exemption must meet income requirements. The gross income¹⁰ of all persons residing in or upon the homestead for the prior year may not exceed \$14,500.¹¹ This figure is adjusted yearly based on the percentage change in the average cost-of-living index from the previous year. The amount for FY 06-07 is \$23,604.¹² According to statute, the Department of Revenue must require the taxpayer to annually submit a sworn statement of gross income as well as copies of federal income tax returns, wage and earnings statements, and other documents it deems necessary, for each member of the household.¹³ The statement must also attest to the accuracy of the other documents. The person must also be a permanent resident of the state and must provide an affidavit claiming residence.¹⁴

Practice of Optometry

The practice of optometry is regulated pursuant to chapter 463. Optometry is the diagnosis of conditions of the human eye and its appendages; the employment of any objective or subjective means or methods, including the administration of topical ocular pharmaceutical agents, for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages.¹⁵ Optometry also includes the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and any other means or methods, including topical ocular pharmaceutical agents, for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages.¹⁶

Presently, optometrists are authorized to certify disability for the purposes of issuing disabled parking permits.¹⁷

⁸ Fla. Stat. § 459.003(3) (2006).

⁹ Fla. Stat. § 413.033(1) (2006).

¹⁰ "Gross income" includes U.S. Department of Veteran Affairs benefits and social security benefits paid to the persons. Fla. Stat. § 196.101(4)(a) (2006).

¹¹ Fla. Stat. § 196.101(4)(b) (2006).

¹² As reported by the Department of Revenue on March 13, 2007.

¹³ Fla. Stat. § 196.101(4)(c) (2006).

¹⁴ Fla. Stat. § 196.101(4)(a) (2006).

¹⁵ "Optometry" means the diagnosis of conditions of the human eye and its appendages; the employment of any objective or subjective means or methods, including the administration of topical ocular pharmaceutical agents, for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages; and the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and any other means or methods, including topical ocular pharmaceutical agents, for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages. Fla. Stat. §463.00 (5) (2006).

¹⁶ Fla. Stat. § 463.002(3) and (4) (2006).

¹⁷ Fla. Stat. § 320.0848(1)(b)(2) (2006).

Effect of Proposed Changes

The bill provides that optometrists may provide certification of legal blindness for the purposes of applying for a total and permanent disability tax exemption on a homestead property. The bill still requires that at least one of the two certificates of disability be signed by a physician.

The bill also states that optometrists, licensed under ch. 463, F.S., may certify disability by using the existing certification form found in s.196.101(5), F.S.

C. SECTION DIRECTORY:

Section 1 amends s.196.101, F.S., to authorize an optometrist, licensed under ch. 463, F.S., to certify a person to be disabled as a result of legal blindness for the purposes of a homestead tax exemption.

Section 2 provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

This bill does not create, modify, amend, or eliminate a state expenditure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

This bill does not create, modify, amend, or eliminate an expenditure for local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

Line 16 uses the term "legal blindness." Line 18 uses the term "blindness." For purposes of internal consistency, line 18 should read "legal blindness."

The bill states that optometrists, licensed under ch. 463, F.S., may certify disability by using the existing certification form found in s.196.101(5), F.S. To avoid potential implementation issues, a subsection (7) may need to be created to provide the language and form of an optometrist's certification for purposes of this section.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES