

## Notice of Proposed Rule

### DEPARTMENT OF REVENUE

### Property Tax Oversight Program

RULE NO.: RULE TITLE:

12D-7.004 Exemption for Certain Permanently and Totally Disabled Veterans and Surviving Spouses of Certain Veterans

PURPOSE AND EFFECT: The Florida Second District Court of Appeal, in Dep't of Revenue v. Bell, 290 So.3d 1060 (Fla. 2d DCA Feb. 19, 2020), reviewed the statutory requirement for the veteran to be a Florida resident and held that the provision limited and narrowed the class of property owners eligible for the ad valorem tax exemption, and thus the provision is invalid and unenforceable. The purpose of the amendments to paragraph (4)(c) of Rule 12D-7.004, Florida Administrative Code, is to remove the Florida residency requirement for this exemption from the rule. When in effect, the amended rule will reflect the findings of the court regarding this ad valorem tax exemption.

SUMMARY: The proposed amendments to Rule 12D-7.004, F.A.C., remove the Florida residency requirement for veterans applying for total relief from homestead exemption and their surviving spouse entitled to the exemption in s. 196.081(4), F.S.

### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) no requirement for a SERC was triggered under Section 120.541(1), F.S.; and, 2) based on past experiences with activities for providing the public tax information and rules of this nature, the adverse impact or regulatory cost, if any, do not exceed nor would exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 195.027(1) FS.

LAW IMPLEMENTED: 196.081, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mike Cotton, Property Tax Oversight, Department of Revenue, 2450 Shumard Oak Blvd., Tallahassee, Florida 32399-0184, telephone (850)617-8870, email DORPTO@floridarevenue.com.

### THE FULL TEXT OF THE PROPOSED RULE IS:

12D-7.004 Exemption for Certain Permanently and Totally Disabled Veterans and Surviving Spouses of Certain Veterans.

(1) This rule applies to the total exemption from taxation of the homestead property of a veteran who was honorably discharged and who has a service-connected total and permanent disability and of surviving spouses of veterans who died from service-connected causes while on active duty as a member of the United States Armed Forces as described in section 196.081, F.S.

(2) through (3) No change.

(4)(a) through (b) No change.

(c) This paragraph shall apply where the veteran died from service-connected causes while on active duty. The surviving spouse is entitled to the exemption if the following conditions are met:

~~1. The veteran was a permanent resident on January 1 of the year in which the veteran died;~~

12. The spouse continues to reside on the property and use it as his or her primary residence;

- ~~23~~. The spouse does not remarry;
- ~~34~~. The spouse holds legal or beneficial title; and,
- ~~45~~. The spouse produces the required letter attesting to the service-connected death of the veteran while on active duty.

(5) through (6) No change.

*Rulemaking Authority 195.027(1), ~~213.06(1)~~ FS. Law Implemented 196.081 FS. History—New 10-12-76, Formerly 12D-7.04, Amended 12-27-94, 12-30-97, 12-31-98, Amended\_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Cotton.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 22, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 24, 2020.