

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Sebesta

316-845-00

1 A bill to be entitled
2 An act relating to ad valorem taxation;
3 amending s. 193.092, F.S.; providing an
4 exception to the requirement for assessing
5 taxes to a current owner of property that has
6 previously escaped taxation; amending s.
7 196.161, F.S.; providing a waiver of penalty
8 and interest in specified instances wherein a
9 taxpayer erroneously receives a homestead tax
10 exemption; amending s. 196.198, F.S.;
11 maintaining exemption from taxation for
12 property leased from a governmental agency if
13 the agency continues to use the property
14 exclusively for educational purposes; amending
15 s. 200.065, F.S.; revising the procedure by
16 which a property appraiser may correct an error
17 in notices of proposed taxes; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 193.092, Florida Statutes, is
23 amended to read:

24 193.092 Assessment of property for back taxes.--
25 (1) When it shall appear that any ad valorem tax might
26 have been lawfully assessed or collected upon any property in
27 the state, but that such tax was not lawfully assessed or
28 levied, and has not been collected for any year within a
29 period of 3 years next preceding the year in which it is
30 ascertained that such tax has not been assessed, or levied, or
31 collected, then the officers authorized shall make the

1 assessment of taxes upon such property in addition to the
2 assessment of such property for the current year, and shall
3 assess the same separately for such property as may have
4 escaped taxation at and upon the basis of valuation applied to
5 such property for the year or years in which it escaped
6 taxation, noting distinctly the year when such property
7 escaped taxation and such assessment shall have the same force
8 and effect as it would have had if it had been made in the
9 year in which the property shall have escaped taxation, and
10 taxes shall be levied and collected thereon in like manner and
11 together with taxes for the current year in which the
12 assessment is made. But no property shall be assessed for
13 more than 3 years' arrears of taxation, and all property so
14 escaping taxation shall be subject to such taxation to be
15 assessed in whomsoever's hands or possession the same may be
16 found, except that property acquired by a bona fide purchaser
17 shall not be subject to assessment for taxes for any time
18 prior to the time of such purchase, but the individual or
19 corporation liable for any such assessment shall become
20 personally liable for same; provided, that the county property
21 appraiser shall not assess any lot or parcel of land certified
22 or sold to the state for any previous years unless such lot or
23 parcel of lands so certified or sold shall be included in the
24 list furnished by the Comptroller to the county property
25 appraiser as provided by law; provided, if real or personal
26 property be assessed for taxes, and because of litigation
27 delay ensues and the assessment be held invalid the taxing
28 authorities, may reassess such property within the time herein
29 provided after the termination of such litigation; provided
30 further, that personal property acquired in good faith by
31 purchase shall not be subject to assessment for taxes for any

1 time prior to the time of such purchase, but the individual or
2 corporation liable for any such assessment shall continue
3 personally liable for same. As used in this subsection, the
4 term "bona fide purchaser" means a purchaser for value, in
5 good faith, and without notice of any escaped taxation or
6 adverse claim.

7 (2) ~~The provisions of~~ This section applies ~~shall apply~~
8 to property of every class and kind upon which ad valorem tax
9 is assessable by any state or county authority under the laws
10 of the state.

11 Section 2. Paragraph (b) of subsection (1) of section
12 196.161, Florida Statutes, is amended to read:

13 196.161 Homestead exemptions; lien imposed on property
14 of person claiming exemption although not a permanent
15 resident.--

16 (1)

17 (b) In addition, upon determination by the property
18 appraiser that for any year or years within the prior 10 years
19 a person who was not entitled to a homestead exemption was
20 granted a homestead exemption from ad valorem taxes, it shall
21 be the duty of the property appraiser making such
22 determination to serve upon the owner a notice of intent to
23 record in the public records of the county a notice of tax
24 lien against any property owned by that person in the county,
25 and such property shall be identified in the notice of tax
26 lien. Such property which is situated in this state shall be
27 subject to the taxes exempted thereby, plus a penalty of 50
28 percent of the unpaid taxes for each year and 15 percent
29 interest per annum. However, if a homestead exemption is
30 improperly granted as a result of a clerical mistake or an
31 omission by the property appraiser, or as a result of a

1 transfer of title as described in s. 193.155(3) and the person
2 would otherwise be entitled to the homestead exemption on that
3 property,the person improperly receiving the exemption shall
4 not be assessed penalty and interest. The waiver of assessed
5 penalty and interest is inapplicable to transfers made under
6 s. 193.155(3) if the intent of the transfer is to avoid the
7 payment of such assessed penalty and interest.Before any such
8 lien may be filed, the owner so notified must be given 30 days
9 to pay the taxes, penalties, and interest.

10 Section 3. Section 196.198, Florida Statutes, is
11 amended to read:

12 196.198 Educational property exemption.--Educational
13 institutions within this state and their property used by them
14 or by any other exempt entity or educational institution
15 exclusively for educational purposes shall be exempt from
16 taxation. Sheltered workshops providing rehabilitation and
17 retraining of disabled individuals and exempted by a
18 certificate under s. (d) of the federal Fair Labor Standards
19 Act of 1938, as amended, are declared wholly educational in
20 purpose and shall be exempted from certification,
21 accreditation, and membership requirements set forth in s.
22 196.012. Those portions of property of college fraternities
23 and sororities certified by the president of the college or
24 university to the appropriate property appraiser as being
25 essential to the educational process, shall be exempt from ad
26 valorem taxation. The use of property by public fairs and
27 expositions chartered by chapter 616 is presumed to be an
28 educational use of such property and shall be exempt from ad
29 valorem taxation to the extent of such use. Property used
30 exclusively for educational purposes shall be deemed owned by
31 an educational institution if the entity owning 100 percent of

1 the educational institution is owned by the identical persons
2 who own the property. If legal title to property is held by a
3 governmental agency that leases the property to a lessee, the
4 property shall be deemed to be owned by the governmental
5 agency and used exclusively for educational purposes if the
6 governmental agency continues to use such property exclusively
7 for educational purposes pursuant to a sublease or other
8 contractual agreement with that lessee.If the title to land
9 is held by the trustee of an irrevocable inter vivos trust and
10 if the trust grantor owns 100 percent of the entity that owns
11 an educational institution that is using the land exclusively
12 for educational purposes, the land is deemed to be property
13 owned by the educational institution for purposes of this
14 exemption. Property owned by an educational institution shall
15 be deemed to be used for an educational purpose if the
16 institution has taken affirmative steps to prepare the
17 property for educational use. Affirmative steps means
18 environmental or land use permitting activities, creation of
19 architectural plans or schematic drawings, land clearing or
20 site preparation, construction or renovation activities, or
21 other similar activities that demonstrate commitment of the
22 property to an educational use.

23 Section 4. Paragraph (a) of subsection (13) of section
24 200.065, Florida Statutes, is amended to read:

25 200.065 Method of fixing millage.--

26 (13)(a) If the notice of proposed property taxes
27 mailed to taxpayers under this section contains an error, the
28 property appraiser, in lieu of mailing a corrected notice to
29 all taxpayers, may correct the error by mailing a short form
30 of the notice to those taxpayers affected by the error and its
31 correction. The notice shall be prepared by the property

1 appraiser at the expense of the taxing authority which caused
2 the error or at the property appraiser's expense if he or she
3 caused the error. The form of the notice must be approved by
4 the executive director of the Department of Revenue or the
5 executive director's designee. If the error involves only the
6 date and time of the public hearings required by this section,
7 the property appraiser, with the permission of the taxing
8 authority affected by the error, may correct the error by
9 advertising the corrected information in a newspaper of
10 general circulation in the county as provided in subsection
11 (3).

12 Section 5. This act shall take effect upon becoming a
13 law.

14
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 SB 72

18 The CS differs from the bill as filed in the following ways:

19 In Section 1, the constructive notice condition is removed;
20 the previous owner is made responsible for the unpaid back
21 taxes accruing during his ownership; and a definition of a
22 "bona fide purchaser" is included.

23 In Section 2, language is included to clarify that the
24 exemption from penalties and interest is granted only to
25 persons that would otherwise be entitled to the exemption; and
26 a qualifying condition is added to prohibit persons from
27 qualifying for the exemption if their intention is to avoid
28 the payment of penalties and interest.

29 Section 4, which prohibited the deliberate use of excess
30 documentary stamps, is deleted.

31 A new section is added to maintain a property tax exemption
for property leased from a governmental agency if the agency
continues to use the property exclusively for educational
purposes.