

By Senator Deutch

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1 A bill to be entitled

2 An act relating to property tax relief; creating part II
3 of ch. 195, F.S., relating to the Florida Residents
4 Property Tax Relief Program; providing a short title;
5 providing definitions; providing a formula for providing a
6 rebate of a portion of property taxes paid based on
7 household income; providing that a claim for the tax
8 refund is personal to the claimant and does not survive
9 the claimant's death; providing a procedure for submitting
10 refund claims to the Department of Revenue and payment
11 from a fund managed by the Department of Financial
12 Services; providing a date range for filing the claim and
13 for an extension of time under certain circumstances;
14 providing for the administration of the program by the
15 Department of Revenue; authorizing the department to adopt
16 rules; providing for the audit of claims and the repayment
17 or credit for excess refunds; providing a procedure for
18 the denial of claims; providing for the disallowance of
19 certain claims; providing for the appeal of claim denials;
20 providing that income from the refund may not result in a
21 reduction of other social welfare benefits; providing that
22 the claim application form be at a certain reading level;
23 providing for an outreach plan for the program; providing
24 for cooperation between the department and the Department
25 of Health, the Department of Children and Family Services,
26 and the Department of Elderly Affairs; providing an
27 appropriation; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Part II of chapter 195, Florida Statutes,
32 consisting of sections 195.301, 195.302, 195.303, 195.304,
33 195.305, 195.306, 195.307, 195.308, 195.309, 195.310, 195.311,
34 195.312, 195.313, 195.314, 195.315, and 195.316, is created to
35 read:

36 195.301 Short title.--This part may be cited as the
37 "Florida Residents Property Tax Relief Program" and may also be
38 referred to as the "Circuit Breaker Program."

39 195.302 Definitions.--As used in this part, the term:

40 (1) "Claimant" means an individual who has filed a claim
41 under this part and who was domiciled and occupied a homestead in
42 this state during the entire calendar year preceding the year in
43 which the claim for relief is filed. The term also includes an
44 individual who was domiciled and owned or otherwise maintained a
45 homestead in this state during the entire calendar year preceding
46 the year in which the claim for relief is filed and who occupied
47 that homestead for at least 6 months during that year. Regardless
48 of how many individuals appear on the property deed, the person
49 who meets the qualifications described in this subsection and
50 proves sole responsibility for the payment of the property taxes
51 on the subject property is the claimant with respect to that
52 property. If two or more individuals meet the qualifications and
53 share the payment of the rent or the responsibility for the
54 payment of the property taxes, each individual may apply on the
55 basis of the rent paid or the property taxes levied on the
56 homestead that reflect the ownership percentage of the claimant
57 and the claimant's household. If two or more individuals claim
58 the same property, the matter shall be referred to the

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59 department, and the department's decision is final. Ownership of
60 a homestead under this part may be by fee, by life tenancy, by
61 bond for deed, as mortgagee, or any other possessory interest in
62 which the owner is personally responsible for the tax for which a
63 relief benefit is claimed.

64 (2) "Department" means the Department of Revenue.

65 (3) "Gross rent" means rent paid at arm's length solely for
66 the right of occupancy of a homestead, exclusive of charges for
67 any utilities, services, furniture, furnishings, or personal
68 property appliances furnished by the landlord as part of the
69 rental agreement, regardless of whether such charges are
70 expressly set out in the rental agreement. If the landlord and
71 tenant have not dealt with each other at arm's length, and the
72 department determines that the gross rent charged is excessive,
73 the department may adjust the gross rent to a reasonable amount
74 for purposes of this part.

75 (4) "Homestead" means the dwelling owned or rented by the
76 claimant or held in a revocable living trust for the benefit of
77 the claimant and occupied by the claimant and the claimant's
78 dependents as a home, and may consist of a part of a
79 multidwelling or multipurpose building and a part of the land
80 qualified for homestead treatment upon which it is built. The
81 term "owned" includes a vendee in possession under a land
82 contract and one or more joint tenants or tenants in common. The
83 term "rented" means those dwellings that are rented and qualify
84 for a state sales tax exemption under chapter 212.

85 (5) "Household" means a claimant and spouse and members of
86 the household for whom the claimant under this part is entitled

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87 to claim an exemption as a dependent under the federal income tax
88 code for the year for which relief is requested.

89 (6) "Household income" means all income received by all
90 members of a household in a calendar year while members of the
91 household.

92 (7) "Income" means the sum of federal adjusted gross income
93 determined in accordance with the federal income tax code;
94 contributions, including catch-up contributions, to any pension,
95 annuity, or retirement plan to the extent not included in federal
96 adjusted gross income, including contributions to an individual
97 retirement account, a simplified employee pension plan, a salary
98 reduction simplified employee pension plan, a savings incentive
99 match plan for employees plan, a deferred compensation plan,
100 cash, or deferred arrangements or "Keogh" accounts; nontaxable
101 contributions to a flexible spending arrangement; amounts
102 excluded from gross income under s. 129 of the Internal Revenue
103 Code; distributions from Roth IRAs; the amount of capital gains
104 excluded from adjusted gross income; the absolute value of the
105 amount of trade or business loss, net operating loss carry-over,
106 capital loss, rental loss, farm loss, or partnership or S
107 corporation loss included in adjusted gross income; alimony;
108 inheritance; life insurance proceeds paid on death of insured;
109 nontaxable lawsuit rewards, such as slander, libel, and pain and
110 suffering, excluding reimbursements such as medical and legal
111 expenses associated with the case; support money; nontaxable
112 strike benefits; the gross amount of any pension or annuity,
113 including railroad retirement benefits; all payments received
114 under the Social Security Act and state unemployment insurance
115 laws; veterans' disability pensions; nontaxable interest received

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116 from the Federal Government or its instrumentalities; interest or
117 dividends on obligations or securities of this state and its
118 political subdivisions and authorities; workers' compensation and
119 the gross amount of "loss of time" insurance; and cash public
120 assistance and relief, but not including relief granted under
121 this part. The term does not include the first \$5,000 of proceeds
122 from a life insurance policy, whether paid in a lump sum or in
123 the form of an annuity; a rollover from an individual retirement
124 account, pension, or annuity fund or plan to an individual
125 retirement account, pension, or annuity fund or plan even if the
126 amount of the rollover is includable in federal adjusted gross
127 income; or gifts from nongovernmental sources or surplus foods or
128 other relief in kind supplied by a governmental agency.

129 (8) "Property taxes accrued" means state property taxes
130 exclusive of special assessment, delinquent interest, and charges
131 for service levied on a claimant's homestead on or after January
132 1, 2008. If a homestead is owned by two or more persons or
133 entities as joint tenants or tenants in common and one or more
134 persons or entities are not members of the claimant's household,
135 the term applies to that part of the property taxes that reflect
136 the ownership percentage of the claimant and the claimant's
137 household. If a claimant and spouse own their homestead for part
138 of the year and rent it or a different homestead for part of the
139 same tax year, the term means taxes levied on the homestead on
140 January 1, multiplied by the percentage of 12 months which the
141 property was owned and occupied by the household as its homestead
142 during the year for which relief is requested. If a household
143 owns and occupies two or more different homesteads in this state
144 in the same tax year, property taxes accrued relate only to that

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145 property occupied by the household as a homestead on January 1.
146 If a homestead is an integral part of a larger unit such as a
147 farm or a multipurpose or multidwelling building, property taxes
148 accrued are that percentage of the total property taxes accrued
149 which the value of the homestead is to the total value of the
150 larger unit, except that property taxes accrued do not include
151 any portion of taxes claimed as a business expense for federal
152 income tax purposes. For purposes of this part, "unit" means the
153 parcel of property separately assessed of which the homestead is
154 a part.

155 (9) "Property taxes paid" means property taxes accrued or
156 rent constituting property taxes accrued. In the case of a
157 claimant paying both rent and property taxes for a homestead,
158 property taxes paid mean both property taxes accrued and rent
159 constituting property taxes accrued.

160 (10) "Rent constituting property taxes accrued" with
161 respect to an elderly household means 15 percent of the gross
162 rent actually paid in cash or its equivalent in any tax year by a
163 claimant and the claimant's household solely for the right of
164 occupancy of their state homestead in the tax year and which rent
165 constitutes the basis, in the succeeding calendar year, of a
166 claim for relief under this part by the claimant.

167 (11) "Year for which relief is requested" means the
168 calendar year preceding that in which the claim is filed.

169 195.303 Income limitations.--

170 (1) A claimant representing a residential household shall
171 qualify for the following relief benefits from property taxes
172 paid subject to the following income limitations. The benefit
173 shall be calculated as follows if the annual household income is:

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174 (a) Zero to \$60,000, the relief benefit equals the amount
175 of property tax paid in excess of 4 percent of the household
176 income up to a maximum of \$1,500.

177 (b) Sixty thousand dollars and one cent to \$100,000, the
178 relief benefit equals the amount of property tax paid in excess
179 of 5 percent of the household income up to a maximum of \$1,500.

180 (c) One hundred thousand dollars and one cent to \$150,000,
181 the relief benefit equals the amount of property tax paid in
182 excess of 6 percent of the household income up to a maximum of
183 \$1,500.

184 (d) Over \$150,000, there shall be no relief benefit.

185 (2) A claim of less than \$10 may not be granted.

186 195.304 Claim is personal.--

187 (1) The right to file a claim under this part is personal
188 to the claimant and does not survive the claimant's death, but
189 may be exercised on behalf of a claimant by the claimant's legal
190 guardian or attorney in fact. If a claimant dies after having
191 filed a timely claim, the claim amount shall be disbursed to
192 another member of the household as determined by the department.

193 (2) If the claimant was the only member of a household, the
194 claim may be paid to the claimant's personal representative, but
195 if one is not appointed within 2 years after the filing of the
196 claim, the amount of the claim escheats to the state.

197 195.305 Procedure for reimbursement.--On or before the last
198 day of the month, the department shall determine the relief
199 benefit for each claimant under this part and certify the amount
200 to the Department of Financial Services to be transferred to the
201 reserve established, maintained, and administered by Department
202 of Financial Services from the General Revenue Fund. On or before

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203 November 15 of each year, the department shall pay the certified
204 amounts to each approved applicant. Interest is allowed on any
205 payment made to a claimant pursuant to this part.

206 195.306 Filing date; extension of time.--

207 (1) A claim may not be paid unless the claim is filed with
208 the department on or after April 1 and on or before the following
209 August 31.

210 (2) In case of sickness, absence, or other disability, or
211 if, in the judgment of the department, good cause exists, the
212 department may extend the time for filing a claim for up to 2
213 months. A request for an extension may be submitted at any time
214 before August 31 of the year in question.

215 195.307 One claim per household.--Only one claimant per
216 household or homestead per year is entitled to relief under this
217 part.

218 195.308 Administration.--

219 (1) The department shall make available suitable forms with
220 instructions for claimants. The claim must be in the form
221 prescribed by the department and must be signed under oath and is
222 subject to the penalties of perjury by the claimant.

223 (2) The department shall also provide a paperless option
224 for filing an application.

225 (3) The department may adopt rules pursuant to ss.
226 120.536(1) and 120.54 to administer this program.

227 195.309 Audit of claim.--If, following the audit of any
228 claim filed under this part, the department determines the amount
229 to have been incorrectly determined, the department shall
230 redetermine the claim and notify the claimant of the
231 redetermination and the reasons for it. The redetermination is

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232 reviewable in accordance with s. 195.312. If the claim has been
233 paid, the amount paid in excess of that legally due is subject to
234 interest at the rate determined by the Department of Financial
235 Services. The department may credit a benefit payable to a
236 claimant against a liability of that claimant pursuant to this
237 section.

238 195.310 Denial of claim.--

239 (1) If the department determines that a claim under this
240 part is excessive and was filed with fraudulent intent, the claim
241 shall be disallowed in full. If the claim has been paid, the
242 amount paid may be recovered by assessment, collection, and
243 enforcement in the manner provided in chapter 212. A person who,
244 with fraudulent intent, files or prepares an excessive claim,
245 assists in the preparation or filing of an excessive claim, or
246 supplies information in support of an excessive claim commits a
247 felony of the third degree, punishable as provided in s. 775.082,
248 s. 775.083, or s. 775.084.

249 (2) If the department determines that a claim under this
250 part is excessive and was negligently prepared, the amount
251 claimed in excess of that legally due plus 10 percent of the
252 corrected claim shall be disallowed. If the claim has been paid,
253 the amount disallowed may be recovered by assessment, collection,
254 and enforcement in the manner provided in chapter 212.

255 (3) A person who has an unpaid liability arising from this
256 section and the spouse of that person may not receive benefits
257 under this part.

258 195.311 Disallowance of claims.--A claim shall be
259 disallowed if the department finds that the claimant received

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260 title to his homestead primarily for the purpose of receiving
261 benefits under this part.

262 195.312 Appeal.--A denial in whole or in part of relief
263 claimed under this part may be appealed in accordance with
264 chapter 120.

265 195.313 Protection from loss of benefits.--

266 (1) It is the intent of the Legislature that any claim paid
267 under this part shall supplement any benefits paid under aid to
268 the aged, blind, and disabled or any successor program. The
269 Department of Health, the Department of Children and Family
270 Services, and the Department of Elderly Affairs may take any
271 action necessary to ensure that recipients of aid to the aged,
272 blind, and disabled continue to receive as high a percentage of
273 their current assistance as possible. The department shall use
274 all state funds expected to be saved by a reduction in benefits
275 of recipients of aid to the aged, blind, and disabled resulting
276 from this part to raise the standards of aid to the aged, blind,
277 and disabled at a total cost in state funds equivalent to the
278 savings in state funds which would be expected as a result of
279 this part. Benefits received under this part may not be included
280 as income for purposes of any state or municipally administered
281 public benefit program.

282 (2) These benefits do not duplicate and may not reduce the
283 amount of any individual's payment under the Temporary Assistance
284 for Needy Families program.

285 195.314 Readability; application; instructions.--The
286 application form and instructions used by applicants for
287 assistance under the Florida Residents Property Tax Program must
288 have a readability score, as determined by a recognized

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289 instrument for measuring adult literacy levels, equivalent to no
290 higher than a 6th grade reading level.

291 195.315 Outreach plan required.--The department shall
292 develop and implement a plan of outreach to ensure that all
293 eligible households are made aware of assistance available under
294 the Florida Residents Property Tax Relief Program.

295 195.316 Coordination required.--The department shall seek
296 the advice and cooperation of the Department of Health, the
297 Department of Children and Family Services, the Department of
298 Elderly Affairs, advocates for elderly and low-income
299 individuals, and other interested agencies and organizations in
300 developing the application form and instruction booklet for the
301 Florida Residents Property Tax Relief Program and the outreach
302 plan required by this part.

303 Section 2. The sum of \$750,000,000 is appropriated from the
304 General Revenue Fund to the Department of Revenue for the purpose
305 of providing property tax relief benefits pursuant to this act.
306 An additional sum of \$500,000 is appropriated to the department
307 to administer this program.

308 Section 3. This act shall take effect July 1, 2008.