

By the Committee on Finance and Tax

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1 A bill to be entitled
 2 An act relating to the assessment of residential
 3 property; creating s. 193.624, F.S.; defining the term
 4 "renewable energy source device"; prohibiting a
 5 property appraiser from considering the installation
 6 and operation of a renewable energy source device in
 7 determining the assessed value of residential
 8 property; amending s. 196.012, F.S.; deleting the
 9 definition of the terms "renewable energy source
 10 device" and "device" for purposes of ch. 196, F.S.,
 11 relating to property tax exemptions; amending ss.
 12 196.121 and 196.1995, F.S.; conforming cross-
 13 references to changes made by the act; repealing s.
 14 196.175, F.S., relating to the property tax exemption
 15 for a renewable energy source device; providing an
 16 effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Section 193.624, Florida Statutes, is created to
 21 read:

22 193.624 Definitions; assessment of residential property.-

23 (1) As used in this section, the term "renewable energy
 24 source device" means any of the following equipment that
 25 collects, transmits, stores, or uses solar energy, wind energy,
 26 or energy derived from geothermal deposits:

27 (a) Solar energy collectors, photovoltaic modules, and
 28 inverters.

29 (b) Storage tanks and other storage systems, excluding

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30 swimming pools used as storage tanks.

31 (c) Rockbeds.

32 (d) Thermostats and other control devices.

33 (e) Heat exchange devices.

34 (f) Pumps and fans.

35 (g) Roof ponds.

36 (h) Freestanding thermal containers.

37 (i) Pipes, ducts, refrigerant handling systems, and other
38 equipment used to interconnect such systems; however, such
39 equipment does not include conventional backup systems of any
40 type.

41 (j) Windmills and wind turbines.

42 (k) Wind-driven generators.

43 (l) Power conditioning and storage devices that use wind
44 energy to generate electricity or mechanical forms of energy.

45 (m) Pipes and other equipment used to transmit hot
46 geothermal water to a dwelling or structure from a geothermal
47 deposit.

48 (2) In determining the assessed value of real property used
49 for residential purposes, the property appraiser may not
50 consider the installation and operation of a renewable energy
51 source device.

52 (3) This section applies to new and existing construction
53 used for residential purposes.

54 Section 2. Section 196.012, Florida Statutes, is amended to
55 read:

56 196.012 Definitions.—For the purpose of this chapter, the
57 following terms are defined as follows, except where the context
58 clearly indicates otherwise:

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59 (1) "Exempt use of property" or "use of property for exempt
60 purposes" means predominant or exclusive use of property owned
61 by an exempt entity for educational, literary, scientific,
62 religious, charitable, or governmental purposes, as defined in
63 this chapter.

64 (2) "Exclusive use of property" means use of property
65 solely for exempt purposes. Such purposes may include more than
66 one class of exempt use.

67 (3) "Predominant use of property" means use of property for
68 exempt purposes in excess of 50 percent but less than exclusive.

69 (4) "Use" means the exercise of any right or power over
70 real or personal property incident to the ownership of the
71 property.

72 (5) "Educational institution" means a federal, state,
73 parochial, church, or private school, college, or university
74 conducting regular classes and courses of study required for
75 eligibility to certification by, accreditation to, or membership
76 in the State Department of Education of Florida, Southern
77 Association of Colleges and Schools, or the Florida Council of
78 Independent Schools; a nonprofit private school the principal
79 activity of which is conducting regular classes and courses of
80 study accepted for continuing postgraduate dental education
81 credit by a board of the Division of Medical Quality Assurance;
82 educational direct-support organizations created pursuant to ss.
83 1001.24, 1004.28, and 1004.70; facilities located on the
84 property of eligible entities which will become owned by those
85 entities on a date certain; and institutions of higher
86 education, as defined under and participating in the Higher
87 Educational Facilities Financing Act.

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88 (6) Governmental, municipal, or public purpose or function
89 shall be deemed to be served or performed when the lessee under
90 any leasehold interest created in property of the United States,
91 the state or any of its political subdivisions, or any
92 municipality, agency, special district, authority, or other
93 public body corporate of the state is demonstrated to perform a
94 function or serve a governmental purpose which could properly be
95 performed or served by an appropriate governmental unit or which
96 is demonstrated to perform a function or serve a purpose which
97 would otherwise be a valid subject for the allocation of public
98 funds. For purposes of the preceding sentence, an activity
99 undertaken by a lessee which is permitted under the terms of its
100 lease of real property designated as an aviation area on an
101 airport layout plan which has been approved by the Federal
102 Aviation Administration and which real property is used for the
103 administration, operation, business offices and activities
104 related specifically thereto in connection with the conduct of
105 an aircraft full service fixed base operation which provides
106 goods and services to the general aviation public in the
107 promotion of air commerce shall be deemed an activity which
108 serves a governmental, municipal, or public purpose or function.
109 Any activity undertaken by a lessee which is permitted under the
110 terms of its lease of real property designated as a public
111 airport as defined in s. 332.004(14) by municipalities,
112 agencies, special districts, authorities, or other public bodies
113 corporate and public bodies politic of the state, a spaceport as
114 defined in s. 331.303, or which is located in a deepwater port
115 identified in s. 403.021(9) (b) and owned by one of the foregoing
116 governmental units, subject to a leasehold or other possessory

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117 interest of a nongovernmental lessee that is deemed to perform
118 an aviation, airport, aerospace, maritime, or port purpose or
119 operation shall be deemed an activity that serves a
120 governmental, municipal, or public purpose. The use by a lessee,
121 licensee, or management company of real property or a portion
122 thereof as a convention center, visitor center, sports facility
123 with permanent seating, concert hall, arena, stadium, park, or
124 beach is deemed a use that serves a governmental, municipal, or
125 public purpose or function when access to the property is open
126 to the general public with or without a charge for admission. If
127 property deeded to a municipality by the United States is
128 subject to a requirement that the Federal Government, through a
129 schedule established by the Secretary of the Interior, determine
130 that the property is being maintained for public historic
131 preservation, park, or recreational purposes and if those
132 conditions are not met the property will revert back to the
133 Federal Government, then such property shall be deemed to serve
134 a municipal or public purpose. The term "governmental purpose"
135 also includes a direct use of property on federal lands in
136 connection with the Federal Government's Space Exploration
137 Program or spaceport activities as defined in s. 212.02(22).
138 Real property and tangible personal property owned by the
139 Federal Government or Space Florida and used for defense and
140 space exploration purposes or which is put to a use in support
141 thereof shall be deemed to perform an essential national
142 governmental purpose and shall be exempt. "Owned by the lessee"
143 as used in this chapter does not include personal property,
144 buildings, or other real property improvements used for the
145 administration, operation, business offices and activities

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146 related specifically thereto in connection with the conduct of
147 an aircraft full service fixed based operation which provides
148 goods and services to the general aviation public in the
149 promotion of air commerce provided that the real property is
150 designated as an aviation area on an airport layout plan
151 approved by the Federal Aviation Administration. For purposes of
152 determination of "ownership," buildings and other real property
153 improvements which will revert to the airport authority or other
154 governmental unit upon expiration of the term of the lease shall
155 be deemed "owned" by the governmental unit and not the lessee.
156 Providing two-way telecommunications services to the public for
157 hire by the use of a telecommunications facility, as defined in
158 s. 364.02(15), and for which a certificate is required under
159 chapter 364 does not constitute an exempt use for purposes of s.
160 196.199, unless the telecommunications services are provided by
161 the operator of a public-use airport, as defined in s. 332.004,
162 for the operator's provision of telecommunications services for
163 the airport or its tenants, concessionaires, or licensees, or
164 unless the telecommunications services are provided by a public
165 hospital.

166 (7) "Charitable purpose" means a function or service which
167 is of such a community service that its discontinuance could
168 legally result in the allocation of public funds for the
169 continuance of the function or service. It is not necessary that
170 public funds be allocated for such function or service but only
171 that any such allocation would be legal.

172 (8) "Hospital" means an institution which possesses a valid
173 license granted under chapter 395 on January 1 of the year for
174 which exemption from ad valorem taxation is requested.

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175 (9) "Nursing home" or "home for special services" means an
176 institution which possesses a valid license under chapter 400 on
177 January 1 of the year for which exemption from ad valorem
178 taxation is requested.

179 (10) "Gross income" means all income from whatever source
180 derived, including, but not limited to, the following items,
181 whether actually owned by or received by, or not received by but
182 available to, any person or couple: earned income, income from
183 investments, gains derived from dealings in property, interest,
184 rents, royalties, dividends, annuities, income from retirement
185 plans, pensions, trusts, estates and inheritances, and direct
186 and indirect gifts. Gross income specifically does not include
187 payments made for the medical care of the individual, return of
188 principal on the sale of a home, social security benefits, or
189 public assistance payments payable to the person or assigned to
190 an organization designated specifically for the support or
191 benefit of that person.

192 (11) "Totally and permanently disabled person" means a
193 person who is currently certified by two licensed physicians of
194 this state who are professionally unrelated, by the United
195 States Department of Veterans Affairs or its predecessor, or by
196 the Social Security Administration, to be totally and
197 permanently disabled.

198 (12) "Couple" means a husband and wife legally married
199 under the laws of any state or territorial possession of the
200 United States or of any foreign country.

201 (13) "Real estate used and owned as a homestead" means real
202 property to the extent provided in s. 6(a), Art. VII of the
203 State Constitution, but less any portion thereof used for

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204 commercial purposes, with the title of such property being
205 recorded in the official records of the county in which the
206 property is located. Property rented for more than 6 months is
207 presumed to be used for commercial purposes.

208 ~~(14) "Renewable energy source device" or "device" means any~~
209 ~~of the following equipment which, when installed in connection~~
210 ~~with a dwelling unit or other structure, collects, transmits,~~
211 ~~stores, or uses solar energy, wind energy, or energy derived~~
212 ~~from geothermal deposits:~~

213 ~~(a) Solar energy collectors.~~

214 ~~(b) Storage tanks and other storage systems, excluding~~
215 ~~swimming pools used as storage tanks.~~

216 ~~(c) Rockbeds.~~

217 ~~(d) Thermostats and other control devices.~~

218 ~~(e) Heat exchange devices.~~

219 ~~(f) Pumps and fans.~~

220 ~~(g) Roof ponds.~~

221 ~~(h) Freestanding thermal containers.~~

222 ~~(i) Pipes, ducts, refrigerant handling systems, and other~~
223 ~~equipment used to interconnect such systems; however,~~
224 ~~conventional backup systems of any type are not included in this~~
225 ~~definition.~~

226 ~~(j) Windmills.~~

227 ~~(k) Wind-driven generators.~~

228 ~~(l) Power conditioning and storage devices that use wind~~
229 ~~energy to generate electricity or mechanical forms of energy.~~

230 ~~(m) Pipes and other equipment used to transmit hot~~
231 ~~geothermal water to a dwelling or structure from a geothermal~~
232 ~~deposit.~~

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233 (14)~~(15)~~ "New business" means:

234 (a)1. A business establishing 10 or more jobs to employ 10
235 or more full-time employees in this state, which manufactures,
236 processes, compounds, fabricates, or produces for sale items of
237 tangible personal property at a fixed location and which
238 comprises an industrial or manufacturing plant;

239 2. A business establishing 25 or more jobs to employ 25 or
240 more full-time employees in this state, the sales factor of
241 which, as defined by s. 220.15(5), for the facility with respect
242 to which it requests an economic development ad valorem tax
243 exemption is less than 0.50 for each year the exemption is
244 claimed; or

245 3. An office space in this state owned and used by a
246 corporation newly domiciled in this state; provided such office
247 space houses 50 or more full-time employees of such corporation;
248 provided that such business or office first begins operation on
249 a site clearly separate from any other commercial or industrial
250 operation owned by the same business.

251 (b) Any business located in an enterprise zone or
252 brownfield area that first begins operation on a site clearly
253 separate from any other commercial or industrial operation owned
254 by the same business.

255 (c) A business that is situated on property annexed into a
256 municipality and that, at the time of the annexation, is
257 receiving an economic development ad valorem tax exemption from
258 the county under s. 196.1995.

259 (15)~~(16)~~ "Expansion of an existing business" means:

260 (a)1. A business establishing 10 or more jobs to employ 10
261 or more full-time employees in this state, which manufactures,

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262 processes, compounds, fabricates, or produces for sale items of
263 tangible personal property at a fixed location and which
264 comprises an industrial or manufacturing plant; or

265 2. A business establishing 25 or more jobs to employ 25 or
266 more full-time employees in this state, the sales factor of
267 which, as defined by s. 220.15(5), for the facility with respect
268 to which it requests an economic development ad valorem tax
269 exemption is less than 0.50 for each year the exemption is
270 claimed; provided that such business increases operations on a
271 site colocated with a commercial or industrial operation owned
272 by the same business, resulting in a net increase in employment
273 of not less than 10 percent or an increase in productive output
274 of not less than 10 percent.

275 (b) Any business located in an enterprise zone or
276 brownfield area that increases operations on a site colocated
277 with a commercial or industrial operation owned by the same
278 business.

279 (16)~~(17)~~ "Permanent resident" means a person who has
280 established a permanent residence as defined in subsection (17)
281 ~~(18)~~.

282 (17)~~(18)~~ "Permanent residence" means that place where a
283 person has his or her true, fixed, and permanent home and
284 principal establishment to which, whenever absent, he or she has
285 the intention of returning. A person may have only one permanent
286 residence at a time; and, once a permanent residence is
287 established in a foreign state or country, it is presumed to
288 continue until the person shows that a change has occurred.

289 (18)~~(19)~~ "Enterprise zone" means an area designated as an
290 enterprise zone pursuant to s. 290.0065. This subsection expires

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291 on the date specified in s. 290.016 for the expiration of the
292 Florida Enterprise Zone Act.

293 (19)~~(20)~~ "Ex-servicemember" means any person who has served
294 as a member of the United States Armed Forces on active duty or
295 state active duty, a member of the Florida National Guard, or a
296 member of the United States Reserve Forces.

297 Section 3. Subsection (2) of section 196.121, Florida
298 Statutes, is amended to read:

299 196.121 Homestead exemptions; forms.—

300 (2) The forms shall require the taxpayer to furnish certain
301 information to the property appraiser for the purpose of
302 determining that the taxpayer is a permanent resident as defined
303 in s. 196.012(16) ~~s. 196.012(17)~~. Such information may include,
304 but need not be limited to, the factors enumerated in s.
305 196.015.

306 Section 4. Subsections (6), (8), (9), and (10) of section
307 196.1995, Florida Statutes, are amended to read:

308 196.1995 Economic development ad valorem tax exemption.—

309 (6) With respect to a new business as defined by s.
310 196.012(14)(c) ~~s. 196.012(15)(e)~~, the municipality annexing the
311 property on which the business is situated may grant an economic
312 development ad valorem tax exemption under this section to that
313 business for a period that will expire upon the expiration of
314 the exemption granted by the county. If the county renews the
315 exemption under subsection (7), the municipality may also extend
316 its exemption. A municipal economic development ad valorem tax
317 exemption granted under this subsection may not extend beyond
318 the duration of the county exemption.

319 (8) Any person, firm, or corporation which desires an

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320 economic development ad valorem tax exemption shall, in the year
321 the exemption is desired to take effect, file a written
322 application on a form prescribed by the department with the
323 board of county commissioners or the governing authority of the
324 municipality, or both. The application shall request the
325 adoption of an ordinance granting the applicant an exemption
326 pursuant to this section and shall include the following
327 information:

328 (a) The name and location of the new business or the
329 expansion of an existing business;

330 (b) A description of the improvements to real property for
331 which an exemption is requested and the date of commencement of
332 construction of such improvements;

333 (c) A description of the tangible personal property for
334 which an exemption is requested and the dates when such property
335 was or is to be purchased;

336 (d) Proof, to the satisfaction of the board of county
337 commissioners or the governing authority of the municipality,
338 that the applicant is a new business or an expansion of an
339 existing business, as defined in s. 196.012(14) or (15) ~~s.~~
340 ~~196.012(15) or (16)~~; and

341 (e) Other information deemed necessary by the department.

342 (9) Before it takes action on the application, the board of
343 county commissioners or the governing authority of the
344 municipality shall deliver a copy of the application to the
345 property appraiser of the county. After careful consideration,
346 the property appraiser shall report the following information to
347 the board of county commissioners or the governing authority of
348 the municipality:

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349 (a) The total revenue available to the county or
350 municipality for the current fiscal year from ad valorem tax
351 sources, or an estimate of such revenue if the actual total
352 revenue available cannot be determined;

353 (b) Any revenue lost to the county or municipality for the
354 current fiscal year by virtue of exemptions previously granted
355 under this section, or an estimate of such revenue if the actual
356 revenue lost cannot be determined;

357 (c) An estimate of the revenue which would be lost to the
358 county or municipality during the current fiscal year if the
359 exemption applied for were granted had the property for which
360 the exemption is requested otherwise been subject to taxation;
361 and

362 (d) A determination as to whether the property for which an
363 exemption is requested is to be incorporated into a new business
364 or the expansion of an existing business, as defined in s.
365 196.012(14) or (15) ~~s. 196.012(15) or (16)~~, or into neither,
366 which determination the property appraiser shall also affix to
367 the face of the application. Upon the request of the property
368 appraiser, the department shall provide to him or her such
369 information as it may have available to assist in making such
370 determination.

371 (10) An ordinance granting an exemption under this section
372 shall be adopted in the same manner as any other ordinance of
373 the county or municipality and shall include the following:

374 (a) The name and address of the new business or expansion
375 of an existing business to which the exemption is granted;

376 (b) The total amount of revenue available to the county or
377 municipality from ad valorem tax sources for the current fiscal

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378 year, the total amount of revenue lost to the county or
379 municipality for the current fiscal year by virtue of economic
380 development ad valorem tax exemptions currently in effect, and
381 the estimated revenue loss to the county or municipality for the
382 current fiscal year attributable to the exemption of the
383 business named in the ordinance;

384 (c) The period of time for which the exemption will remain
385 in effect and the expiration date of the exemption; and

386 (d) A finding that the business named in the ordinance
387 meets the requirements of s. 196.012(14) or (15) ~~s. 196.012(15)~~
388 ~~or (16)~~.

389 Section 5. Section 196.175, Florida Statutes, is repealed.

390 Section 6. This act shall take effect July 1, 2010, and
391 applies to assessments beginning January 1, 2011.