House



LEGISLATIVE ACTION .

Senate Comm: RCS 03/23/2017

The Committee on Judiciary (Artiles) recommended the following:

Senate Amendment (with title amendment)

Delete lines 71 - 546

and insert:

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Section 2. Subsection (10) of section 193.155, Florida Statutes, is amended to read:

7 193.155 Homestead assessments.-Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed 9 10 at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8) 11



12 apply.

13 (10) (a) If the property appraiser determines that for any 14 year or years within the prior 10 years a person who was not 15 entitled to the homestead property assessment limitation granted under this section was granted the homestead property assessment 16 17 limitation, the property appraiser making such determination 18 shall serve upon the owner a notice of intent to record in the 19 public records of the county a notice of tax lien against any 20 property owned by that person in the county, and such property 21 must be identified in the notice of tax lien. Such property that is situated in this state is subject to the unpaid taxes, plus a 22 23 penalty of 50 percent of the unpaid taxes for each year and 15 24 percent interest per annum. However, when a person entitled to 25 exemption pursuant to s. 196.031 inadvertently receives the 26 limitation pursuant to this section following a change of 27 ownership, the assessment of such property must be corrected as 28 provided in paragraph (9)(a), and the person need not pay the 29 unpaid taxes, penalties, or interest. The property appraiser 30 shall waive the unpaid penalties and interest if the property 31 appraiser determines that the person qualified for the property 32 assessment limitation at the time the application was filed; the 33 person acted in good faith; and, other than the improperly 34 received tax savings, the person did not receive any additional 35 financial benefit, such as rental payments or other income. The 36 property appraiser may not waive penalty or interest if the 37 person claimed a homestead-related exemption, limitation, or 38 reduction on another property. 39 (b) If the property appraiser improperly grants the

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property assessment limitation as a result of a clerical mistake

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41 <u>or an omission, the person or entity improperly receiving the</u> 42 <u>property assessment limitation may not be assessed a penalty or</u> 43 <u>interest.</u>

44 (c) Before a lien may be filed, the person or entity so 45 notified must be given 30 days to pay the taxes and any 46 applicable penalties and interest. If the property appraiser 47 improperly grants the property assessment limitation as a result 48 of a clerical mistake or an omission, the person or entity 49 improperly receiving the property assessment limitation may not 50 be assessed a penalty or interest.

51 Section 3. Subsection (7) of section 193.703, Florida 52 Statutes, is amended to read:

193.703 Reduction in assessment for living quarters of parents or grandparents.-

55 (7) (a) If the property appraiser determines that for any 56 year within the previous 10 years a property owner who was not 57 entitled to a reduction in assessed value under this section was 58 granted such reduction, the property appraiser shall serve on 59 the owner a notice of intent to record in the public records of 60 the county a notice of tax lien against any property owned by that person in the county, and that property must be identified 61 62 in the notice of tax lien. Any property that is owned by that 63 person and is situated in this state is subject to the taxes exempted by the improper reduction, plus a penalty of 50 percent 64 65 of the unpaid taxes for each year and interest at a rate of 15 66 percent per annum. The property appraiser shall waive the unpaid 67 penalties and interest if the property appraiser determines that 68 the person qualified for the reduction at the time the application was filed; the person acted in good faith; and, 69

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70 other than the improperly received tax savings, the person did 71 not receive any additional financial benefit, such as rental 72 payments or other income. The property appraiser may not waive 73 penalty or interest if the person claimed a homestead-related 74 exemption, limitation, or reduction on another property.

(b) However, if a reduction is improperly granted due to a clerical mistake or <u>an</u> omission by the property appraiser, the person who improperly received the reduction may not be assessed a penalty or interest.

(c) Before such lien may be filed, the owner must be given 30 days within which to pay the taxes, penalties, and interest. Such lien is subject to s. 196.161(3).

Section 4. Paragraph (d) of subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.-

85 (3) A petition to the value adjustment board must be in 86 substantially the form prescribed by the department. 87 Notwithstanding s. 195.022, a county officer may not refuse to 88 accept a form provided by the department for this purpose if the 89 taxpayer chooses to use it. A petition to the value adjustment 90 board must be signed by the taxpayer or be accompanied at the 91 time of filing by the taxpayer's written authorization or power 92 of attorney, unless the person filing the petition is listed in s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a 93 94 petition with a value adjustment board without the taxpayer's 95 signature or written authorization by certifying under penalty 96 of perjury that he or she has authorization to file the petition 97 on behalf of the taxpayer. If a taxpayer notifies the value adjustment board that a petition has been filed for the 98

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99 taxpayer's property without his or her consent, the value 100 adjustment board may require the person filing the petition to provide written authorization from the taxpayer authorizing the 101 102 person to proceed with the appeal before a hearing is held. If 103 the value adjustment board finds that a person listed in s. 104 194.034(1)(a) willfully and knowingly filed a petition that was 105 not authorized by the taxpayer, the value adjustment board shall 106 require such person to provide the taxpayer's written 107 authorization for representation to the value adjustment board 108 clerk before any petition filed by that person is heard, for 1 109 year after imposition of such requirement by the value 110 adjustment board. A power of attorney or written authorization 111 is valid for 1 assessment year, and a new power of attorney or 112 written authorization by the taxpayer is required for each 113 subsequent assessment year. A petition shall also describe the 114 property by parcel number and shall be filed as follows:

115 (d) The petition may be filed, as to valuation issues, at 116 any time during the taxable year on or before the 25th day 117 following the mailing of notice by the property appraiser as 118 provided in subsection (1). With respect to an issue involving 119 the denial of an exemption, an agricultural or high-water 120 recharge classification application, an application for 121 classification as historic property used for commercial or 122 certain nonprofit purposes, or a deferral, the petition must be 123 filed at any time during the taxable year on or before the 30th 124 day following the mailing of the notice by the property 125 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173, 126 or s. 196.193 or notice by the tax collector under s. 197.2425. 127 Upon a showing of extenuating circumstances demonstrating to the

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128 value adjustment board that the petitioner was unable to file a 129 petition in a timely manner, the petitioner may file a petition 130 up to 60 days after the deadline; however, the value adjustment 131 board is not required to delay proceedings for the 60-day 132 timeframe and no late petition is authorized after the value 133 adjustment board has concluded its review of petitions.

Section 5. Paragraph (a) of subsection (2) of section 194.032, Florida Statutes, is amended to read:

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194.032 Hearing purposes; timetable.-

137 (2) (a) The clerk of the governing body of the county shall 138 prepare a schedule of appearances before the board based on 139 petitions timely filed with him or her. The clerk shall notify 140 each petitioner of the scheduled time of his or her appearance 141 at least 25 calendar days before the day of the scheduled 142 appearance. The notice must indicate whether the petition has 143 been scheduled to be heard at a particular time or during a 144 block of time. If the petition has been scheduled to be heard 145 within a block of time, the beginning and ending of that block 146 of time must be indicated on the notice; however, as provided in 147 paragraph (b), a petitioner may not be required to wait for more 148 than a reasonable time, not to exceed 2 hours, after the beginning of the block of time. The property appraiser must 149 150 provide a copy of the property record card containing 151 information relevant to the computation of the current 152 assessment, with confidential information redacted, to the 153 petitioner upon receipt of the petition from the clerk 154 regardless of whether the petitioner initiates evidence 155 exchange, unless the property record card is available online 156 from the property appraiser, in which case the property

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Florida Senate - 2017 Bill No. SB 226



157 appraiser must notify the petitioner that the property record 158 card is available online. The petitioner and the property appraiser may each reschedule the hearing a single time for good 159 160 cause. As used in this paragraph, the term "good cause" means 161 circumstances beyond the control of the person seeking to 162 reschedule the hearing which reasonably prevent the party from 163 having adequate representation at the hearing. However, the term 164 does not include being scheduled for two separate hearings in 165 different jurisdictions at the same time or date, unless the 166 hearings involve the same petitioner or the property appraiser 167 and petitioner agree to reschedule the hearing. Before the 168 commencement of hearings for the value adjustment board roll 169 year, the property appraiser and the individual, agent, or legal 170 entity that signed the petition may identify up to 10 business 171 days per roll year in which they are unavailable for hearings. If the hearing is rescheduled by the petitioner or the property 172 173 appraiser, the clerk shall notify the petitioner of the 174 rescheduled time of his or her appearance at least 15 calendar 175 days before the day of the rescheduled appearance, unless this 176 notice is waived by both parties.

Section 6. Subsection (1) of section 194.035, Florida Statutes, is amended to read:

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194.035 Special magistrates; property evaluators.-

(1) In counties having a population of more than 75,000,
the board shall appoint special magistrates for the purpose of
taking testimony and making recommendations to the board, which
recommendations the board may act upon without further hearing.
These special magistrates may not be elected or appointed
officials or employees of the county but shall be selected from



186 a list of those qualified individuals who are willing to serve 187 as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve 188 189 as special magistrates. The clerk of the board shall annually 190 notify such individuals or their professional associations to 191 make known to them that opportunities to serve as special 192 magistrates exist. The Department of Revenue shall provide a 193 list of qualified special magistrates to any county with a population of 75,000 or less. Subject to appropriation, the 194 195 department shall reimburse counties with a population of 75,000 196 or less for payments made to special magistrates appointed for 197 the purpose of taking testimony and making recommendations to 198 the value adjustment board pursuant to this section. The 199 department shall establish a reasonable range for payments per 200 case to special magistrates based on such payments in other 201 counties. Requests for reimbursement of payments outside this 202 range shall be justified by the county. If the total of all 203 requests for reimbursement in any year exceeds the amount 204 available pursuant to this section, payments to all counties 205 shall be prorated accordingly. If a county having a population 206 less than 75,000 does not appoint a special magistrate to hear 207 each petition, the person or persons designated to hear 208 petitions before the value adjustment board or the attorney 209 appointed to advise the value adjustment board shall attend the 210 training provided pursuant to subsection (3), regardless of 211 whether the person would otherwise be required to attend, but 212 shall not be required to pay the tuition fee specified in 213 subsection (3). A special magistrate appointed to hear issues of exemptions, classifications, and determinations that a change of 214



215 ownership, a change of ownership or control, or a qualifying 216 improvement has occurred shall be a member of The Florida Bar 217 with no less than 5 years' experience in the area of ad valorem 218 taxation. A special magistrate appointed to hear issues 219 regarding the valuation of real estate shall be a state 220 certified real estate appraiser with not less than 5 years' 221 experience in real property valuation. A special magistrate 222 appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally 223 224 recognized appraiser's organization with not less than 5 years' 225 experience in tangible personal property valuation. A special 226 magistrate need not be a resident of the county in which he or 227 she serves. A special magistrate may not represent a person 228 before the board in any tax year during which he or she has 229 served that board as a special magistrate. An appraisal 230 performed by a special magistrate may not be submitted as 231 evidence to the value adjustment board in any roll year during 232 which he or she has served that board as a special magistrate. 233 Before appointing a special magistrate, a value adjustment board 234 shall verify the special magistrate's qualifications. The value 235 adjustment board shall ensure that the selection of special 236 magistrates is based solely upon the experience and 237 qualifications of the special magistrate and is not influenced 2.38 by the property appraiser. The special magistrate shall 239 accurately and completely preserve all testimony and, in making 240 recommendations to the value adjustment board, shall include 241 proposed findings of fact, conclusions of law, and reasons for 242 upholding or overturning the determination of the property appraiser. The expense of hearings before magistrates and any 243



244 compensation of special magistrates shall be borne three-fifths 245 by the board of county commissioners and two-fifths by the school board. When appointing special magistrates or when 246 247 scheduling special magistrates for specific hearings, the board, 248 the board attorney, and the board clerk may not consider the dollar amount or percentage of any assessment reductions 249 250 recommended by any special magistrate in the current year or in 251 any previous year.

Section 7. Paragraph (a) of subsection (9) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.-

(9) (a) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for exemption of property within the county after an initial application is made and the exemption granted. The waiver under this subsection of the annual application or statement requirement applies to all exemptions under this chapter except the exemption under s. 196.1995. Notwithstanding such waiver, refiling of an application or statement shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner, when the applicant for homestead exemption ceases to use the property as his or her homestead, or when the status of the owner changes so as to change the exempt status of the property. In its deliberations on whether to waive the annual application or statement 270 requirement, the governing body shall consider the possibility of fraudulent exemption claims which may occur due to the waiver 271 of the annual application requirement. The owner of any property 272

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273 granted an exemption who is not required to file an annual 274 application or statement shall notify the property appraiser promptly whenever the use of the property or the status or 275 276 condition of the owner changes so as to change the exempt status 277 of the property. If any property owner fails to so notify the 278 property appraiser and the property appraiser determines that 279 for any year within the prior 10 years the owner was not 280 entitled to receive such exemption, the owner of the property is 2.81 subject to the taxes exempted as a result of such failure plus 282 15 percent interest per annum and a penalty of 50 percent of the 283 taxes exempted. Except for homestead exemptions controlled by s. 284 196.161, the property appraiser making such determination shall 285 record in the public records of the county a notice of tax lien 286 against any property owned by that person or entity in the 287 county, and such property must be identified in the notice of 288 tax lien. Such property is subject to the payment of all taxes 289 and penalties. Such lien when filed shall attach to any 290 property, identified in the notice of tax lien, owned by the 291 person who illegally or improperly received the exemption. If 292 such person no longer owns property in that county but owns 293 property in some other county or counties in the state, the 294 property appraiser shall record a notice of tax lien in such 295 other county or counties, identifying the property owned by such person or entity in such county or counties, and it shall become 296 297 a lien against such property in such county or counties. The 298 property appraiser shall waive the unpaid penalties and interest 299 if the property appraiser determines that the person qualified 300 for the exemption at the time the application was filed; the 301 person acted in good faith; and, other than the improperly

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302 received tax savings, the person did not receive any additional 303 financial benefit, such as rental payments or other income. The 304 property appraiser may not waive penalty or interest if the 305 person claimed a similar exemption, limitation, or reduction on 306 another property, such as two homestead-related exemptions.

Section 8. Subsections (5) and (7) of section 196.012, Florida Statutes, are amended to read:

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

312 (5) "Educational institution" means a federal, state, 313 parochial, church, or private school, college, or university 314 conducting regular classes and courses of study required for 315 eligibility to certification by, accreditation to, or membership 316 in the State Department of Education of Florida, Southern 317 Association of Colleges and Schools, or the Florida Council of 318 Independent Schools; a nonprofit private school the principal 319 activity of which is conducting regular classes and courses of 320 study accepted for continuing postgraduate dental education 321 credit by a board of the Division of Medical Quality Assurance; 322 educational direct-support organizations created pursuant to ss. 323 1001.24, 1004.28, and 1004.70; a nonprofit entity that issues 324 industry certifications identified by the Chancellor of Career 325 and Adult Education as being eligible for workforce education 326 funding per approval by the State Board of Education pursuant to 327 s. 1008.44 or its successor; a nonprofit entity that has entered 328 into statewide articulation agreements with the State Board of 329 Education for articulation of postsecondary credit for related 330 degrees for approved industry certifications; facilities located

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331 on the property of eligible entities which will become owned by 332 those entities on a date certain; and institutions of higher 333 education, as defined under and participating in the Higher 334 Educational Facilities Financing Act.

335 (7) "Charitable purpose" means a function or service that 336 which is of such a community service that its discontinuance 337 could legally result in the allocation of public funds for the 338 continuance of the function or service. It is not necessary that 339 public funds be allocated for such function or service but only 340 that any such allocation would be legal. If a nonprofit entity 341 receives a determination from the Internal Revenue Service that it is exempt from federal income tax under s. 501(a) of the 342 343 Internal Revenue Code as an organization described in s. 344 501(c)(3) of that code, a rebuttable presumption of charitable 345 purpose exists for purposes of this chapter. The presumption may 346 be rebutted by the property appraiser with clear and convincing 347 evidence.

Section 9. Subsection (9) of section 196.075, Florida Statutes, is amended to read:

350 196.075 Additional homestead exemption for persons 65 and 351 older.-

352 (9) (a) If the property appraiser determines that for any 353 year within the immediately previous 10 years a person who was 354 not entitled to the additional homestead exemption under this 355 section was granted such an exemption, the property appraiser 356 shall serve upon the owner a notice of intent to record in the 357 public records of the county a notice of tax lien against any 358 property owned by that person in the county, and that property 359 must be identified in the notice of tax lien. Any property that

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360 is owned by the taxpayer and is situated in this state is 361 subject to the taxes exempted by the improper homestead 362 exemption, plus a penalty of 50 percent of the unpaid taxes for 363 each year and interest at a rate of 15 percent per annum. The 364 property appraiser shall waive the unpaid penalties and interest 365 if the property appraiser determines that the person qualified 366 for the exemption at the time the application was filed; the 367 person acted in good faith; and, other than the improperly 368 received tax savings, the person did not receive any additional 369 financial benefit, such as rental payments or other income. The 370 property appraiser may not waive penalty or interest if the 371 person claimed a homestead-related exemption, limitation, or 372 reduction on another property.

(b) However, if such an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person who improperly received the exemption may not be assessed a penalty and interest.

(c) Before any such lien may be filed, the owner must be given 30 days within which to pay the taxes, penalties, and interest. Such a lien is subject to the procedures and provisions set forth in s. 196.161(3).

Section 10. Subsection (4) of section 196.183, Florida Statutes, is amended to read:

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196.183 Exemption for tangible personal property.-

(4) Owners of property previously assessed by the property appraiser without a return being filed may, at the option of the 386 property appraiser, qualify for the exemption under this section 387 without filing an initial return.

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Section 11. Section 196.198, Florida Statutes, is amended



389 to read:

390 196.198 Educational property exemption.-Educational 391 institutions within this state and their property used by them 392 or by any other exempt entity or educational institution 393 predominantly or exclusively for educational purposes are exempt 394 from taxation in proportion to the extent of the exempt use of 395 property, as defined in s. 196.012. Sheltered workshops 396 providing rehabilitation and retraining of individuals who have 397 disabilities and exempted by a certificate under s. (d) of the 398 federal Fair Labor Standards Act of 1938, as amended, are 399 declared wholly educational in purpose and are exempt from 400 certification, accreditation, and membership requirements set 401 forth in s. 196.012. Those portions of property of college 402 fraternities and sororities certified by the president of the 403 college or university to the appropriate property appraiser as 404 being essential to the educational process are exempt from ad 405 valorem taxation. The use of property by public fairs and 406 expositions chartered by chapter 616 is presumed to be an 407 educational use of such property and is exempt from ad valorem 408 taxation to the extent of such use. Property used exclusively 409 for educational purposes shall be deemed owned by an educational 410 institution if the entity owning 100 percent of the educational 411 institution is owned by the identical persons who own the 412 property, or if the entity owning 100 percent of the educational 413 institution and the entity owning the property are owned by the 414 identical natural persons. Land, buildings, and other 415 improvements to real property used exclusively for educational 416 purposes shall be deemed owned by an educational institution if 417 the entity owning 100 percent of the land is a nonprofit entity

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418 and the land is used, under a ground lease or other contractual 419 arrangement, by an educational institution that owns the 420 buildings and other improvements to the real property, is a 421 nonprofit entity under s. 501(c)(3) of the Internal Revenue 422 Code, and provides education limited to students in 423 prekindergarten through grade 8. If legal title to property is 424 held by a governmental agency that leases the property to a 425 lessee, the property shall be deemed to be owned by the 42.6 governmental agency and used exclusively for educational 427 purposes if the governmental agency continues to use such 428 property exclusively for educational purposes pursuant to a 429 sublease or other contractual agreement with that lessee. If the 430 title to land is held by the trustee of an irrevocable inter 431 vivos trust and if the trust grantor owns 100 percent of the 432 entity that owns an educational institution that is using the 433 land exclusively for educational purposes, the land is deemed to 434 be property owned by the educational institution for purposes of 435 this exemption. Property owned by an educational institution 436 shall be deemed to be used for an educational purpose if the 437 institution has taken affirmative steps to prepare the property 438 for educational use. The term "affirmative steps" means 439 environmental or land use permitting activities, creation of 440 architectural plans or schematic drawings, land clearing or site 441 preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property 442 443 to an educational use.

444 Section 12. Subsection (1) of section 196.202, Florida 445 Statutes, is amended to read:

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196.202 Property of widows, widowers, blind persons, and

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COMMITTEE AMENDMENT

Florida Senate - 2017 Bill No. SB 226



447 persons totally and permanently disabled.-(1) Property to the value of \$5,000 <del>\$500</del> of every widow, 448 widower, blind person, or totally and permanently disabled 449 450 person who is a bona fide resident of this state is exempt from 451 taxation. As used in this section, the term "totally and 452 permanently disabled person" means a person who is currently certified by a physician licensed in this state, by the United 453 454 States Department of Veterans Affairs or its predecessor, or by 455 the Social Security Administration to be totally and permanently 456 disabled. 457 458 459 And the title is amended as follows: 460 Delete lines 5 - 39 461 and insert: 462 claiming adverse possession; amending ss. 193.155, 193.703, 196.011, and 196.075, F.S.; providing 463 464 criteria under which a property appraiser must waive 465 unpaid penalties and interest for improper nonpayment 466 or reduction payment of ad valorem taxes by certain 467 property owners claiming a homestead exemption; 468 prohibiting such waiver under certain circumstances; 469 amending s. 194.011, F.S.; authorizing petitioners, 470 upon a certain showing of extenuating circumstances, 471 to file petitions with value adjustment boards within 472 a specified timeframe after certain deadlines, subject 473 to certain limitations; amending s. 194.032, F.S.; 474 providing construction relating to the rescheduling of certain hearings for good cause; authorizing property 475

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476 appraisers and certain entities to identify a 477 specified number of days per roll year in which they are unavailable for hearings; amending s. 194.035, 478 479 F.S.; specifying the circumstances under which a 480 special magistrate's appraisal may not be submitted as 481 evidence to a value adjustment board; 196.012, F.S.; 482 redefining the terms "educational institution" and 483 "charitable purpose"; amending s. 196.183, F.S.; 484 providing that property owners assessed, rather than 485 previously assessed, by property appraisers without a 486 certain return filed may qualify for an exemption for 487 tangible personal property under certain 488 circumstances; amending s. 196.198, F.S.; revising a 489 tax exemption for educational institutions to provide 490 that property used predominantly for educational 491 purposes is exempt from taxation in proportion to the 492 extent of such use; amending s. 196.202, F.S.; 493 revising the value of property of widows, widowers, 494 blind persons, and persons totally and permanently 495 disabled which is exempt from taxation; amending s. 496 200.069, F.S.;

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