

By the Committee on Community Affairs; and Senators Garcia and Gruters

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1 A bill to be entitled
2 An act relating to property tax administration;
3 amending s. 193.122, F.S.; revising the timeframe
4 under which certain appeals of value adjustment board
5 decisions must be filed by a property appraiser under
6 certain circumstances; amending s. 193.155, F.S.;
7 specifying when erroneous assessments of homestead
8 property must be corrected; deleting a calculation of
9 back taxes; specifying that certain erroneous property
10 assessments may, rather than must, be corrected in a
11 specified manner; amending ss. 193.1554 and 193.1555,
12 F.S.; adding circumstances under which there is no
13 change of ownership for purposes of an assessment
14 limitation on nonhomestead residential property or
15 certain nonresidential real property, respectively;
16 specifying when erroneous property assessments must be
17 corrected; deleting a calculation of back taxes;
18 providing that a taxpayer receiving an erroneously
19 granted property assessment limitation need not pay
20 the unpaid taxes, penalties, or interest; providing
21 construction and retroactive applicability; amending
22 s. 194.032, F.S.; adding appeals for which a value
23 adjustment board must meet to hear; amending s.
24 194.036, F.S.; revising, for counties above a
25 specified population threshold, a condition under
26 which a property appraiser may appeal a decision of
27 the value adjustment board; amending s. 196.011, F.S.;
28 providing that a taxpayer need not pay unpaid taxes,
29 penalties, or interest for erroneously granted

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30 exemptions for which annual application or statement
31 requirements are waived; providing an effective date.
32

33 Be It Enacted by the Legislature of the State of Florida:
34

35 Section 1. Subsection (4) of section 193.122, Florida
36 Statutes, is amended to read:

37 193.122 Certificates of value adjustment board and property
38 appraiser; extensions on the assessment rolls.—

39 (4) An appeal of a value adjustment board decision pursuant
40 to s. 194.036(1)(a) or (b) by the property appraiser shall be
41 filed prior to extension of the tax roll under subsection (2)
42 or, if the roll was extended pursuant to s. 197.323, within 30
43 days after the date a decision is rendered concerning such
44 assessment by the value adjustment board ~~of recertification~~
45 ~~under subsection (3)~~. The roll may be certified by the property
46 appraiser prior to an appeal being filed pursuant to s.
47 194.036(1)(c), but such appeal shall be filed within 20 days
48 after receipt of the decision of the department relative to
49 further judicial proceedings.

50 Section 2. Subsections (9) and (10) of section 193.155,
51 Florida Statutes, are amended to read:

52 193.155 Homestead assessments.—Homestead property shall be
53 assessed at just value as of January 1, 1994. Property receiving
54 the homestead exemption after January 1, 1994, shall be assessed
55 at just value as of January 1 of the year in which the property
56 receives the exemption unless the provisions of subsection (8)
57 apply.

58 (9) Erroneous assessments of homestead property assessed

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59 under this section may be corrected in the following manner:

60 (a) If errors are made in arriving at any assessment under
61 this section due to a material mistake of fact concerning an
62 essential characteristic of the property, the just value and
63 assessed value must be recalculated beginning in the year such
64 mistake is discovered ~~for every such year, including the year in~~
65 ~~which the mistake occurred.~~

66 (b) If changes, additions, or improvements are not assessed
67 at just value as of the first January 1 after they were
68 substantially completed, the property appraiser shall determine
69 the just value for such changes, additions, or improvements for
70 the year they were substantially completed. Assessments for
71 subsequent years, beginning in the year such mistake is
72 discovered, shall be corrected, applying this section if
73 applicable.

74 ~~(c) If back taxes are due pursuant to s. 193.092, the~~
75 ~~corrections made pursuant to this subsection shall be used to~~
76 ~~calculate such back taxes.~~

77 (10) If the property appraiser determines that for any year
78 or years within the prior 10 years a person who was not entitled
79 to the homestead property assessment limitation granted under
80 this section was granted the homestead property assessment
81 limitation, the property appraiser making such determination
82 shall serve upon the owner a notice of intent to record in the
83 public records of the county a notice of tax lien against any
84 property owned by that person in the county, and such property
85 must be identified in the notice of tax lien. Such property that
86 is situated in this state is subject to the unpaid taxes, plus a
87 penalty of 50 percent of the unpaid taxes for each year and 15

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88 percent interest per annum. However, when a person entitled to
 89 exemption pursuant to s. 196.031 inadvertently receives the
 90 limitation pursuant to this section following a change of
 91 ownership, or if the property appraiser improperly grants the
 92 property assessment limitation as a result of an error,
 93 including, but not limited to, a clerical mistake or an
 94 omission, the assessment of such property may ~~must~~ be corrected
 95 as provided in paragraph (9) (a), and the person need not pay the
 96 unpaid taxes, penalties, or interest. Before a lien may be
 97 filed, the person or entity so notified must be given 30 days to
 98 pay the taxes and any applicable penalties and interest. ~~If the~~
 99 ~~property appraiser improperly grants the property assessment~~
 100 ~~limitation as a result of a clerical mistake or an omission, the~~
 101 ~~person or entity improperly receiving the property assessment~~
 102 ~~limitation may not be assessed a penalty or interest.~~

103 Section 3. Present paragraph (d) of subsection (5) of
 104 section 193.1554, Florida Statutes, is redesignated as paragraph
 105 (e), a new paragraph (d) is added to that subsection, and
 106 subsections (9) and (10) of that section are amended, to read:

107 193.1554 Assessment of nonhomestead residential property.-

108 (5) Except as provided in this subsection, property
 109 assessed under this section shall be assessed at just value as
 110 of January 1 of the year following a change of ownership or
 111 control. Thereafter, the annual changes in the assessed value of
 112 the property are subject to the limitations in subsections (3)
 113 and (4). For purpose of this section, a change of ownership or
 114 control means any sale, foreclosure, transfer of legal title or
 115 beneficial title in equity to any person, or the cumulative
 116 transfer of control or of more than 50 percent of the ownership

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117 of the legal entity that owned the property when it was most
118 recently assessed at just value, except as provided in this
119 subsection. There is no change of ownership if:

120 (d) The transfer is between an individual or individuals
121 and an entity, or between legal entities, which results solely
122 in a change in the method of holding title to the real property
123 and there is no cumulative transfer of control of more than 50
124 percent of the ownership.

125 (9) Erroneous assessments of nonhomestead residential
126 property assessed under this section may be corrected in the
127 following manner:

128 (a) If errors are made in arriving at any assessment under
129 this section due to a material mistake of fact concerning an
130 essential characteristic of the property, the just value and
131 assessed value must be recalculated beginning in the year such
132 mistake is discovered ~~for every such year, including the year in~~
133 ~~which the mistake occurred.~~

134 (b) If changes, additions, or improvements are not assessed
135 at just value as of the first January 1 after they were
136 substantially completed, the property appraiser shall determine
137 the just value for such changes, additions, or improvements for
138 the year they were substantially completed. Assessments for
139 subsequent years, beginning in the year such mistake is
140 discovered, shall be corrected, applying this section if
141 applicable.

142 ~~(c) If back taxes are due pursuant to s. 193.092, the~~
143 ~~corrections made pursuant to this subsection shall be used to~~
144 ~~calculate such back taxes.~~

145 (10) If the property appraiser determines that for any year

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146 or years within the prior 10 years a person or entity who was
147 not entitled to the property assessment limitation granted under
148 this section was granted the property assessment limitation, the
149 property appraiser making such determination shall serve upon
150 the owner a notice of intent to record in the public records of
151 the county a notice of tax lien against any property owned by
152 that person or entity in the county, and such property must be
153 identified in the notice of tax lien. Such property that is
154 situated in this state is subject to the unpaid taxes, plus a
155 penalty of 50 percent of the unpaid taxes for each year and 15
156 percent interest per annum. However, if the assessment
157 limitation is granted as a result of an error by the property
158 appraiser, including, but not limited to, a clerical mistake or
159 an omission, the taxpayer need not pay the unpaid taxes,
160 penalties, or interest. Before a lien may be filed, the person
161 or entity so notified must be given 30 days to pay the taxes and
162 any applicable penalties and interest. ~~If the property appraiser~~
163 ~~improperly grants the property assessment limitation as a result~~
164 ~~of a clerical mistake or an omission, the person or entity~~
165 ~~improperly receiving the property assessment limitation may not~~
166 ~~be assessed a penalty or interest.~~

167 Section 4. Paragraph (b) of subsection (5) and subsections
168 (9) and (10) of section 193.1555, Florida Statutes, are amended
169 to read:

170 193.1555 Assessment of certain residential and
171 nonresidential real property.—

172 (5) Except as provided in this subsection, property
173 assessed under this section shall be assessed at just value as
174 of January 1 of the year following a qualifying improvement or

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175 change of ownership or control. Thereafter, the annual changes
176 in the assessed value of the property are subject to the
177 limitations in subsections (3) and (4). For purpose of this
178 section:

179 (b) A change of ownership or control means any sale,
180 foreclosure, transfer of legal title or beneficial title in
181 equity to any person, or the cumulative transfer of control or
182 of more than 50 percent of the ownership of the legal entity
183 that owned the property when it was most recently assessed at
184 just value, except as provided in this subsection. There is no
185 change of ownership if:

186 1. The transfer of title is to correct an error.

187 2. The transfer is between legal and equitable title.

188 3. The transfer is between an individual or individuals and
189 an entity, or between legal entities, which results solely in a
190 change in the method of holding title to the real property and
191 there is no cumulative transfer of control of more than 50
192 percent of the ownership.

193 4. For a publicly traded company, the cumulative transfer
194 of more than 50 percent of the ownership of the entity that owns
195 the property occurs through the buying and selling of shares of
196 the company on a public exchange. This exception does not apply
197 to a transfer made through a merger with or acquisition by
198 another company, including acquisition by acquiring outstanding
199 shares of the company.

200 (9) Erroneous assessments of nonresidential real property
201 assessed under this section may be corrected in the following
202 manner:

203 (a) If errors are made in arriving at any assessment under

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204 this section due to a material mistake of fact concerning an
205 essential characteristic of the property, the just value and
206 assessed value must be recalculated beginning in the year such
207 mistake is discovered ~~for every such year, including the year in~~
208 ~~which the mistake occurred.~~

209 (b) If changes, additions, or improvements are not assessed
210 at just value as of the first January 1 after they were
211 substantially completed, the property appraiser shall determine
212 the just value for such changes, additions, or improvements for
213 the year they were substantially completed. Assessments for
214 subsequent years, beginning in the year such mistake is
215 discovered, shall be corrected, applying this section if
216 applicable.

217 ~~(c) If back taxes are due pursuant to s. 193.092, the~~
218 ~~corrections made pursuant to this subsection shall be used to~~
219 ~~calculate such back taxes.~~

220 (10) If the property appraiser determines that for any year
221 or years within the prior 10 years a person or entity who was
222 not entitled to the property assessment limitation granted under
223 this section was granted the property assessment limitation, the
224 property appraiser making such determination shall serve upon
225 the owner a notice of intent to record in the public records of
226 the county a notice of tax lien against any property owned by
227 that person or entity in the county, and such property must be
228 identified in the notice of tax lien. Such property that is
229 situated in this state is subject to the unpaid taxes, plus a
230 penalty of 50 percent of the unpaid taxes for each year and 15
231 percent interest per annum. However, if the assessment
232 limitation is granted as a result of an error by the property

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233 appraiser, including, but not limited to, a clerical mistake or
234 an omission, the taxpayer need not pay the unpaid taxes,
235 penalties, or interest. Before a lien may be filed, the person
236 or entity so notified must be given 30 days to pay the taxes and
237 any applicable penalties and interest. ~~If the property appraiser~~
238 ~~improperly grants the property assessment limitation as a result~~
239 ~~of a clerical mistake or an omission, the person or entity~~
240 ~~improperly receiving the property assessment limitation may not~~
241 ~~be assessed a penalty or interest.~~

242 Section 5. The amendments made by this act to ss.
243 193.1554(5) and 193.1555(5) (b), Florida Statutes, are intended
244 to be remedial and clarifying in nature and apply retroactively,
245 but do not provide a basis for an assessment of any tax or
246 create a right to a refund of any tax paid before the effective
247 date of this act.

248 Section 6. Paragraph (a) of subsection (1) of section
249 194.032, Florida Statutes, is amended to read:

250 194.032 Hearing purposes; timetable.—

251 (1) (a) The value adjustment board shall meet not earlier
252 than 30 days and not later than 60 days after the mailing of the
253 notice provided in s. 194.011(1); however, no board hearing
254 shall be held before approval of all or any part of the
255 assessment rolls by the Department of Revenue. The board shall
256 meet for the following purposes:

257 1. Hearing petitions relating to assessments filed pursuant
258 to s. 194.011(3).

259 2. Hearing complaints relating to homestead exemptions as
260 provided for under s. 196.151.

261 3. Hearing appeals from exemptions denied, or disputes

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262 arising from exemptions granted, upon the filing of exemption
263 applications under s. 196.011.

264 4. Hearing appeals concerning ad valorem tax deferrals and
265 classifications.

266 5. Hearing appeals from determinations that a change of
267 ownership under s. 193.155(3), a change of ownership or control
268 under s. 193.1554(5) or s. 193.1555(5), or a qualifying
269 improvement under s. 193.1555(5) has occurred.

270 6. Hearing appeals concerning the validity or amount, or
271 both, of assessments created under s. 193.092.

272 7. Hearing appeals on the issue of whether a tangible
273 personal property return as required under s. 193.052 was timely
274 filed so as to allow such assessment to be contested at the
275 value adjustment board, and to waive penalties imposed under s.
276 193.072.

277 Section 7. Subsection (1) of section 194.036, Florida
278 Statutes, is amended to read:

279 194.036 Appeals.—Appeals of the decisions of the board
280 shall be as follows:

281 (1) If the property appraiser disagrees with the decision
282 of the board, he or she may appeal the decision to the circuit
283 court if one or more of the following criteria are met:

284 (a) The property appraiser determines and affirmatively
285 asserts in any legal proceeding that there is a specific
286 constitutional or statutory violation, or a specific violation
287 of administrative rules, in the decision of the board, except
288 that nothing herein shall authorize the property appraiser to
289 institute any suit to challenge the validity of any portion of
290 the constitution or of any duly enacted legislative act of this

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291 state.~~†~~

292 (b)1. In counties with a population of 75,000 or less,
293 there is a variance from the property appraiser's assessed value
294 in excess of the following: 15 percent variance from any
295 assessment of \$50,000 or less; 10 percent variance from any
296 assessment in excess of \$50,000 but not in excess of \$500,000;
297 7.5 percent variance from any assessment in excess of \$500,000
298 but not in excess of \$1 million; or 5 percent variance from any
299 assessment in excess of \$1 million.

300 2. In counties with a population of more than 75,000, there
301 is a variance from the property appraiser's assessed value in
302 excess of the following: 30 percent variance from any assessment
303 of \$50,000 or less; 20 percent variance from any assessment in
304 excess of \$50,000 but not in excess of \$500,000; 17.5 percent
305 variance from any assessment in excess of \$500,000 but not in
306 excess of \$1 million; or 15 percent variance from any assessment
307 in excess of \$1 million.~~† or~~

308 (c) There is an assertion by the property appraiser to the
309 Department of Revenue that there exists a consistent and
310 continuous violation of the intent of the law or administrative
311 rules by the value adjustment board in its decisions. The
312 property appraiser shall notify the department of those portions
313 of the tax roll for which the assertion is made. The department
314 shall thereupon notify the clerk of the board who shall, within
315 15 days of the notification by the department, send the written
316 decisions of the board to the department. Within 30 days of the
317 receipt of the decisions by the department, the department shall
318 notify the property appraiser of its decision relative to
319 further judicial proceedings. If the department finds upon

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320 investigation that a consistent and continuous violation of the
321 intent of the law or administrative rules by the board has
322 occurred, it shall so inform the property appraiser, who may
323 thereupon bring suit in circuit court against the value
324 adjustment board for injunctive relief to prohibit continuation
325 of the violation of the law or administrative rules and for a
326 mandatory injunction to restore the tax roll to its just value
327 in such amount as determined by judicial proceeding. However,
328 when a final judicial decision is rendered as a result of an
329 appeal filed pursuant to this paragraph which alters or changes
330 an assessment of a parcel of property of any taxpayer not a
331 party to such procedure, such taxpayer shall have 60 days from
332 the date of the final judicial decision to file an action to
333 contest such altered or changed assessment pursuant to s.
334 194.171(1), and the provisions of s. 194.171(2) shall not bar
335 such action.

336 Section 8. Paragraph (a) of subsection (9) of section
337 196.011, Florida Statutes, is amended to read:

338 196.011 Annual application required for exemption.—

339 (9) (a) A county may, at the request of the property
340 appraiser and by a majority vote of its governing body, waive
341 the requirement that an annual application or statement be made
342 for exemption of property within the county after an initial
343 application is made and the exemption granted. The waiver under
344 this subsection of the annual application or statement
345 requirement applies to all exemptions under this chapter except
346 the exemption under s. 196.1995. Notwithstanding such waiver,
347 refiling of an application or statement shall be required when
348 any property granted an exemption is sold or otherwise disposed

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349 of, when the ownership changes in any manner, when the applicant
350 for homestead exemption ceases to use the property as his or her
351 homestead, or when the status of the owner changes so as to
352 change the exempt status of the property. In its deliberations
353 on whether to waive the annual application or statement
354 requirement, the governing body shall consider the possibility
355 of fraudulent exemption claims which may occur due to the waiver
356 of the annual application requirement. The owner of any property
357 granted an exemption who is not required to file an annual
358 application or statement shall notify the property appraiser
359 promptly whenever the use of the property or the status or
360 condition of the owner changes so as to change the exempt status
361 of the property. If any property owner fails to so notify the
362 property appraiser and the property appraiser determines that
363 for any year within the prior 10 years the owner was not
364 entitled to receive such exemption, the owner of the property is
365 subject to the taxes exempted as a result of such failure plus
366 15 percent interest per annum and a penalty of 50 percent of the
367 taxes exempted. However, if such exemption is granted as a
368 result of an error by the property appraiser, including, but not
369 limited to, a clerical mistake or an omission, the taxpayer need
370 not pay the unpaid taxes, penalties, or interest. Except for
371 homestead exemptions controlled by s. 196.161, the property
372 appraiser making such determination shall record in the public
373 records of the county a notice of tax lien against any property
374 owned by that person or entity in the county, and such property
375 must be identified in the notice of tax lien. Such property is
376 subject to the payment of all taxes and penalties. Such lien
377 when filed shall attach to any property, identified in the

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378 notice of tax lien, owned by the person who illegally or
379 improperly received the exemption. If such person no longer owns
380 property in that county but owns property in some other county
381 or counties in the state, the property appraiser shall record a
382 notice of tax lien in such other county or counties, identifying
383 the property owned by such person or entity in such county or
384 counties, and it shall become a lien against such property in
385 such county or counties.

386 Section 9. This act shall take effect January 1, 2024.