Administration of Art. VII, Sec. 4(e), Florida Constitution: The "Granny Flats" Amendment

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Background

In 2002, the Florida Legislature proposed a constitutional amendment that allows a county to provide a tax exemption for property constructed or reconstructed for the purpose of providing living quarters for grandparents or parents of the owner or the owner's spouse, if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Section 193.703, F.S., was also enacted, contingent upon voter approval of the proposed amendment, to implement its provisions. The proposed amendment was approved by voters in November 2002, and became effective, along with the implementing legislation, on January 7, 2003. This exemption will take effect for taxes levied against the 2004 tax roll in the counties that have adopted the exemption. (As of October 20, 2003, these counties are Leon, Duval, and Miami-Dade.) The amendment reads:

Art. VII, sec. 4.(e) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:
(1) The increase in assessed value resulting from construction or reconstruction of the property.
(2) Twenty percent of the total assessed value of the property as improved.

Section 193.703, F.S., the statutory implementation of the amendment, does not answer all questions that have been raised by counties and property appraisers about how to implement this constitutional provision. In January 2003, the Department of Revenue's Property Tax Administration division sponsored a workshop to identify issues dealing with the administration of this provision and to discuss possible solutions to clarify its administration. This workshop resulted in the identification of problems in the existing language and solutions proposed by the workshop's participants, which included property appraisers, representatives of local governments, and legislative staff who had worked on the original legislation. (See Appendix A) Some of these solutions can be accomplished by rule, while others require legislation.

As required under ss. 195.027 and 213.06, F.S. , the Department of Revenue has initiated development of a rule to implement the provisions of this statute. Adoption of a rule will allow the department to specify how the provisions of the statute will be implemented, but since agency rules are limited by s. 120.536(1), F.S., to implementing or interpreting the specific powers and duties conferred by

the enabling statute, the rule cannot require any action that is not specifically required by the statute and some issues will remain unresolved even if the rule is adopted.

Methodology

This report reviews s. 193.703, F.S., and identifies issues that need to be addressed by rule or legislation to improve implementation of the constitutional provision. The department's proposed rule and suggestions that came out of the 2003 workshop will also be reviewed to see to what extent they satisfy the need for additional guidance and clarification. The Property Appraisers were asked to provide comments on the current law and proposed rule and identify any potential problem in implementing this amendment that is not addressed in the Department of Revenue's proposed rule. (See Appendix B.)

Analysis of s. 193.703, F.S.

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

(1) In accordance with s. 4(e), Art. VII of the State Constitution, a county may provide for a reduction in the assessed value of homestead property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive parents or grandparents of the owner of the property or of the owner's spouse if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age.

Issues raised by this subsection:

- It does not specify how a county provides for the reduction, whether by ordinance or resolution or some other method. (The proposed rule requires adoption of an ordinance.)
- It does not specify when the county must notify the property appraiser of its adoption of the assessment reduction provision.
- It does not specifically state that the assessment reduction, once adopted by the county, applies to all taxing authorities in the county. This is not stated in the constitutional language, either. (The proposed rule states this explicitly.)

(2) A reduction may be granted under subsection (1) only to the owner of homestead property where the construction or reconstruction is consistent with local land development regulations.

Issue raised by this subsection:

- Does this include obtaining a building permit where one is required? (The proposed rule includes proper application for a building permit, where applicable, along with local land development regulations.)

(3) A reduction in assessment which is granted under this section applies only to construction or reconstruction that occurred after the effective date of this section to an existing homestead and applies only during taxable years during which at least one such parent or grandparent maintains his or her primary place of residence in such living quarters within the homestead property of the owner.

Issues raised by this subsection:

- Under this language, living quarters for a parent or grandparent that qualify for the assessment reduction must be added to an existing homestead. This clarifies, but does not go beyond, the constitutional language, which refers to "… a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property…." The construction or reconstruction must be made on property that already qualifies for a homestead exemption, which could not be the case for an entirely new residence. (The proposed rule implements this provision by explicitly requiring that the property to which the assessment reduction applies must qualify for a homestead exemption at the time the construction or reconstruction is substantially complete and each year thereafter. The Palm Beach County Property Appraiser sent a comment to the Department of Revenue disagreeing with this interpretation of the statute and asserting that a property owner can build a house that includes an area designated for their parent or grandparent and then occupy and qualify for a homestead exemption on January 1, and the area designated in that new home should qualify for an exemption.)
- The phrase "such parent or grandparent," read with subsection (1), implies that the reduction applies only if the same parent or grandparent for whom the living quarters were built continues to live there. It would not apply if this person no longer resided there, even if a different but otherwise-qualified parent or grandparent were to move into the living quarters. (The proposed rule implements this provision by defining "qualified parent or grandparent" to mean *the* parent or grandparent residing in the living quarters, as his or her primary residence, constructed or reconstructed on property qualifying for assessment reduction.) (*Emphasis added*.)

(4) Such a reduction in assessment may be granted only upon an application filed annually with the county property appraiser. The application must be made before March 1 of the year for which the reduction is to be granted. If the property appraiser is satisfied that the property is entitled to a reduction in assessment under this section, the property appraiser shall approve the application, and the value of such residential improvements shall be excluded from the value of the property for purposes of ad valorem taxation. The value excluded may not exceed the lesser of the following:

(a) The increase in assessed value resulting from construction or reconstruction of the property; or

(b) Twenty percent of the total assessed value of the property as improved.

Issues raised by this subsection:

- This subsection does not provide criteria for determining whether the property is entitled to a reduction in assessment. The property appraiser must ascertain whether the parent or grandparent meets the statutory requirements for relationship to property owners, age, and residency.
- The property appraiser must also determine what property is affected by the assessment reduction. Questions could arise about whether other improvements made at the same time as the addition of living quarters for parents or grandparents should be included in the assessment limitation.

(The proposed rule leaves these issues to the discretion of the property appraiser, allowing him or her to require any information he or she determines to be relevant.)

(5) If the owner of homestead property for which such a reduction in assessed value has been granted is found to have made any willfully false statement in the application for the reduction, the reduction shall be revoked, the owner is subject to a civil penalty of not more than $1,000, and the owner shall be disqualified from receiving any such reduction for a period of 5 years.

Issue raised by this subsection:

- This penalty provision--a civil penalty of not more than $1,000--is substantially weaker than the current penalties for fraudulent claims of other property tax exemptions, *i.e.*, a first degree misdemeanor and fine of up to $5,000, plus a lien imposed on the property of a person fraudulently claiming a homestead exemption.

(6) When the property owner no longer qualifies for the reduction in assessed value for living quarters of parents or grandparents, the previously excluded just

value of such improvements as of the first January 1 after the improvements were substantially completed shall be added back to the assessed value of the property.

Issues raised by this subsection:

- Is the assessment reduction provided for by this section the same as the additional value of the improvement added to assessed value under Save Our Homes? In order for the full value of the living quarters for parents or grandparents to be added back to the assessed value of the property once it no longer qualifies for the reduction, the assessment reduction should remain a constant dollar amount for all the years the reduction is claimed. The rest of the homestead property will be assessed as provided under Save Our Homes. (The proposed rule provides that, on the first January 1 that the construction or reconstruction providing living quarters under this section is complete, the property appraiser shall determine the increase in just value of the property due to the construction or reconstruction. For that year and each year thereafter that the property qualifies for assessment reduction, the assessed value will be reduced by the amount determined in the first year, up to 20 percent of the value of the property before the reduction is taken.

History.--s. 1, ch. 2002-226.

1Note.--Section 2, ch. 2002-226, provides that "[t]his act shall take effect upon the effective date of an amendment to Section 4 of Article VII of the State Constitution which allows counties to provide for a reduction in assessed value of living quarters constructed for parents or grandparents."

Proposed Legislative Changes

In response to a request for comments on implementing this amendment, some of the Property Appraisers have identified problems that are not addressed by s. 193.027, F.S., or the proposed rule. Solving these problems will require legislation.

- The current statute provides no timelines for the adoption of the assessment reduction by the county commission or for notification of the property appraiser.
- There is no requirement in the statute that the parent or grandparent spend a minimum amount of time in the homestead. The primary residence condition could be met even if the parent or grandparent spends most of the year traveling or staying with other family members, as long as he or she does not claim a homestead exemption or tax credit on other property.

- The property appraisers have no authority to require that the social security numbers of parents or grandparents be provided to ascertain that they are not receiving homestead exemptions somewhere else in Florida. (A separate bill will be required to provide a public records exemption for these social security numbers.)
- The penalty provisions for fraudulently filing for this assessment reduction are much weaker than other homestead exemption fraud, and are likely to be less than the tax savings from the exemption.

Recommendations

Based on analysis of the current law implementing this constitutional provision and recommendations of the property appraisers, staff recommends that the Legislature:

- Amend s. 193.703, F.S., to provide a timeline for a county to adopt the assessment reduction by ordinance and notify the property appraiser. The property appraiser should be notified by December 1 for an assessment reduction that will apply to the next year's property tax assessments;
- State explicitly that the reduction in assessed value applies to the property tax levies of all taxing authorities in the county, and require that these authorities be notified that the board of county commissioners will vote on adopting an ordinance providing for the reduction;
- Define the term "qualified parent or grandparent" to mean someone permanently residing in the living quarters qualifying for the assessment reduction and provide that the assessment reduction applies as long as a qualified parent or grandparent permanently resides in the homestead;
- Allow the Department of Revenue to prescribe an application form, and require the applications to include the social security numbers of the parents or grandparents for whom the living quarters were constructed;
- Provide the same penalties for fraudulently claiming the assessment reduction as are provided in the statute for other homestead exemption fraud, and
- Create a public records exemption for social security numbers required to be provided under this section.

Appendixes

Appendix A - Workshop on the Administrative Issues Regarding the "Granny-Flats" Amendment

January 17, 2003

The 'granny-flats' constitutional amendment was placed on the ballot by the 2002 Legislature and approved by the voters in November 2002. The amendment provides for a local option reduction in the assessed value of homestead property equal to any increase in assessed value resulting from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner or owner's spouse. An implementing bill was also enacted by the 2002 Legislature (see s. 193.703, F.S.). The amendment and the implementing bill became effective on January 7, 2003 and, if adopted by a county commission, will first affect taxes in that county levied against the 2004 tax roll.

A workshop sponsored by the Department of Revenue was held on January 17, 2003 to identify issues dealing with the administration of the 'granny-flats' assessment reduction and to discuss possible solutions to clarify administration of the law. To the extent that administrative issues need to be addressed before the assessment reduction first applies, it is important that they be presented to the 2003 Legislature. The issues raised below were discussed at the workshop. Following each issue is a description of the proposed solution favored by attendees at the workshop. These proposed solutions do not represent a judgment of how the current law should be interpreted in the absence of any amendments, but rather are the thoughts of the workshop attendees on how the implementing statute should be amended to address the issues raised.

The Department Revenue is assisting in developing a draft bill to address the issues raised. In doing so, the Department is not taking a policy position on the solutions, but rather attempting to define the issues that need to be addressed by the Legislature if property appraisers are to effectively administer the law. Whatever position is finally adopted in response to the issues raised, it is the addressing of the issue rather than the policy implemented which the Department is attempting to facilitate.

Questions to be answered by implementing legislation:

1. What is the relationship between the additional value for property improvements placed on the tax roll at just value under Save Our Homes and the new or reconstruction value allowed for the 'granny-flats' assessment reduction? Paragraph 193.155(4)(a), F.S., (Save Our Homes) requires that "changes, additions, or improvements to homestead property shall be assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed." The 'granny-flats' constitutional amendment provides for "a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property …"

Attendees agreed that conceptually the additional value added to assessed value in the first year under Save Our Homes and the assessment reduction under the granny-flats amendment were the same (provided that the full increase in value was due to the construction or reconstruction of a granny-flat). Both values are equal to the increase in market value that results from the construction or reconstruction.

2. A similar question to the question above: Does the 'granny-flat' assessment reduction apply only to the increase in assessed value resulting from construction or reconstruction or does it apply to the full value of the living quarters of the parents or grandparents?

The granny-flat assessment reduction should apply only to the increase in assessed value due to the construction or reconstruction. The value of the living quarters themselves (however those quarters are defined) has no bearing on the assessment reduction.

3. To qualify for the 'granny-flats' assessment reduction, does the construction or reconstruction have to be done specifically for the parents or grandparents for whom the reduction is received? For example, if a home is purchased with constructed or reconstructed living quarters that qualified for the assessment reduction under the previous owner, can the new owner receive the reduction if the owner's parents or grandparents occupy the living quarters?

Attendees felt the constitution is clear that the assessment reduction is for construction or reconstruction to provide living quarters for the grandparents or parents of owner or owner's spouse. Therefore, only construction or reconstruction specifically done for the parents or grandparents who actually live in the quarters constructed or reconstructed when the reduction is first applied for should qualify for the assessment reduction.

4. Is the answer to the above question the same if the construction or reconstruction did not qualify for the 'granny-flats' assessment reduction under the previous owner? Is the answer the same if a bedroom has been added to a house some years ago by the current owner and the parents or grandparents move in at a later date? Does it matter whether the addition was intended as living quarters for the parents or grandparents?

See answer to 3 above. The assessment reduction should apply only for construction or reconstruction done in the year prior to the January 1 in which the parents or grandparents of the owner or owner's spouse first occupy the living quarters constructed or reconstructed.

5. The current law requires that the 'granny-flats' assessment reduction apply only to construction or reconstruction to an existing home. (The constitution does not have an 'existing home' provision.) Does the reduction apply to a newly constructed home which has "living quarters" for a parent or grandparent, and those parents or grandparents are living in those quarters as of the first January 1 after home is complete?

Attendees felt that the constitutional amendment implies that the construction or reconstruction is to not only an existing home, but to a home for which the owner claiming the granny-flat reduction had received a homestead exemption the previous January 1. Therefore, the answer to the above question is no.

6. In years following the original granting of the assessment reduction and the determination of its value, how should the reduction value be determined? Does the property appraiser have to specifically reassess the construction or reconstruction each year? Or, is the just value in subsequent years determined as if the construction or reconstruction had not occurred? Is it important to calculate or report the market value of the property as a whole?

Attendees felt that the assessment reduction was for the increase in assessed value in the year the assessment reduction was first granted. This amount would remain constant in subsequent years with no reassessment being necessary. In answer to the last question above, it was seen as very important that market value of the property as a whole continue to be calculated and reported.

7. What is the relationship between the term "assessed value" in the 'granny-flats' amendment and the capped assessment (referred to as "assessed value" in statute) in the Save Our Homes constitutional amendment? If they are the same, it implies that the 'granny-flats' assessment reduction should be applied to the capped Save Our Homes value. If the 'granny-flats' reduction amount is uncapped, it will become an increasingly larger share of assessed value. Should the 'granny-flats' reduction also be capped by the Save Our Homes amendment? Alternatively, if the terms in the two constitutional amendments are not the same, could the 'granny-flats' reduction be subtracted from the market value prior to the application of the Save Our Homes cap?

The term "assessed value" as used in the administration of the Save Our Homes amendment and the term as used in the granny-flats amendment are the same. The granny-flats assessment reduction should be applied to the assessed value as calculated pursuant to the Save Our Homes amendment.

8. What is the definition of "living quarters"? Do they have to be a self-contained unit or would only a bedroom count? Does the construction or reconstruction have to include modifications to, or the addition of, a bedroom? What about modifications made to other areas of the house to accommodate the parents or grandparents, such as installation of an elevator, the addition of a Florida room, or kitchen or bathroom upgrades? What if the "living quarters" are used for other purposes in addition to housing the parents or grandparents?

Attendees felt that the term "living quarters" should be given a broad interpretation. It would be very difficult for the property appraiser to make a decision on what improvements were made for the parents or grandparents and what were not. While administratively the homeowner should be required to affirmatively state the improvements intended to provide living quarters for the parents or grandparents, that statement should be determinative.

8a. How should construction or reconstruction occurring after the parent or grandparent begins living in the living quarters be treated? (This is a question first raised at the workshop)

As long as the owner affirmatively states that the construction or reconstruction is for the purpose of providing living quarters for the parents or grandparents, the new construction or reconstruction should qualify. Its value should be calculated as the increase in market value as of the first January 1 it qualifies. The 20% limitation would apply to the sum of the assessment reductions.

9. The constitution states only that the construction or reconstruction must be to provide living quarters for the parents or grandparents. The statute requires that the parent or grandparent maintain their "primary place of residence" in the living quarters. What is the definition of "primary place of residence" and how does it relate to

the requirements for qualifying for a homestead exemption (which uses and defines the term "permanent residence")?

Attendees felt that applying the same residency requirements as the homestead exemption would best follow the intent of the amendment (the assessment reduction is for "living quarters") and be easiest to administer. Further, the law should state that parents or grandparents for whom the assessment reduction is granted should not be eligible to receive a homestead exemption on any other property in Florida. As with homesteaders, the social security numbers of the parents or grandparents should be required.

10. What information can the property appraiser rely on to determine if the occupants of the living quarters are the true "natural or adoptive grandparents or parents of the owner of the property or the owner's spouse"? This information should also include verification of the age of the parent or grandparent.

Property appraisers should be able to rely on an affidavit signed by the property owner for determination of qualification. As to the verification of age, administrative procedures similar to those now used for the Save Our Seniors exemption should be adopted.

11. What kind of verification should be made each year that the assessment reduction still applies and what notification requirements should apply when the property no longer qualifies for the reduction?

Annual renewal of the assessment reduction should be required. Recipients should be asked to affirmatively state that they still qualify for the reduction.

12. How should the assessment reduction be calculated if there is more than one owner of the property when at least one of the owners does not reside on the property? Is the 'granny-flats' reduction itself proportioned to the ownership portion of the homesteader or does the full reduction amount apply to the homesteader's ownership portion? How is the 20% cap with regard to the total assessed value of the property calculated? What about ownership by tenants in common?

The law should specify, as with other exemptions, that the value of the assessment reduction and the 20% cap are calculated with reference to the assessed value of the proportionate interest of the resident tenant(s) in common. For joint owners with right of survivorship, the regular homestead exemption allows the resident joint owner to obtain the full exemption. The same should apply to the reduced assessment, with the resident joint owner being able to obtain the full value of the reduction and the 20% cap.

13. The constitution and statute do not specifically state that the 'granny-flats' assessment reduction, once adopted by the county government, applies to all taxing authorities levying in the county. The House staff analysis does not address the issue. The Senate staff analysis states that the Revenue Estimating Conference impact assumes that the reduction applies to all taxing authorities and mentions the disequalizing effects on school funding. Does the law need to specifically state that the reduction, once adopted by the county, applies to all taxing authorities levying tax on property located in the county?

The law should specifically state that the reduction, once adopted by the county, applies to all taxing authorities levying tax on property in the county.

14. Is the 20% cap on the value of the 'granny-flats' reduction calculated based on the value before or after the construction or reconstruction? Is the 20% cap calculated based on the market value or the Save Our Homes assessed value?

Attendees pointed out that the constitutional amendment specifically states that the 20% limitation applies to the "total assessed value of the property as improved." Thus, it should be calculated based on the Save Our Homes assessed value, including the value of the construction or reconstruction.

15. What if two parents or grandparents reside on the property in separately constructed or reconstructed living quarters? Do both sets of living quarters separately qualify for the assessment reduction? Does the 20% cap apply to each separately?

Construction or reconstruction for more than one set of parents or grandparents should qualify for the assessment reduction. Additional construction or reconstruction for later sets of parents or grandparents would be allowed based on the value of the construction or reconstruction on the January 1 after it was complete. However, the 20% limitation should apply to the sum of all assessment reductions.

16. The current statute provides no timelines for the adoption of the 'granny-flats' assessment reduction by the county commission or for the notification of the property appraiser. Should the statute include such timelines and what should they be? (See s. 196.075(6), F.S., for the timelines in place for the Save Our Seniors exemption)

Ordinances granting the granny-flats assessment reduction should meet the same requirements as ordinances for the current Save Our Seniors exemption and all timelines associated with implementing that exemption should be followed.

17. The statute requires that the construction or reconstruction be consistent with local land development regulations. Does this include proper application for a building permit?

Yes.

18. What if an assessment reduction is granted and the parents or grandparents subsequently move out and then a year or more later move back in? Do they again qualify for the assessment reduction and, if so, how is it calculated?

Once a homeowner no longer qualifies for the granny-flats assessment reduction, the construction or reconstruction associated with that reduction can no longer be used to qualify for an assessment reduction, even if the original parents or grandparents move back in.

19. Does the 'granny-flats' assessment reduction apply to separately constructed living quarters (or a separate complete home on the same parcel) or do they have to be part of the existing homestead structure?

As long as the construction or reconstruction is made on the same parcel, or contiguous parcels if the folio number is the same, it should still be able qualify for the assessment

reduction. This is true even if it is a separate structure. It is also true even if the construction is a separate mobile home located on the parcel.

The following questions are policy, rather than administrative, questions raised by interested parties prior to the workshop:

20. The penalty provisions included in the current statute are substantially weaker than current penalties for fraudulent claims of other property tax exemptions. Many respondents indicated that the penalties should be increased.

Attendees felt that the penalty provisions currently in statute for general exemption application and specifically applicable to the homestead exemption and the Save Our Seniors exemption should also be applicable to the granny-flats assessment reduction.

21. Current law states that the value that should be added back when the property no longer qualifies for the assessment reduction should be equal to the previously excluded just value of the improvements as of the first January 1 after the improvements were substantially completed. Several respondents stated that this would result in a permanent (at least until the property was sold or no longer received the homestead exemption) reduction in taxable value compared to the value if the improvement had been fully assessed when it was first constructed. This was also pointed out in the Senate staff analysis. Several suggestions were made on ways to remedy this.

The answer to question 6 above indicated that the assessment reduction should be calculated based on the original increase in assessed value due to the construction or reconstruction and remain constant in subsequent years. Therefore the add-back in current law after the assessment reduction no longer was applicable would equal the previously excluded value.

22. Several respondents pointed out that no provision was made in statute for automatic renewal. It was suggested that some form of automatic renewal be allowed.

See the answer to question 11. Attendees felt that no automatic renewal should be allowed.

Appendix B - Department of Revenue draft rule as of October 1, 2003

12D-8.0068 Reduction in Assessment for Living Quarters of Parents or Grandparents.

(1)(a) In accordance with s. 193.703, F.S. and s. 4(e), Art. VII of the State Constitution, the board of county commissioners of any county may adopt an ordinance to provide for a reduction in the assessed value of homestead property equal to any increase in assessed value of the property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive parents or grandparents of the owner of the property or of the owner's spouse if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age. The board of county commissioners shall deliver a copy of any ordinance adopted under section 193.703, F.S. to the property appraiser.

(b) The reduction in assessed value resulting from an ordinance adopted pursuant to section 193.703, F.S. shall be applicable to the property tax levies of all taxing authorities levying tax within the county.

(2) A reduction may be granted under subsection (1) only to the owner of homestead property where the construction or reconstruction is consistent with local land development regulations, including, where applicable, proper application for a building permit.

(3) In order to qualify for the assessment reduction pursuant to this section, property must meet the following requirements:

(a) The construction or reconstruction for which the assessment reduction is granted must have been substantially completed on or before the January 1 on which the assessment reduction for that property will first be applied.

(b) The property to which the assessment reduction applies must qualify for a homestead exemption at the time the construction or reconstruction is substantially complete and each year thereafter.

(c) The qualified parent or grandparent must permanently reside on the property on January 1 of the year the assessment reduction first applies and each year thereafter.

(d) The construction or reconstruction must have been substantially completed after January 7, 2003, the effective date of section 193.703, F.S.

(4)(a) The term "qualified parent or grandparent" means the parent or grandparent residing in the living quarters, as their primary residence, constructed or reconstructed on property qualifying for assessment reduction pursuant to section 193.703, F.S. on January 1 of the year the assessment reduction first applies and each year thereafter. Such parent or grandparent must be the natural or adoptive parent or grandparent of the owner, or the owner's spouse, of the homestead property on which the construction or reconstruction occurred.

(b) "Primary residence" shall mean that the parent or grandparent does not claim a homestead exemption elsewhere in Florida. Such parent or grandparent cannot qualify as a permanent resident for purposes of being granted a homestead exemption or tax credit on any other property, whether in Florida or in another state. If such parent or grandparent receives or claims the benefit of an ad valorem tax exemption or a tax credit elsewhere in Florida or in another state where permanent residency is required as a basis for the granting of that ad valorem tax exemption or tax credit, such parent or grandparent is not a qualified parent or grandparent under this subsection, the owner is not entitled to the reduction for living quarters provided by this section.

(c) At least one qualifying parent or grandparent must be at least 62 years of age.

(d) In determining that the parent or grandparent is the natural or adoptive parent or grandparent of the owner or the owner's spouse and that the age requirements are met, the property appraiser shall rely on an application by the property owner and such other information as the property appraiser determines is relevant.

(5) Construction or reconstruction qualifying as providing living quarters pursuant to this section is limited to additions and renovations made for the purpose of allowing qualified parents or grandparents to permanently reside on the property. Such additions or renovations may include the construction of a separate building on the same parcel or may be an addition to or renovation of the existing structure. Construction or reconstruction shall be considered as being for the purpose of providing living quarters for parents or grandparents if it is directly related to providing the amenities necessary for the parent or grandparent to reside on the same property with their child or grandchild. In making this determination, the property appraiser shall rely on an application by the property owner and such other information as the property appraiser determines is relevant.

(6)(a) On the first January 1 on which the construction or reconstruction qualifying as providing living quarters pursuant to this section is substantially complete, the property appraiser shall determine the increase in the just value of the property due to such construction or reconstruction. For that year and each year thereafter in which the property qualifies for the assessment reduction pursuant to this section, assessed value calculated pursuant to section 193.155, F.S. shall be reduced by the amount so determined. In no year may the assessment reduction, inclusive and aggregate of all qualifying parents or grandparents, exceed twenty percent of the assessed value of the property prior to the assessment reduction being taken. If in any year the reduction as calculated pursuant to this subsection exceeds twenty percent of assessed value, the reduction shall be reduced to equal twenty percent.

(b) Construction or reconstruction can qualify under subsection (4)(a) in a later year, as long as the owner makes an application for the January 1 on which a qualifying parent or grandparent meets the requirements of subsection (4)(b). The owner must certify in such application as to the date the construction or reconstruction was substantially complete and that it was for the purpose of providing living quarters for one or more natural or adoptive parents or grandparents of the owner of the property or of the owner's spouse as described in subsection (1)(a). In such case, the property appraiser shall determine the increase in the just value of the property due to such construction or reconstruction as of the first January 1 on it was substantially complete. However, no reduction shall be granted in any year until a qualifying parent or grandparent meets the requirements of subsection (4)(b).

(7) Further construction or reconstruction to the same property meeting the requirements of subsection (5) for the qualified parent or grandparent residing primarily on the property may also receive an assessment reduction pursuant to this section. Construction or reconstruction meeting the requirements of this section for another qualified parent or grandparent of the owner or the owner’s spouse may also receive an assessment reduction. The assessment reduction for such construction or reconstruction shall be calculated pursuant to this section for the first January 1 after such construction or reconstruction is substantially complete. However, in no year may the total of all applicable assessment reductions pursuant to this section exceed twenty percent of the assessed value of the property.

(8) The assessment reduction pursuant to this section shall apply only while the qualified parent or

grandparent continues to reside primarily on the property and all other requirements of this section are met. The provisions of subsections (1), (5), (6), (7), and (8) of s. 196.011 governing applications for exemption are applicable to the granting of an assessment reduction pursuant to this section. The property owner must apply for the assessment reduction annually.

(9) The amount of the assessment reduction under section 193.703, F.S. for living quarters constructed for parents or grand parents, shall be placed on the roll after a change in ownership, when the property is no longer homestead, or when the parent or grand parent discontinues residing on the property.

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 193.703, 196.011, 213.05 FS. History-New .

Appendix C – Leon County Ordinance

ORDINANCE NO. 2003-06

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 11, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, BY CREATING ARTICLE XIX ENTITLED "PROPERTY TAX REDUCTION FOR CONSTRUCTION OR RECONSTRUCTION OF HOMESTEAD PROPERTY TO HOUSE ELDERLY PARENT(S) OR GRANDPARENT(S) OF OWNER OR OWNER'S SPOUSE"; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE QUALIFICATIONS FOR REDUCTION; PROVIDING FOR THE AMOUNT OF REDUCTION; PROVIDING FOR THE PROCESS FOR CLAIMING A REDUCTION; PROVIDING FOR PENALTIES; PROVIDING FOR DISQUALIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Leon County desires to provide a property tax reduction for the construction or reconstruction of homestead property for the purpose of providing living quarters for one or more elderly natural or adoptive parents or grandparents of the owner of the property, or the owner's spouse;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Chapter 11 of the Code of Laws of Leon County, Florida, is hereby amended by adding a new Article to be numbered XIX, which shall read as follows:

ARTICLE XIX. PROPERTY TAX REDUCTION FOR CONSTRUCTION OR RECONSTRUCTION OF HOMESTEAD PROPERTY TO HOUSE ELDERLY PARENT(S) OR GRANDPARENT(S) OF OWNER OR OWNER'S SPOUSE

Section 11-560. Definitions.

(a) As used in this Article, the term "construction" means all types of construction governed by the Florida Building Code.

(b) As used in this Article, the term "reconstruction" means all types of reconstruction governed by the Florida Building Code.

(c) As used in this Article, the term "primary place of residence" shall have the same meaning as "permanent residency" for establishing homestead exemption pursuant to Section 196.031, Florida Statutes. The property appraiser may rely upon the factors listed in Section 196.015, Florida Statutes, in determining whether the property is the primary place of residence for the applicant's parent or grandparent.

Section 11-561. Generally.

There is hereby granted to the owner of homestead property, a reduction in the assessed value of the property equal to any increase in the assessed value of the property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive parents or grandparents of the owner of the property, or the owner's spouse, if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age.

Section 11-562. Qualifications for reduction.

The assessment reduction applies under the following circumstances:

(a) The construction or reconstruction is substantially complete in the year prior to the January 1 in which the qualifying parent(s) or grandparent(s) first occupies the constructed or reconstructed living quarters.

(b) At least one qualifying parent or grandparent maintains his or her primary place of residence in the constructed or reconstructed living quarters during the taxable year for which the reduction is claimed.

(c) The assessment reduction shall be applied to the assessed value of the homestead property as calculated pursuant to Article VII, Section 4(c), Florida Constitution.

(d) The construction or reconstruction is consistent with the local land development regulations.

Section 11-563. Amount of reduction.

The amount of the reduction shall not exceed the lesser of the following:

(a) The increase in assessed value resulting from construction or reconstruction of the property; or

(b) Twenty percent of the total assessed value of the property as improved.

Section 11-564. Process for claiming reduction.

A reduction in assessment may be granted only upon an application filed annually with the Leon County Property Appraiser. An applicant is required to complete forms required by the Property Appraiser, including any affidavit regarding the age of the qualifying parent or grandparent and whether the living quarters are being used as the qualifying parent's or grandparent's primary place of residence for the year in which the reduction is sought. The application must be made before March 1 of the year for which the reduction is to be granted.

Section 11-565. Property held jointly with right of survivorship.

If title to the homestead property is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the reduction in assessed value.

Section 11-566. Penalties.

Penalties for violation of this ordinance shall be in accordance with general law.

Section 11-567. Disqualification.

When the property owner no longer qualifies for the reduction in assessed value for living quarters of parents or grandparents, the previously excluded just value of such improvements as of the first January 1 after the improvements were substantially completed shall be added back to the assessed value of the property.

Section 2. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. Severability. If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. **Effective Date.** This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 25th day of March, 2003.

LEON COUNTY, FLORIDA

BY: _____
TONY GRIPPA, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTESTED BY:
BOB INZER, CLERK OF THE COURT

BY: _____
CLERK

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY

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