

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

29 interested agencies and organizations; providing an
 30 appropriation; providing an effective date.

31
 32 Be It Enacted by the Legislature of the State of Florida:

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 34 Section 1. Part II of chapter 195, Florida Statutes,
 35 consisting of sections 195.301, 195.302, 195.303, 195.304,
 36 195.305, 195.306, 195.307, 195.308, 195.309, 195.3105, 195.311,
 37 195.312, 195.313, 195.314, 195.315, and 195.316, is created to
 38 read:

39 195.301 Short title.--This part may be cited as the
 40 "Florida Residents Property Tax Relief Program" and may also be
 41 referred to as the "Circuit Breaker Program."

42 195.302 Definitions.--As used in this part, the term:

43 (1) "Claimant" means an individual who has filed a claim
 44 under this part and who was domiciled and occupied a homestead
 45 in this state during the entire calendar year preceding the year
 46 in which the claim for relief is filed. The term also includes
 47 an individual who was domiciled and owned or otherwise
 48 maintained a homestead in this state during the entire calendar
 49 year preceding the year in which the claim for relief is filed
 50 and who occupied that homestead for at least 6 months during
 51 that year. Regardless of how many individuals appear on the
 52 property deed, the person who meets the qualifications described
 53 in this subsection and proves sole responsibility for the
 54 payment of the property taxes on the subject property is the
 55 claimant with respect to that property. If two or more
 56 individuals meet the qualifications and share the payment of the

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57 rent or the responsibility for the payment of the property
58 taxes, each individual may apply on the basis of the rent paid
59 or the property taxes levied on the homestead that reflect the
60 ownership percentage of the claimant and the claimant's
61 household. If two or more individuals claim the same property,
62 the matter shall be referred to the department, and the
63 department's decision is final. Ownership of a homestead under
64 this part may be by fee, by life tenancy, by bond for deed, as
65 mortgagee, or any other possessory interest in which the owner
66 is personally responsible for the tax for which a relief benefit
67 is claimed.

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

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

79 (4) "Homestead" means the dwelling owned or rented by the
80 claimant or held in a revocable living trust for the benefit of
81 the claimant and occupied by the claimant and the claimant's
82 dependents as a home, and may consist of a part of a
83 multidwelling or multipurpose building and a part of the land
84 qualified for homestead treatment upon which it is built. The

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85 term "owned" includes a vendee in possession under a land
86 contract and one or more joint tenants or tenants in common. The
87 term "rented" means those dwellings that are rented and qualify
88 for a state sales tax exemption under chapter 212.

89 (5) "Household" means a claimant and spouse and members of
90 the household for whom the claimant under this part is entitled
91 to claim an exemption as a dependent under the federal income
92 tax code for the year for which relief is requested.

93 (6) "Household income" means all income received by all
94 members of a household in a calendar year while members of the
95 household.

96 (7) "Income" means the sum of federal adjusted gross
97 income determined in accordance with the federal income tax
98 code; contributions, including catch-up contributions, to any
99 pension, annuity, or retirement plan to the extent not included
100 in federal adjusted gross income, including contributions to an
101 individual retirement account, a simplified employee pension
102 plan, a salary reduction simplified employee pension plan, a
103 savings incentive match plan for employees plan, a deferred
104 compensation plan, cash, or deferred arrangements or "Keogh"
105 accounts; nontaxable contributions to a flexible spending
106 arrangement; amounts excluded from gross income under s. 129 of
107 the Internal Revenue Code; distributions from ROTH IRAs; the
108 amount of capital gains excluded from adjusted gross income; the
109 absolute value of the amount of trade or business loss, net
110 operating loss carryover, capital loss, rental loss, farm loss,
111 or partnership or S corporation loss included in adjusted gross
112 income; alimony; inheritance; life insurance proceeds paid on

113 death of insured; nontaxable lawsuit rewards, such as slander,
 114 libel, and pain and suffering, excluding reimbursements such as
 115 medical and legal expenses associated with the case; support
 116 money; nontaxable strike benefits; the gross amount of any
 117 pension or annuity, including railroad retirement benefits; all
 118 payments received under the Social Security Act and state
 119 unemployment insurance laws; veterans' disability pensions;
 120 nontaxable interest received from the Federal Government or its
 121 instrumentalities; interest or dividends on obligations or
 122 securities of this state and its political subdivisions and
 123 authorities; workers' compensation and the gross amount of "loss
 124 of time" insurance; and cash public assistance and relief, not
 125 including relief granted under this part. The term does not
 126 include the first \$5,000 of proceeds from a life insurance
 127 policy, whether paid in a lump sum or in the form of an annuity;
 128 a rollover from an individual retirement account, pension, or
 129 annuity fund or plan to an individual retirement account,
 130 pension, or annuity fund or plan even if the amount of the
 131 rollover is includable in federal adjusted gross income; or
 132 gifts from nongovernmental sources or surplus foods or other
 133 relief in kind supplied by a governmental agency.

134 (8) "Property taxes accrued" means state property taxes
 135 exclusive of special assessment, delinquent interest, and
 136 charges for service levied on a claimant's homestead on or after
 137 January 1, 2008. If a homestead is owned by two or more persons
 138 or entities as joint tenants or tenants in common and one or
 139 more persons or entities are not members of the claimant's
 140 household, the term applies to that part of the property taxes

141 that reflect the ownership percentage of the claimant and the
 142 claimant's household. If a claimant and spouse own their
 143 homestead for part of the year and rent it or a different
 144 homestead for part of the same tax year, the term means taxes
 145 levied on the homestead on January 1, multiplied by the
 146 percentage of 12 months that the property was owned and occupied
 147 by the household as its homestead during the year for which
 148 relief is requested. If a household owns and occupies two or
 149 more different homesteads in this state in the same tax year,
 150 property taxes accrued relate only to that property occupied by
 151 the household as a homestead on January 1. If a homestead is an
 152 integral part of a larger unit such as a farm or a multipurpose
 153 or multidwelling building, property taxes accrued are that
 154 percentage of the total property taxes accrued which the value
 155 of the homestead is to the total value of the larger unit,
 156 except that property taxes accrued do not include any portion of
 157 taxes claimed as a business expense for federal income tax
 158 purposes. For purposes of this part, "unit" means the parcel of
 159 property separately assessed of which the homestead is a part.

160 (9) "Property taxes paid" means property taxes accrued or
 161 rent constituting property taxes accrued. In the case of a
 162 claimant paying both rent and property taxes for a homestead,
 163 property taxes paid mean both property taxes accrued and rent
 164 constituting property taxes accrued.

165 (10) "Rent constituting property taxes accrued" with
 166 respect to for an elderly household means 15 percent of the
 167 gross rent actually paid in cash or its equivalent in any tax
 168 year by a claimant and the claimant's household solely for the

169 right of occupancy of their state homestead in the tax year and
 170 which rent constitutes the basis, in the succeeding calendar
 171 year, of a claim for relief under this part by the claimant.

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

174 195.303 Property tax relief benefits; claims; income
 175 limitations.--

176 (1) A claimant representing a residential household shall
 177 qualify for the following relief benefits from property taxes
 178 paid subject to the following income limitations. The benefit
 179 shall be calculated as follows if the annual household income
 180 is:

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

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

187 (c) One hundred thousand dollars and one cent to \$150,000,
 188 the relief benefit equals the amount of property tax paid in
 189 excess of 6 percent of the household income up to a maximum of
 190 \$1,500.

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

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

193 195.304 Claim is personal.--

194 (1) The right to file a claim under this part is personal
 195 to the claimant and does not survive the claimant's death, but
 196 may be exercised on behalf of a claimant by the claimant's legal

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197 guardian or attorney in fact. If a claimant dies after having
198 filed a timely claim, the claim amount shall be disbursed to
199 another member of the household as determined by the department.

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

204 195.305 Procedure for reimbursement.--On or before the
205 last day of the month, the department shall determine the relief
206 benefit for each claimant under this part and certify the amount
207 to the Department of Financial Services to be transferred to the
208 reserve established, maintained, and administered by Department
209 of Financial Services from the General Revenue Fund. On or
210 before November 15 of each year, the department shall pay the
211 certified amounts to each approved applicant. Interest is
212 allowed on any payment made to a claimant pursuant to this part.

213 195.306 Filing date; extension of time.--

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

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

222 195.307 One claim per household.--Only one claimant per
223 household or homestead per year is entitled to relief under this
224 part.

225 195.308 Administration.--

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

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

232 (3) The department may adopt rules pursuant to ss.
 233 120.536(1) and 120.54 to administer this program.

234 195.309 Audit of claim.--If, following the audit of any
 235 claim filed under this part, the department determines the
 236 amount to have been incorrectly determined, the department shall
 237 redetermine the claim and notify the claimant of the
 238 redetermination and the reasons for it. The redetermination is
 239 reviewable in accordance with s. 195.312. If the claim has been
 240 paid, the amount paid in excess of that legally due is subject
 241 to interest at the rate determined by the Department of
 242 Financial Services. The department may credit a benefit payable
 243 to a claimant against a liability of that claimant pursuant to
 244 this section.

245 195.3105 Denial of claim.--

246 (1) If the department determines that a claim under this
 247 part is excessive and was filed with fraudulent intent, the
 248 claim shall be disallowed in full. If the claim has been paid,
 249 the amount paid may be recovered by assessment, collection, and
 250 enforcement in the manner provided in chapter 212. A person who,
 251 with fraudulent intent, files or prepares an excessive claim,
 252 assists in the preparation or filing of an excessive claim, or

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253 supplies information in support of an excessive claim commits a
254 felony of the third degree, punishable as provided in s.
255 775.082, s. 775.083, or s. 775.084.

256 (2) If the department determines that a claim under this
257 part is excessive and was negligently prepared, the amount
258 claimed in excess of that legally due plus 10 percent of the
259 corrected claim shall be disallowed. If the claim has been paid,
260 the amount disallowed may be recovered by assessment,
261 collection, and enforcement in the manner provided in chapter
262 212.

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

266 195.311 Disallowance of claims.--A claim shall be
267 disallowed if the department finds that the claimant received
268 title to his or her homestead primarily for the purpose of
269 receiving benefits under this part.

270 195.312 Appeal.--A denial in whole or in part of relief
271 claimed under this part may be appealed in accordance with
272 chapter 120.

273 195.313 Protection from loss of benefits.--

274 (1) It is the intent of the Legislature that any claim
275 paid under this part shall supplement any benefits paid under
276 aid to the aged, blind, and disabled or any successor benefits
277 program. The Department of Health, the Department of Children
278 and Family Services, and the Department of Elderly Affairs may
279 take any action necessary to ensure that recipients of aid to
280 the aged, blind, and disabled continue to receive as high a

281 percentage of their current assistance as possible. The
282 department shall use all state funds expected to be saved by a
283 reduction in benefits of recipients of aid to the aged, blind,
284 and disabled resulting from this part to raise the standards of
285 aid to the aged, blind, and disabled at a total cost in state
286 funds equivalent to the savings in state funds which would be
287 expected as a result of this part. Benefits received under this
288 part may not be included as income for purposes of any state or
289 municipally administered public benefit program.

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

293 195.314 Readability; application; instructions.--The
294 application form and instructions used by applicants for
295 assistance under the Florida Residents Property Tax Relief
296 Program must have a readability score, as determined by a
297 recognized instrument for measuring adult literacy levels,
298 equivalent to no higher than a 6th grade reading level.

299 195.315 Outreach plan required.--The department shall
300 develop and implement a plan of outreach to ensure that all
301 eligible households are made aware of assistance available under
302 the Florida Residents Property Tax Relief Program.

303 195.316 Coordination required.--The department shall seek
304 the advice and cooperation of the Department of Health, the
305 Department of Children and Family Services, the Department of
306 Elderly Affairs, advocates for elderly and low-income
307 individuals, and other interested agencies and organizations in
308 developing the application form and instruction booklet for the

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309 Florida Residents Property Tax Relief Program and the outreach
310 plan required by this part.

311 Section 2. The sum of \$750,000,000 is appropriated from
312 the General Revenue Fund to the Department of Revenue for the
313 purpose of providing property tax relief benefits pursuant to
314 this act. An additional sum of \$500,000 is appropriated to the
315 department to administer this program.

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