

By Senator Bennett

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1 A bill to be entitled

2 An act relating to homestead property assessments;  
3 amending s. 193.155, F.S.; permitting an increase in  
4 the assessed value of homestead property only when the  
5 just value increases; providing for retroactive  
6 application of the act; providing an effective date.

7  
8 Be It Enacted by the Legislature of the State of Florida:

9  
10 Section 1. Section 193.155, Florida Statutes, is amended to  
11 read:

12 193.155 Homestead assessments. ~~Homestead property shall be~~  
13 ~~assessed at just value as of January 1, 1994.~~ Property receiving  
14 the homestead exemption ~~after January 1, 1994,~~ shall be assessed  
15 at just value as of January 1 of the year in which the property  
16 receives the exemption unless the provisions of subsection (8)  
17 apply.

18 (1) Beginning in ~~1995,~~ or the year following the year that  
19 a the property receives homestead exemption is established for  
20 the property, whichever is later, the property shall be  
21 reassessed annually on January 1 as follows:

22 (a) If the just value of the homestead property decreases  
23 or remains the same from the prior year, the assessed value  
24 shall not increase.

25 (b) If the just value of the homestead property increases  
26 from the prior year, the ~~Any~~ change resulting from such  
27 reassessment shall not exceed the lower of ~~the following:~~

28 1. ~~(a)~~ Three percent of the assessed value of the property  
29 for the prior year; or

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30        2.~~(b)~~ The percentage change in the Consumer Price Index for  
31 All Urban Consumers, U.S. City Average, all items 1967=100, or  
32 successor reports for the preceding calendar year as initially  
33 reported by the United States Department of Labor, Bureau of  
34 Labor Statistics.

35        (2) If the assessed value of the property as calculated  
36 under subsection (1) exceeds the just value, the assessed value  
37 of the property shall be lowered to the just value of the  
38 property.

39        (3) Except as provided in this subsection or subsection  
40 (8), property assessed under this section shall be assessed at  
41 just value as of January 1 of the year following a change of  
42 ownership. Thereafter, the annual changes in the assessed value  
43 of the property are subject to the limitations in subsections  
44 (1) and (2). For the purpose of this section, a change of  
45 ownership means any sale, foreclosure, or transfer of legal  
46 title or beneficial title in equity to any person, except as  
47 provided in this subsection. There is no change of ownership if:

48        (a) Subsequent to the change or transfer, the same person  
49 is entitled to the homestead exemption as was previously  
50 entitled and:

- 51            1. The transfer of title is to correct an error;
- 52            2. The transfer is between legal and equitable title; or
- 53            3. The change or transfer is by means of an instrument in  
54 which the owner is listed as both grantor and grantee of the  
55 real property and one or more other individuals are additionally  
56 named as grantee. However, if any individual who is additionally  
57 named as a grantee applies for a homestead exemption on the  
58 property, the application shall be considered a change of

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59 ownership;

60 (b) The transfer is between husband and wife, including a  
61 transfer to a surviving spouse or a transfer due to a  
62 dissolution of marriage;

63 (c) The transfer occurs by operation of law under s.  
64 732.4015; or

65 (d) Upon the death of the owner, the transfer is between  
66 the owner and another who is a permanent resident and is legally  
67 or naturally dependent upon the owner.

68 (4) (a) Except as provided in paragraph (b), changes,  
69 additions, or improvements to homestead property shall be  
70 assessed at just value as of the first January 1 after the  
71 changes, additions, or improvements are substantially completed.

72 (b) Changes, additions, or improvements that replace all or  
73 a portion of homestead property damaged or destroyed by  
74 misfortune or calamity shall not increase the homestead  
75 property's assessed value when the square footage of the  
76 homestead property as changed or improved does not exceed 110  
77 percent of the square footage of the homestead property before  
78 the damage or destruction. Additionally, the homestead  
79 property's assessed value shall not increase if the total square  
80 footage of the homestead property as changed or improved does  
81 not exceed 1,500 square feet. Changes, additions, or  
82 improvements that do not cause the total to exceed 110 percent  
83 of the total square footage of the homestead property before the  
84 damage or destruction or that do not cause the total to exceed  
85 1,500 total square feet shall be reassessed as provided under  
86 subsection (1). The homestead property's assessed value shall be  
87 increased by the just value of that portion of the changed or

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88 improved homestead property which is in excess of 110 percent of  
89 the square footage of the homestead property before the damage  
90 or destruction or of that portion exceeding 1,500 square feet.  
91 Homestead property damaged or destroyed by misfortune or  
92 calamity which, after being changed or improved, has a square  
93 footage of less than 100 percent of the homestead property's  
94 total square footage before the damage or destruction shall be  
95 assessed pursuant to subsection (5). This paragraph applies to  
96 changes, additions, or improvements commenced within 3 years  
97 after the January 1 following the damage or destruction of the  
98 homestead.

99 (c) Changes, additions, or improvements that replace all or  
100 a portion of real property that was damaged or destroyed by  
101 misfortune or calamity shall be assessed upon substantial  
102 completion as if such damage or destruction had not occurred and  
103 in accordance with paragraph (b) if the owner of such property:

104 1. Was permanently residing on such property when the  
105 damage or destruction occurred;

106 2. Was not entitled to receive homestead exemption on such  
107 property as of January 1 of that year; and

108 3. Applies for and receives homestead exemption on such  
109 property the following year.

110 (d) Changes, additions, or improvements include  
111 improvements made to common areas or other improvements made to  
112 property other than to the homestead property by the owner or by  
113 an owner association, which improvements directly benefit the  
114 homestead property. Such changes, additions, or improvements  
115 shall be assessed at just value, and the just value shall be  
116 apportioned among the parcels benefiting from the improvement.

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117 (5) When property is destroyed or removed and not replaced,  
118 the assessed value of the parcel shall be reduced by the  
119 assessed value attributable to the destroyed or removed  
120 property.

121 (6) Only property that receives a homestead exemption is  
122 subject to this section. No portion of property that is assessed  
123 solely on the basis of character or use pursuant to s. 193.461  
124 or s. 193.501, or assessed pursuant to s. 193.505, is subject to  
125 this section. When property is assessed under s. 193.461, s.  
126 193.501, or s. 193.505 and contains a residence under the same  
127 ownership, the portion of the property consisting of the  
128 residence and curtilage must be assessed separately, pursuant to  
129 s. 193.011, for the assessment to be subject to the limitation  
130 in this section.

131 (7) If a person received a homestead exemption limited to  
132 that person's proportionate interest in real property, the  
133 provisions of this section apply only to that interest.

134 (8) Property assessed under this section shall be assessed  
135 at less than just value when the person who establishes a new  
136 homestead has received a homestead exemption as of January 1 of  
137 either of the 2 immediately preceding years. A person who  
138 establishes a new homestead as of January 1, 2008, is entitled  
139 to have the new homestead assessed at less than just value only  
140 if that person received a homestead exemption on January 1,  
141 2007, and only if this subsection applies retroactive to January  
142 1, 2008. For purposes of this subsection, a husband and wife who  
143 owned and both permanently resided on a previous homestead shall  
144 each be considered to have received the homestead exemption even  
145 though only the husband or the wife applied for the homestead

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146 exemption on the previous homestead. The assessed value of the  
147 newly established homestead shall be determined as provided in  
148 this subsection.

149 (a) If the just value of the new homestead as of January 1  
150 is greater than or equal to the just value of the immediate  
151 prior homestead as of January 1 of the year in which the  
152 immediate prior homestead was abandoned, the assessed value of  
153 the new homestead shall be the just value of the new homestead  
154 minus an amount equal to the lesser of \$500,000 or the  
155 difference between the just value and the assessed value of the  
156 immediate prior homestead as of January 1 of the year in which  
157 the prior homestead was abandoned. Thereafter, the homestead  
158 shall be assessed as provided in this section.

159 (b) If the just value of the new homestead as of January 1  
160 is less than the just value of the immediate prior homestead as  
161 of January 1 of the year in which the immediate prior homestead  
162 was abandoned, the assessed value of the new homestead shall be  
163 equal to the just value of the new homestead divided by the just  
164 value of the immediate prior homestead and multiplied by the  
165 assessed value of the immediate prior homestead. However, if the  
166 difference between the just value of the new homestead and the  
167 assessed value of the new homestead calculated pursuant to this  
168 paragraph is greater than \$500,000, the assessed value of the  
169 new homestead shall be increased so that the difference between  
170 the just value and the assessed value equals \$500,000.  
171 Thereafter, the homestead shall be assessed as provided in this  
172 section.

173 (c) If two or more persons who have each received a  
174 homestead exemption as of January 1 of either of the 2

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175 immediately preceding years and who would otherwise be eligible  
176 to have a new homestead property assessed under this subsection  
177 establish a single new homestead, the reduction from just value  
178 is limited to the higher of the difference between the just  
179 value and the assessed value of either of the prior eligible  
180 homesteads as of January 1 of the year in which either of the  
181 eligible prior homesteads was abandoned, but may not exceed  
182 \$500,000.

183 (d) If two or more persons abandon jointly owned and  
184 jointly titled property that received a homestead exemption as  
185 of January 1 of either of the 2 immediately preceding years, and  
186 one or more such persons who were entitled to and received a  
187 homestead exemption on the abandoned property establish a new  
188 homestead that would otherwise be eligible for assessment under  
189 this subsection, each such person establishing a new homestead  
190 is entitled to a reduction from just value for the new homestead  
191 equal to the just value of the prior homestead minus the  
192 assessed value of the prior homestead divided by the number of  
193 owners of the prior homestead who received a homestead  
194 exemption, unless the title of the property contains specific  
195 ownership shares, in which case the share of reduction from just  
196 value shall be proportionate to the ownership share. In  
197 calculating the assessment reduction to be transferred from a  
198 prior homestead that has an assessment reduction for living  
199 quarters of parents or grandparents pursuant to s. 193.703, the  
200 value calculated pursuant to s. 193.703(6) must first be added  
201 back to the assessed value of the prior homestead. The total  
202 reduction from just value for all new homesteads established  
203 under this paragraph may not exceed \$500,000. There shall be no

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204 reduction from just value of any new homestead unless the prior  
205 homestead is reassessed at just value or is reassessed under  
206 this subsection as of January 1 after the abandonment occurs.

207 (e) If one or more persons who previously owned a single  
208 homestead and each received the homestead exemption qualify for  
209 a new homestead where all persons who qualify for homestead  
210 exemption in the new homestead also qualified for homestead  
211 exemption in the previous homestead without an additional person  
212 qualifying for homestead exemption in the new homestead, the  
213 reduction in just value shall be calculated pursuant to  
214 paragraph (a) or paragraph (b), without application of paragraph  
215 (c) or paragraph (d).

216 (f) For purposes of receiving an assessment reduction  
217 pursuant to this subsection, a person entitled to assessment  
218 under this section may abandon his or her homestead even though  
219 it remains his or her primary residence by notifying the  
220 property appraiser of the county where the homestead is located.  
221 This notification must be in writing and delivered at the same  
222 time as or before timely filing a new application for homestead  
223 exemption on the property.

224 (g) In order to have his or her homestead property assessed  
225 under this subsection, a person must file a form provided by the  
226 department as an attachment to the application for homestead  
227 exemption. The form, which must include a sworn statement  
228 attesting to the applicant's entitlement to assessment under  
229 this subsection, shall be considered sufficient documentation  
230 for applying for assessment under this subsection. The  
231 department shall require by rule that the required form be  
232 submitted with the application for homestead exemption under the



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233 timeframes and processes set forth in chapter 196 to the extent  
234 practicable.

235 (h)1. If the previous homestead was located in a different  
236 county than the new homestead, the property appraiser in the  
237 county where the new homestead is located must transmit a copy  
238 of the completed form together with a completed application for  
239 homestead exemption to the property appraiser in the county  
240 where the previous homestead was located. If the previous  
241 homesteads of applicants for transfer were in more than one  
242 county, each applicant from a different county must submit a  
243 separate form.

244 2. The property appraiser in the county where the previous  
245 homestead was located must return information to the property  
246 appraiser in the county where the new homestead is located by  
247 April 1 or within 2 weeks after receipt of the completed  
248 application from that property appraiser, whichever is later. As  
249 part of the information returned, the property appraiser in the  
250 county where the previous homestead was located must provide  
251 sufficient information concerning the previous homestead to  
252 allow the property appraiser in the county where the new  
253 homestead is located to calculate the amount of the assessment  
254 limitation difference which may be transferred and must certify  
255 whether the previous homestead was abandoned and has been or  
256 will be reassessed at just value or reassessed according to the  
257 provisions of this subsection as of the January 1 following its  
258 abandonment.

259 3. Based on the information provided on the form from the  
260 property appraiser in the county where the previous homestead  
261 was located, the property appraiser in the county where the new

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262 homestead is located shall calculate the amount of the  
263 assessment limitation difference which may be transferred and  
264 apply the difference to the January 1 assessment of the new  
265 homestead.

266 4. All property appraisers having information-sharing  
267 agreements with the department are authorized to share  
268 confidential tax information with each other pursuant to s.  
269 195.084, including social security numbers and linked  
270 information on the forms provided pursuant to this section.

271 5. The transfer of any limitation is not final until any  
272 values on the assessment roll on which the transfer is based are  
273 final. If such values are final after tax notice bills have been  
274 sent, the property appraiser shall make appropriate corrections  
275 and a corrected tax notice bill shall be sent. Any values that  
276 are under administrative or judicial review shall be noticed to  
277 the tribunal or court for accelerated hearing and resolution so  
278 that the intent of this subsection may be carried out.

279 6. If the property appraiser in the county where the  
280 previous homestead was located has not provided information  
281 sufficient to identify the previous homestead and the assessment  
282 limitation difference is transferable, the taxpayer may file an  
283 action in circuit court in that county seeking to establish that  
284 the property appraiser must provide such information.

285 7. If the information from the property appraiser in the  
286 county where the previous homestead was located is provided  
287 after the procedures in this section are exercised, the property  
288 appraiser in the county where the new homestead is located shall  
289 make appropriate corrections and a corrected tax notice and tax  
290 bill shall be sent.

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291 8. This subsection does not authorize the consideration or  
292 adjustment of the just, assessed, or taxable value of the  
293 previous homestead property.

294 9. The property appraiser in the county where the new  
295 homestead is located shall promptly notify a taxpayer if the  
296 information received, or available, is insufficient to identify  
297 the previous homestead and the amount of the assessment  
298 limitation difference which is transferable. Such notification  
299 shall be sent on or before July 1 as specified in s. 196.151.

300 10. The taxpayer may correspond with the property appraiser  
301 in the county where the previous homestead was located to  
302 further seek to identify the homestead and the amount of the  
303 assessment limitation difference which is transferable.

304 11. If the property appraiser in the county where the  
305 previous homestead was located supplies sufficient information  
306 to the property appraiser in the county where the new homestead  
307 is located, such information shall be considered timely if  
308 provided in time for inclusion on the notice of proposed  
309 property taxes sent pursuant to ss. 194.011 and 200.065(1).

310 12. If the property appraiser has not received information  
311 sufficient to identify the previous homestead and the amount of  
312 the assessment limitation difference which is transferable  
313 before mailing the notice of proposed property taxes, the  
314 taxpayer may file a petition with the value adjustment board in  
315 the county where the new homestead is located.

316 (i) Any person who is qualified to have his or her property  
317 assessed under this subsection and who fails to file an  
318 application by March 1 may file an application for assessment  
319 under this subsection and may, pursuant to s. 194.011(3), file a

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320 petition with the value adjustment board requesting that an  
321 assessment under this subsection be granted. Such petition may  
322 be filed at any time during the taxable year on or before the  
323 25th day following the mailing of the notice by the property  
324 appraiser as provided in s. 194.011(1). Notwithstanding s.  
325 194.013, such person must pay a nonrefundable fee of \$15 upon  
326 filing the petition. Upon reviewing the petition, if the person  
327 is qualified to receive the assessment under this subsection and  
328 demonstrates particular extenuating circumstances judged by the  
329 property appraiser or the value adjustment board to warrant  
330 granting the assessment, the property appraiser or the value  
331 adjustment board may grant an assessment under this subsection.  
332 For the 2008 assessments, all petitioners for assessment under  
333 this subsection shall be considered to have demonstrated  
334 particular extenuating circumstances.

335 (j) Any person who is qualified to have his or her property  
336 assessed under this subsection and who fails to timely file an  
337 application for his or her new homestead in the first year  
338 following eligibility may file in a subsequent year. The  
339 assessment reduction shall be applied to assessed value in the  
340 year the transfer is first approved, and refunds of tax may not  
341 be made for previous years.

342 (k) The property appraisers of the state shall, as soon as  
343 practicable after March 1 of each year and on or before July 1  
344 of that year, carefully consider all applications for assessment  
345 under this subsection which have been filed in their respective  
346 offices on or before March 1 of that year. If, upon  
347 investigation, the property appraiser finds that the applicant  
348 is entitled to assessment under this subsection, the property

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349 appraiser shall make such entries upon the tax rolls of the  
350 county as are necessary to allow the assessment. If, after due  
351 consideration, the property appraiser finds that the applicant  
352 is not entitled under the law to assessment under this  
353 subsection, the property appraiser shall immediately make out a  
354 notice of such disapproval, giving his or her reasons therefor,  
355 and a copy of the notice must be served upon the applicant by  
356 the property appraiser either by personal delivery or by  
357 registered mail to the post office address given by the  
358 applicant. The applicant may appeal the decision of the property  
359 appraiser refusing to allow the assessment under this subsection  
360 to the value adjustment board, and the board shall review the  
361 application and evidence presented to the property appraiser  
362 upon which the applicant based the claim and shall hear the  
363 applicant in person or by agent on behalf of his or her right to  
364 such assessment. Such appeal shall be heard by an attorney  
365 special magistrate if the value adjustment board uses special  
366 magistrates. The value adjustment board shall reverse the  
367 decision of the property appraiser in the cause and grant  
368 assessment under this subsection to the applicant if, in its  
369 judgment, the applicant is entitled to be granted the assessment  
370 or shall affirm the decision of the property appraiser. The  
371 action of the board is final in the cause unless the applicant,  
372 within 15 days following the date of refusal of the application  
373 by the board, files in the circuit court of the county in which  
374 the homestead is located a proceeding against the property  
375 appraiser for a declaratory judgment as is provided by chapter  
376 86 or other appropriate proceeding. The failure of the taxpayer  
377 to appear before the property appraiser or value adjustment

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378 board or to file any paper other than the application as  
379 provided in this subsection does not constitute any bar to or  
380 defense in the proceedings.

381 (9) Erroneous assessments of homestead property assessed  
382 under this section may be corrected in the following manner:

383 (a) If errors are made in arriving at any assessment under  
384 this section due to a material mistake of fact concerning an  
385 essential characteristic of the property, the just value and  
386 assessed value must be recalculated for every such year,  
387 including the year in which the mistake occurred.

388 (b) If changes, additions, or improvements are not assessed  
389 at just value as of the first January 1 after they were  
390 substantially completed, the property appraiser shall determine  
391 the just value for such changes, additions, or improvements for  
392 the year they were substantially completed. Assessments for  
393 subsequent years shall be corrected, applying this section if  
394 applicable.

395 (c) If back taxes are due pursuant to s. 193.092, the  
396 corrections made pursuant to this subsection shall be used to  
397 calculate such back taxes.

398 (10) If the property appraiser determines that for any year  
399 or years within the prior 10 years a person who was not entitled  
400 to the homestead property assessment limitation granted under  
401 this section was granted the homestead property assessment  
402 limitation, the property appraiser making such determination  
403 shall record in the public records of the county a notice of tax  
404 lien against any property owned by that person in the county,  
405 and such property must be identified in the notice of tax lien.  
406 Such property that is situated in this state is subject to the

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407 unpaid taxes, plus a penalty of 50 percent of the unpaid taxes  
408 for each year and 15 percent interest per annum. However, when a  
409 person entitled to exemption pursuant to s. 196.031  
410 inadvertently receives the limitation pursuant to this section  
411 following a change of ownership, the assessment of such property  
412 must be corrected as provided in paragraph (9) (a), and the  
413 person need not pay the unpaid taxes, penalties, or interest.

414 Section 2. This act shall take effect upon becoming a law  
415 and applies to assessments on January 1, 2009, and thereafter.