

By Senator Fasano

11-00294-09

2009464\_\_

1                   A bill to be entitled  
2           An act relating to homestead assessments; amending s.  
3           193.155, F.S.; providing additional limitations on  
4           annual changes in assessments of homestead real  
5           property; providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9           Section 1. Section 193.155, Florida Statutes, is amended to  
10          read:

11           193.155 Homestead assessments. ~~Homestead property shall be~~  
12          ~~assessed at just value as of January 1, 1994.~~ Property receiving  
13          the homestead exemption ~~after January 1, 1994,~~ shall be assessed  
14          at just value as of January 1 of the year in which the property  
15          receives the exemption unless the provisions of subsection (8)  
16          apply.

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

21           (a) If the just value of the homestead property decreases  
22          from the prior year, the change in the assessment shall decrease  
23          by the percentage decrease in just value.

24           (b) If the just value of the homestead property remains the  
25          same from the prior year, the assessment shall not change.

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

29           1. ~~(a)~~ Three percent of the assessed value of the property

11-00294-09

2009464\_\_

30 for the prior year; or

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

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

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

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

52 1. The transfer of title is to correct an error;

53 2. The transfer is between legal and equitable title; or

54 3. The change or transfer is by means of an instrument in  
55 which the owner is listed as both grantor and grantee of the  
56 real property and one or more other individuals are additionally  
57 named as grantee. However, if any individual who is additionally  
58 named as a grantee applies for a homestead exemption on the

11-00294-09

2009464\_\_

59 property, the application shall be considered a change of  
60 ownership;

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

64 (c) The transfer occurs by operation of law under s.  
65 732.4015; or

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

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

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

11-00294-09

2009464\_\_

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

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

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

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

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

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

11-00294-09

2009464\_\_

117 apportioned among the parcels benefiting from the improvement.

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

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

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

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

11-00294-09

2009464

146 though only the husband or the wife applied for the homestead  
147 exemption on the previous homestead. The assessed value of the  
148 newly established homestead shall be determined as provided in  
149 this subsection.

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

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

174 (c) If two or more persons who have each received a

11-00294-09

2009464\_\_

175 homestead exemption as of January 1 of either of the 2  
176 immediately preceding years and who would otherwise be eligible  
177 to have a new homestead property assessed under this subsection  
178 establish a single new homestead, the reduction from just value  
179 is limited to the higher of the difference between the just  
180 value and the assessed value of either of the prior eligible  
181 homesteads as of January 1 of the year in which either of the  
182 eligible prior homesteads was abandoned, but may not exceed  
183 \$500,000.

184 (d) If two or more persons abandon jointly owned and  
185 jointly titled property that received a homestead exemption as  
186 of January 1 of either of the 2 immediately preceding years, and  
187 one or more such persons who were entitled to and received a  
188 homestead exemption on the abandoned property establish a new  
189 homestead that would otherwise be eligible for assessment under  
190 this subsection, each such person establishing a new homestead  
191 is entitled to a reduction from just value for the new homestead  
192 equal to the just value of the prior homestead minus the  
193 assessed value of the prior homestead divided by the number of  
194 owners of the prior homestead who received a homestead  
195 exemption, unless the title of the property contains specific  
196 ownership shares, in which case the share of reduction from just  
197 value shall be proportionate to the ownership share. In  
198 calculating the assessment reduction to be transferred from a  
199 prior homestead that has an assessment reduction for living  
200 quarters of parents or grandparents pursuant to s. 193.703, the  
201 value calculated pursuant to s. 193.703(6) must first be added  
202 back to the assessed value of the prior homestead. The total  
203 reduction from just value for all new homesteads established

11-00294-09

2009464

204 under this paragraph may not exceed \$500,000. There shall be no  
205 reduction from just value of any new homestead unless the prior  
206 homestead is reassessed at just value or is reassessed under  
207 this subsection as of January 1 after the abandonment occurs.

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

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

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



11-00294-09

2009464\_\_

233 submitted with the application for homestead exemption under the  
234 timeframes and processes set forth in chapter 196 to the extent  
235 practicable.

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

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

260 3. Based on the information provided on the form from the  
261 property appraiser in the county where the previous homestead

11-00294-09

2009464

262 was located, the property appraiser in the county where the new  
263 homestead is located shall calculate the amount of the  
264 assessment limitation difference which may be transferred and  
265 apply the difference to the January 1 assessment of the new  
266 homestead.

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

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

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

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

11-00294-09

2009464\_\_

291 bill shall be sent.

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

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

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

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

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

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

11-00294-09

2009464\_\_

320 under this subsection and may, pursuant to s. 194.011(3), file a  
321 petition with the value adjustment board requesting that an  
322 assessment under this subsection be granted. Such petition may  
323 be filed at any time during the taxable year on or before the  
324 25th day following the mailing of the notice by the property  
325 appraiser as provided in s. 194.011(1). Notwithstanding s.  
326 194.013, such person must pay a nonrefundable fee of \$15 upon  
327 filing the petition. Upon reviewing the petition, if the person  
328 is qualified to receive the assessment under this subsection and  
329 demonstrates particular extenuating circumstances judged by the  
330 property appraiser or the value adjustment board to warrant  
331 granting the assessment, the property appraiser or the value  
332 adjustment board may grant an assessment under this subsection.  
333 For the 2008 assessments, all petitioners for assessment under  
334 this subsection shall be considered to have demonstrated  
335 particular extenuating circumstances.

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

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

11-00294-09

2009464

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

11-00294-09

2009464

378 to appear before the property appraiser or value adjustment  
379 board or to file any paper other than the application as  
380 provided in this subsection does not constitute any bar to or  
381 defense in the proceedings.

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

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

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

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

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

11-00294-09

2009464\_\_

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

415 Section 2. This act shall take effect January 1, 2010.