

FOR CONSIDERATION By the Committee on Finance and Tax

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1                   A bill to be entitled  
2           An act relating to the assessment of residential  
3           property; creating s. 193.624, F.S.; defining the term  
4           "renewable energy source device"; prohibiting a  
5           property appraiser from considering the installation  
6           and operation of a renewable energy source device in  
7           determining the assessed value of residential  
8           property; amending s. 196.012, F.S.; deleting the  
9           definition of the terms "renewable energy source  
10          device" and "device" for purposes of ch. 196, F.S.,  
11          relating to property tax exemptions; amending ss.  
12          196.121 and 196.1995, F.S.; conforming cross-  
13          references to changes made by the act; repealing s.  
14          196.175, F.S., relating to the property tax exemption  
15          for a renewable energy source device; providing an  
16          effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20           Section 1. Section 193.624, Florida Statutes, is created to  
21           read:

22           193.624 Definitions; assessment of residential property.-

23           (1) As used in this section, the term "renewable energy  
24           source device" means any of the following equipment that  
25           collects, transmits, stores, or uses solar energy, wind energy,  
26           or energy derived from geothermal deposits:

27           (a) Solar energy collectors, photovoltaic modules, and  
28           inverters.

29           (b) Storage tanks and other storage systems, excluding

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30 swimming pools used as storage tanks.

31 (c) Rockbeds.

32 (d) Thermostats and other control devices.

33 (e) Heat exchange devices.

34 (f) Pumps and fans.

35 (g) Roof ponds.

36 (h) Freestanding thermal containers.

37 (i) Pipes, ducts, refrigerant handling systems, and other  
38 equipment used to interconnect such systems; however, such  
39 equipment does not include conventional backup systems of any  
40 type.

41 (j) Windmills and wind turbines.

42 (k) Wind-driven generators.

43 (l) Power conditioning and storage devices that use wind  
44 energy to generate electricity or mechanical forms of energy.

45 (m) Pipes and other equipment used to transmit hot  
46 geothermal water to a dwelling or structure from a geothermal  
47 deposit.

48 (2) In determining the assessed value of real property used  
49 for residential purposes, the property appraiser may not  
50 consider the installation and operation of a renewable energy  
51 source device.

52 (3) This section applies to new and existing construction  
53 used for residential purposes.

54 Section 2. Section 196.012, Florida Statutes, is amended to  
55 read:

56 196.012 Definitions.—For the purpose of this chapter, the  
57 following terms are defined as follows, except where the context  
58 clearly indicates otherwise:

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59 (1) "Exempt use of property" or "use of property for exempt  
60 purposes" means predominant or exclusive use of property owned  
61 by an exempt entity for educational, literary, scientific,  
62 religious, charitable, or governmental purposes, as defined in  
63 this chapter.

64 (2) "Exclusive use of property" means use of property  
65 solely for exempt purposes. Such purposes may include more than  
66 one class of exempt use.

67 (3) "Predominant use of property" means use of property for  
68 exempt purposes in excess of 50 percent but less than exclusive.

69 (4) "Use" means the exercise of any right or power over  
70 real or personal property incident to the ownership of the  
71 property.

72 (5) "Educational institution" means a federal, state,  
73 parochial, church, or private school, college, or university  
74 conducting regular classes and courses of study required for  
75 eligibility to certification by, accreditation to, or membership  
76 in the State Department of Education of Florida, Southern  
77 Association of Colleges and Schools, or the Florida Council of  
78 Independent Schools; a nonprofit private school the principal  
79 activity of which is conducting regular classes and courses of  
80 study accepted for continuing postgraduate dental education  
81 credit by a board of the Division of Medical Quality Assurance;  
82 educational direct-support organizations created pursuant to ss.  
83 1001.24, 1004.28, and 1004.70; facilities located on the  
84 property of eligible entities which will become owned by those  
85 entities on a date certain; and institutions of higher  
86 education, as defined under and participating in the Higher  
87 Educational Facilities Financing Act.

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88 (6) Governmental, municipal, or public purpose or function  
89 shall be deemed to be served or performed when the lessee under  
90 any leasehold interest created in property of the United States,  
91 the state or any of its political subdivisions, or any  
92 municipality, agency, special district, authority, or other  
93 public body corporate of the state is demonstrated to perform a  
94 function or serve a governmental purpose which could properly be  
95 performed or served by an appropriate governmental unit or which  
96 is demonstrated to perform a function or serve a purpose which  
97 would otherwise be a valid subject for the allocation of public  
98 funds. For purposes of the preceding sentence, an activity  
99 undertaken by a lessee which is permitted under the terms of its  
100 lease of real property designated as an aviation area on an  
101 airport layout plan which has been approved by the Federal  
102 Aviation Administration and which real property is used for the  
103 administration, operation, business offices and activities  
104 related specifically thereto in connection with the conduct of  
105 an aircraft full service fixed base operation which provides  
106 goods and services to the general aviation public in the  
107 promotion of air commerce shall be deemed an activity which  
108 serves a governmental, municipal, or public purpose or function.  
109 Any activity undertaken by a lessee which is permitted under the  
110 terms of its lease of real property designated as a public  
111 airport as defined in s. 332.004(14) by municipalities,  
112 agencies, special districts, authorities, or other public bodies  
113 corporate and public bodies politic of the state, a spaceport as  
114 defined in s. 331.303, or which is located in a deepwater port  
115 identified in s. 403.021(9) (b) and owned by one of the foregoing  
116 governmental units, subject to a leasehold or other possessory

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117 interest of a nongovernmental lessee that is deemed to perform  
118 an aviation, airport, aerospace, maritime, or port purpose or  
119 operation shall be deemed an activity that serves a  
120 governmental, municipal, or public purpose. The use by a lessee,  
121 licensee, or management company of real property or a portion  
122 thereof as a convention center, visitor center, sports facility  
123 with permanent seating, concert hall, arena, stadium, park, or  
124 beach is deemed a use that serves a governmental, municipal, or  
125 public purpose or function when access to the property is open  
126 to the general public with or without a charge for admission. If  
127 property deeded to a municipality by the United States is  
128 subject to a requirement that the Federal Government, through a  
129 schedule established by the Secretary of the Interior, determine  
130 that the property is being maintained for public historic  
131 preservation, park, or recreational purposes and if those  
132 conditions are not met the property will revert back to the  
133 Federal Government, then such property shall be deemed to serve  
134 a municipal or public purpose. The term "governmental purpose"  
135 also includes a direct use of property on federal lands in  
136 connection with the Federal Government's Space Exploration  
137 Program or spaceport activities as defined in s. 212.02(22).  
138 Real property and tangible personal property owned by the  
139 Federal Government or Space Florida and used for defense and  
140 space exploration purposes or which is put to a use in support  
141 thereof shall be deemed to perform an essential national  
142 governmental purpose and shall be exempt. "Owned by the lessee"  
143 as used in this chapter does not include personal property,  
144 buildings, or other real property improvements used for the  
145 administration, operation, business offices and activities

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146 related specifically thereto in connection with the conduct of  
147 an aircraft full service fixed based operation which provides  
148 goods and services to the general aviation public in the  
149 promotion of air commerce provided that the real property is  
150 designated as an aviation area on an airport layout plan  
151 approved by the Federal Aviation Administration. For purposes of  
152 determination of "ownership," buildings and other real property  
153 improvements which will revert to the airport authority or other  
154 governmental unit upon expiration of the term of the lease shall  
155 be deemed "owned" by the governmental unit and not the lessee.  
156 Providing two-way telecommunications services to the public for  
157 hire by the use of a telecommunications facility, as defined in  
158 s. 364.02(15), and for which a certificate is required under  
159 chapter 364 does not constitute an exempt use for purposes of s.  
160 196.199, unless the telecommunications services are provided by  
161 the operator of a public-use airport, as defined in s. 332.004,  
162 for the operator's provision of telecommunications services for  
163 the airport or its tenants, concessionaires, or licensees, or  
164 unless the telecommunications services are provided by a public  
165 hospital.

166 (7) "Charitable purpose" means a function or service which  
167 is of such a community service that its discontinuance could  
168 legally result in the allocation of public funds for the  
169 continuance of the function or service. It is not necessary that  
170 public funds be allocated for such function or service but only  
171 that any such allocation would be legal.

172 (8) "Hospital" means an institution which possesses a valid  
173 license granted under chapter 395 on January 1 of the year for  
174 which exemption from ad valorem taxation is requested.

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175 (9) "Nursing home" or "home for special services" means an  
176 institution which possesses a valid license under chapter 400 on  
177 January 1 of the year for which exemption from ad valorem  
178 taxation is requested.

179 (10) "Gross income" means all income from whatever source  
180 derived, including, but not limited to, the following items,  
181 whether actually owned by or received by, or not received by but  
182 available to, any person or couple: earned income, income from  
183 investments, gains derived from dealings in property, interest,  
184 rents, royalties, dividends, annuities, income from retirement  
185 plans, pensions, trusts, estates and inheritances, and direct  
186 and indirect gifts. Gross income specifically does not include  
187 payments made for the medical care of the individual, return of  
188 principal on the sale of a home, social security benefits, or  
189 public assistance payments payable to the person or assigned to  
190 an organization designated specifically for the support or  
191 benefit of that person.

192 (11) "Totally and permanently disabled person" means a  
193 person who is currently certified by two licensed physicians of  
194 this state who are professionally unrelated, by the United  
195 States Department of Veterans Affairs or its predecessor, or by  
196 the Social Security Administration, to be totally and  
197 permanently disabled.

198 (12) "Couple" means a husband and wife legally married  
199 under the laws of any state or territorial possession of the  
200 United States or of any foreign country.

201 (13) "Real estate used and owned as a homestead" means real  
202 property to the extent provided in s. 6(a), Art. VII of the  
203 State Constitution, but less any portion thereof used for

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204 commercial purposes, with the title of such property being  
205 recorded in the official records of the county in which the  
206 property is located. Property rented for more than 6 months is  
207 presumed to be used for commercial purposes.

208 ~~(14) "Renewable energy source device" or "device" means any~~  
209 ~~of the following equipment which, when installed in connection~~  
210 ~~with a dwelling unit or other structure, collects, transmits,~~  
211 ~~stores, or uses solar energy, wind energy, or energy derived~~  
212 ~~from geothermal deposits:~~

213 ~~(a) Solar energy collectors.~~

214 ~~(b) Storage tanks and other storage systems, excluding~~  
215 ~~swimming pools used as storage tanks.~~

216 ~~(c) Rockbeds.~~

217 ~~(d) Thermostats and other control devices.~~

218 ~~(e) Heat exchange devices.~~

219 ~~(f) Pumps and fans.~~

220 ~~(g) Roof ponds.~~

221 ~~(h) Freestanding thermal containers.~~

222 ~~(i) Pipes, ducts, refrigerant handling systems, and other~~  
223 ~~equipment used to interconnect such systems; however,~~  
224 ~~conventional backup systems of any type are not included in this~~  
225 ~~definition.~~

226 ~~(j) Windmills.~~

227 ~~(k) Wind-driven generators.~~

228 ~~(l) Power conditioning and storage devices that use wind~~  
229 ~~energy to generate electricity or mechanical forms of energy.~~

230 ~~(m) Pipes and other equipment used to transmit hot~~  
231 ~~geothermal water to a dwelling or structure from a geothermal~~  
232 ~~deposit.~~



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233        (14)~~(15)~~ "New business" means:

234        (a)1. A business establishing 10 or more jobs to employ 10  
235 or more full-time employees in this state, which manufactures,  
236 processes, compounds, fabricates, or produces for sale items of  
237 tangible personal property at a fixed location and which  
238 comprises an industrial or manufacturing plant;

239        2. A business establishing 25 or more jobs to employ 25 or  
240 more full-time employees in this state, the sales factor of  
241 which, as defined by s. 220.15(5), for the facility with respect  
242 to which it requests an economic development ad valorem tax  
243 exemption is less than 0.50 for each year the exemption is  
244 claimed; or

245        3. An office space in this state owned and used by a  
246 corporation newly domiciled in this state; provided such office  
247 space houses 50 or more full-time employees of such corporation;  
248 provided that such business or office first begins operation on  
249 a site clearly separate from any other commercial or industrial  
250 operation owned by the same business.

251        (b) Any business located in an enterprise zone or  
252 brownfield area that first begins operation on a site clearly  
253 separate from any other commercial or industrial operation owned  
254 by the same business.

255        (c) A business that is situated on property annexed into a  
256 municipality and that, at the time of the annexation, is  
257 receiving an economic development ad valorem tax exemption from  
258 the county under s. 196.1995.

259        (15)~~(16)~~ "Expansion of an existing business" means:

260        (a)1. A business establishing 10 or more jobs to employ 10  
261 or more full-time employees in this state, which manufactures,

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262 processes, compounds, fabricates, or produces for sale items of  
263 tangible personal property at a fixed location and which  
264 comprises an industrial or manufacturing plant; or

265 2. A business establishing 25 or more jobs to employ 25 or  
266 more full-time employees in this state, the sales factor of  
267 which, as defined by s. 220.15(5), for the facility with respect  
268 to which it requests an economic development ad valorem tax  
269 exemption is less than 0.50 for each year the exemption is  
270 claimed; provided that such business increases operations on a  
271 site colocated with a commercial or industrial operation owned  
272 by the same business, resulting in a net increase in employment  
273 of not less than 10 percent or an increase in productive output  
274 of not less than 10 percent.

275 (b) Any business located in an enterprise zone or  
276 brownfield area that increases operations on a site colocated  
277 with a commercial or industrial operation owned by the same  
278 business.

279 (16)~~(17)~~ "Permanent resident" means a person who has  
280 established a permanent residence as defined in subsection (17)  
281 ~~(18)~~.

282 (17)~~(18)~~ "Permanent residence" means that place where a  
283 person has his or her true, fixed, and permanent home and  
284 principal establishment to which, whenever absent, he or she has  
285 the intention of returning. A person may have only one permanent  
286 residence at a time; and, once a permanent residence is  
287 established in a foreign state or country, it is presumed to  
288 continue until the person shows that a change has occurred.

289 (18)~~(19)~~ "Enterprise zone" means an area designated as an  
290 enterprise zone pursuant to s. 290.0065. This subsection expires

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291 on the date specified in s. 290.016 for the expiration of the  
292 Florida Enterprise Zone Act.

293 (19)~~(20)~~ "Ex-servicemember" means any person who has served  
294 as a member of the United States Armed Forces on active duty or  
295 state active duty, a member of the Florida National Guard, or a  
296 member of the United States Reserve Forces.

297 Section 3. Subsection (2) of section 196.121, Florida  
298 Statutes, is amended to read:

299 196.121 Homestead exemptions; forms.—

300 (2) The forms shall require the taxpayer to furnish certain  
301 information to the property appraiser for the purpose of  
302 determining that the taxpayer is a permanent resident as defined  
303 in s. 196.012(16) ~~s. 196.012(17)~~. Such information may include,  
304 but need not be limited to, the factors enumerated in s.  
305 196.015.

306 Section 4. Subsections (6), (8), (9), and (10) of section  
307 196.1995, Florida Statutes, are amended to read:

308 196.1995 Economic development ad valorem tax exemption.—

309 (6) With respect to a new business as defined by s.  
310 196.012(14)(c) ~~s. 196.012(15)(e)~~, the municipality annexing the  
311 property on which the business is situated may grant an economic  
312 development ad valorem tax exemption under this section to that  
313 business for a period that will expire upon the expiration of  
314 the exemption granted by the county. If the county renews the  
315 exemption under subsection (7), the municipality may also extend  
316 its exemption. A municipal economic development ad valorem tax  
317 exemption granted under this subsection may not extend beyond  
318 the duration of the county exemption.

319 (8) Any person, firm, or corporation which desires an

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320 economic development ad valorem tax exemption shall, in the year  
321 the exemption is desired to take effect, file a written  
322 application on a form prescribed by the department with the  
323 board of county commissioners or the governing authority of the  
324 municipality, or both. The application shall request the  
325 adoption of an ordinance granting the applicant an exemption  
326 pursuant to this section and shall include the following  
327 information:

328 (a) The name and location of the new business or the  
329 expansion of an existing business;

330 (b) A description of the improvements to real property for  
331 which an exemption is requested and the date of commencement of  
332 construction of such improvements;

333 (c) A description of the tangible personal property for  
334 which an exemption is requested and the dates when such property  
335 was or is to be purchased;

336 (d) Proof, to the satisfaction of the board of county  
337 commissioners or the governing authority of the municipality,  
338 that the applicant is a new business or an expansion of an  
339 existing business, as defined in s. 196.012(14) or (15) ~~s.~~  
340 ~~196.012(15) or (16)~~; and

341 (e) Other information deemed necessary by the department.

342 (9) Before it takes action on the application, the board of  
343 county commissioners or the governing authority of the  
344 municipality shall deliver a copy of the application to the  
345 property appraiser of the county. After careful consideration,  
346 the property appraiser shall report the following information to  
347 the board of county commissioners or the governing authority of  
348 the municipality:

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349 (a) The total revenue available to the county or  
350 municipality for the current fiscal year from ad valorem tax  
351 sources, or an estimate of such revenue if the actual total  
352 revenue available cannot be determined;

353 (b) Any revenue lost to the county or municipality for the  
354 current fiscal year by virtue of exemptions previously granted  
355 under this section, or an estimate of such revenue if the actual  
356 revenue lost cannot be determined;

357 (c) An estimate of the revenue which would be lost to the  
358 county or municipality during the current fiscal year if the  
359 exemption applied for were granted had the property for which  
360 the exemption is requested otherwise been subject to taxation;  
361 and

362 (d) A determination as to whether the property for which an  
363 exemption is requested is to be incorporated into a new business  
364 or the expansion of an existing business, as defined in s.  
365 196.012(14) or (15) ~~s. 196.012(15) or (16)~~, or into neither,  
366 which determination the property appraiser shall also affix to  
367 the face of the application. Upon the request of the property  
368 appraiser, the department shall provide to him or her such  
369 information as it may have available to assist in making such  
370 determination.

371 (10) An ordinance granting an exemption under this section  
372 shall be adopted in the same manner as any other ordinance of  
373 the county or municipality and shall include the following:

374 (a) The name and address of the new business or expansion  
375 of an existing business to which the exemption is granted;

376 (b) The total amount of revenue available to the county or  
377 municipality from ad valorem tax sources for the current fiscal

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378 year, the total amount of revenue lost to the county or  
379 municipality for the current fiscal year by virtue of economic  
380 development ad valorem tax exemptions currently in effect, and  
381 the estimated revenue loss to the county or municipality for the  
382 current fiscal year attributable to the exemption of the  
383 business named in the ordinance;

384 (c) The period of time for which the exemption will remain  
385 in effect and the expiration date of the exemption; and

386 (d) A finding that the business named in the ordinance  
387 meets the requirements of s. 196.012(14) or (15) ~~s. 196.012(15)~~  
388 ~~or (16)~~.

389 Section 5. Section 196.175, Florida Statutes, is repealed.

390 Section 6. This act shall take effect July 1, 2010, and  
391 applies to assessments beginning January 1, 2011.