

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.; providing additional
 4 limitations on annual changes in assessments of
 5 homestead real 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 or remains the same from the prior year, the assessed value
 23 shall not change.

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

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

29 2. (b) The percentage change in the Consumer Price Index for

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30 All Urban Consumers, U.S. City Average, all items 1967=100, or
31 successor reports for the preceding calendar year as initially
32 reported by the United States Department of Labor, Bureau of
33 Labor Statistics.

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

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

47 1. Subsequent to the change or transfer, the same person is
48 entitled to the homestead exemption as was previously entitled
49 and:

50 a. The transfer of title is to correct an error;

51 b. The transfer is between legal and equitable title or
52 equitable and equitable title and no additional person applies
53 for a homestead exemption on the property; or

54 c. 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

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

61 2. Legal or equitable title is changed or transferred
62 between husband and wife, including a change or transfer to a
63 surviving spouse or a transfer due to a dissolution of marriage;

64 3. The transfer occurs by operation of law to the surviving
65 spouse or minor child or children under s. 732.401; or

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

69 (b) For purposes of this subsection, a leasehold interest
70 that qualifies for the homestead exemption under s. 196.031 or
71 s. 196.041 shall be treated as an equitable interest in the
72 property.

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

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

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88 of the total square footage of the homestead property before the
89 damage or destruction or that do not cause the total to exceed
90 1,500 total square feet shall be reassessed as provided under
91 subsection (1). The homestead property's assessed value shall be
92 increased by the just value of that portion of the changed or
93 improved homestead property which is in excess of 110 percent of
94 the square footage of the homestead property before the damage
95 or destruction or of that portion exceeding 1,500 square feet.
96 Homestead property damaged or destroyed by misfortune or
97 calamity which, after being changed or improved, has a square
98 footage of less than 100 percent of the homestead property's
99 total square footage before the damage or destruction shall be
100 assessed pursuant to subsection (5). This paragraph applies to
101 changes, additions, or improvements commenced within 3 years
102 after the January 1 following the damage or destruction of the
103 homestead.

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

109 1. Was permanently residing on such property when the
110 damage or destruction occurred;

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

113 3. Applies for and receives homestead exemption on such
114 property the following year.

115 (d) Changes, additions, or improvements include
116 improvements made to common areas or other improvements made to

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117 property other than to the homestead property by the owner or by
118 an owner association, which improvements directly benefit the
119 homestead property. Such changes, additions, or improvements
120 shall be assessed at just value, and the just value shall be
121 apportioned among the parcels benefiting from the improvement.

122 (5) When property is destroyed or removed and not replaced,
123 the assessed value of the parcel shall be reduced by the
124 assessed value attributable to the destroyed or removed
125 property.

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

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

139 (8) Property assessed under this section shall be assessed
140 at less than just value when the person who establishes a new
141 homestead has received a homestead exemption as of January 1 of
142 either of the 2 immediately preceding years. A person who
143 establishes a new homestead as of January 1, 2008, is entitled
144 to have the new homestead assessed at less than just value only
145 if that person received a homestead exemption on January 1,

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146 2007, and only if this subsection applies retroactive to January
147 1, 2008. For purposes of this subsection, a husband and wife who
148 owned and both permanently resided on a previous homestead shall
149 each be considered to have received the homestead exemption even
150 though only the husband or the wife applied for the homestead
151 exemption on the previous homestead. The assessed value of the
152 newly established homestead shall be determined as provided in
153 this subsection.

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

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

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175 the just value and the assessed value equals \$500,000.
176 Thereafter, the homestead shall be assessed as provided in this
177 section.

178 (c) If two or more persons who have each received a
179 homestead exemption as of January 1 of either of the 2
180 immediately preceding years and who would otherwise be eligible
181 to have a new homestead property assessed under this subsection
182 establish a single new homestead, the reduction from just value
183 is limited to the higher of the difference between the just
184 value and the assessed value of either of the prior eligible
185 homesteads as of January 1 of the year in which either of the
186 eligible prior homesteads was abandoned, but may not exceed
187 \$500,000.

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

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204 quarters of parents or grandparents pursuant to s. 193.703, the
205 value calculated pursuant to s. 193.703(6) must first be added
206 back to the assessed value of the prior homestead. The total
207 reduction from just value for all new homesteads established
208 under this paragraph may not exceed \$500,000. There shall be no
209 reduction from just value of any new homestead unless the prior
210 homestead is reassessed at just value or is reassessed under
211 this subsection as of January 1 after the abandonment occurs.

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

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

229 (g) In order to have his or her homestead property assessed
230 under this subsection, a person must file a form provided by the
231 department as an attachment to the application for homestead
232 exemption. The form, which must include a sworn statement

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233 attesting to the applicant's entitlement to assessment under
234 this subsection, shall be considered sufficient documentation
235 for applying for assessment under this subsection. The
236 department shall require by rule that the required form be
237 submitted with the application for homestead exemption under the
238 timeframes and processes set forth in chapter 196 to the extent
239 practicable.

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

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

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262 provisions of this subsection as of the January 1 following its
263 abandonment.

264 3. Based on the information provided on the form from the
265 property appraiser in the county where the previous homestead
266 was located, the property appraiser in the county where the new
267 homestead is located shall calculate the amount of the
268 assessment limitation difference which may be transferred and
269 apply the difference to the January 1 assessment of the new
270 homestead.

271 4. All property appraisers having information-sharing
272 agreements with the department are authorized to share
273 confidential tax information with each other pursuant to s.
274 195.084, including social security numbers and linked
275 information on the forms provided pursuant to this section.

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

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

290 7. If the information from the property appraiser in the

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291 county where the previous homestead was located is provided
292 after the procedures in this section are exercised, the property
293 appraiser in the county where the new homestead is located shall
294 make appropriate corrections and a corrected tax notice and tax
295 bill shall be sent.

296 8. This subsection does not authorize the consideration or
297 adjustment of the just, assessed, or taxable value of the
298 previous homestead property.

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

305 10. The taxpayer may correspond with the property appraiser
306 in the county where the previous homestead was located to
307 further seek to identify the homestead and the amount of the
308 assessment limitation difference which is transferable.

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

315 12. If the property appraiser has not received information
316 sufficient to identify the previous homestead and the amount of
317 the assessment limitation difference which is transferable
318 before mailing the notice of proposed property taxes, the
319 taxpayer may file a petition with the value adjustment board in

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320 the county where the new homestead is located.

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

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

347 (k) The property appraisers of the state shall, as soon as
348 practicable after March 1 of each year and on or before July 1

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349 of that year, carefully consider all applications for assessment
350 under this subsection which have been filed in their respective
351 offices on or before March 1 of that year. If, upon
352 investigation, the property appraiser finds that the applicant
353 is entitled to assessment under this subsection, the property
354 appraiser shall make such entries upon the tax rolls of the
355 county as are necessary to allow the assessment. If, after due
356 consideration, the property appraiser finds that the applicant
357 is not entitled under the law to assessment under this
358 subsection, the property appraiser shall immediately make out a
359 notice of such disapproval, giving his or her reasons therefor,
360 and a copy of the notice must be served upon the applicant by
361 the property appraiser either by personal delivery or by
362 registered mail to the post office address given by the
363 applicant. The applicant may appeal the decision of the property
364 appraiser refusing to allow the assessment under this subsection
365 to the value adjustment board, and the board shall review the
366 application and evidence presented to the property appraiser
367 upon which the applicant based the claim and shall hear the
368 applicant in person or by agent on behalf of his or her right to
369 such assessment. Such appeal shall be heard by an attorney
370 special magistrate if the value adjustment board uses special
371 magistrates. The value adjustment board shall reverse the
372 decision of the property appraiser in the cause and grant
373 assessment under this subsection to the applicant if, in its
374 judgment, the applicant is entitled to be granted the assessment
375 or shall affirm the decision of the property appraiser. The
376 action of the board is final in the cause unless the applicant,
377 within 15 days following the date of refusal of the application

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378 by the board, files in the circuit court of the county in which
379 the homestead is located a proceeding against the property
380 appraiser for a declaratory judgment as is provided by chapter
381 86 or other appropriate proceeding. The failure of the taxpayer
382 to appear before the property appraiser or value adjustment
383 board or to file any paper other than the application as
384 provided in this subsection does not constitute any bar to or
385 defense in the proceedings.

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

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

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

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

403 (10) If the property appraiser determines that for any year
404 or years within the prior 10 years a person who was not entitled
405 to the homestead property assessment limitation granted under
406 this section was granted the homestead property assessment

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407 limitation, the property appraiser making such determination
408 shall record in the public records of the county a notice of tax
409 lien against any property owned by that person in the county,
410 and such property must be identified in the notice of tax lien.
411 Such property that is situated in this state is subject to the
412 unpaid taxes, plus a penalty of 50 percent of the unpaid taxes
413 for each year and 15 percent interest per annum. However, when a
414 person entitled to exemption pursuant to s. 196.031
415 inadvertently receives the limitation pursuant to this section
416 following a change of ownership, the assessment of such property
417 must be corrected as provided in paragraph (9)(a), and the
418 person need not pay the unpaid taxes, penalties, or interest.

419 Section 2. This act shall take effect January 1, 2012.