

HB 1201

2016

1 A bill to be entitled

2 An act relating to homestead tax exemptions; amending
3 s. 196.141, F.S.; authorizing property appraisers to
4 contract for the examination and audit of homestead
5 exemption claims; specifying terms that must be
6 included in the contract; specifying prohibited acts
7 by the contractor; requiring the contractor to
8 disclose certain information regarding its findings to
9 the property appraiser; authorizing the property
10 appraiser to retain certain interest earnings;
11 amending s. 196.161, F.S.; requiring that certain
12 unpaid tax liens be included in the next tax roll;
13 specifying that such lien constitutes a first lien,
14 superior to all other property liens; deleting
15 provisions specifying when liens attach to property;
16 amending s. 213.30, F.S.; providing that use of any
17 law except specified provisions by a person seeking
18 funds as a result of another person's tax fraud is in
19 derogation of homestead exemption laws; providing a
20 finding of important state interest; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 196.141, Florida Statutes, is amended
26 to read:

27 196.141 Homestead exemptions; duty of property appraiser.—

28 (1) The property appraiser shall examine each claim for
 29 exemption filed with or referred to him or her and shall allow
 30 the exemption same, if found to be in accordance with law, by
 31 marking the exemption same approved and by making the proper
 32 deductions on the assessment rolls tax books.

33 (2) The property appraiser may contract for services to
 34 examine or audit homestead tax exemptions claimed on assessment
 35 rolls. Agreements for such contracted services shall provide, at
 36 a minimum, that:

37 (a) The contractor may only contact a person claiming a
 38 homestead exemption with the written approval of, and in a
 39 manner prescribed by, the property appraiser. The contractor
 40 must notify the person claiming the homestead exemption that the
 41 contractor has been contracted by the property appraiser as a
 42 third party to examine or audit homestead tax exemptions. The
 43 contractor must notify the person claiming the homestead
 44 exemption that if the person has questions, the person should
 45 contact the property appraiser. The contractor must provide the
 46 property appraiser's contact information. In addition, the
 47 contractor may not:

- 48 1. Falsely impersonate a governmental official.
- 49 2. Communicate with the person between 9 p.m. and 8 a.m.
 50 in the person's time zone without the person's prior consent.
- 51 3. Suggest, communicate, or threaten the person that any
 52 money is owed.

53 4. Disclose or threaten to disclose any information that
54 is not a public record to a person other than the person
55 claiming the homestead exemption, the person's authorized
56 representative, an adult occupant of the property receiving the
57 homestead exemption, the property appraiser, or the property
58 appraiser's agents or employees.

59 5. Publish or post, threaten to publish or post, or cause
60 to be published or posted to the public any individual names or
61 list of names.

62 (b) After the contractor completes the examination or
63 audit, the contractor must disclose the results to the property
64 appraiser, who will determine whether the person was entitled to
65 the homestead exemption and, if the person was not entitled to
66 the homestead exemption, initiate proceedings pursuant to ss.
67 196.151 and 196.161.

68 (c) The contractor is solely responsible to the property
69 appraiser for any claims arising from the contractor's
70 performance.

71 (d) The contractor's compensation shall consist solely of
72 a portion, as specified in the agreement, of the back taxes and
73 penalties imposed pursuant to this chapter and collected on the
74 assessments resulting from the contractor's examination or
75 audit, and the removal of homestead exemptions from previous and
76 current year tax rolls.

77
78 A property appraiser contracting for such services may receive

79 the interest as set forth in this chapter imposed and collected
 80 on the taxes owed on previous and current year assessment rolls.
 81 After distributing the compensation for such contracted services
 82 and the interest that the property appraiser retains, the tax
 83 collector shall distribute any back taxes collected pursuant to
 84 chapter 197.

85 Section 2. Section 196.161, Florida Statutes, is amended
 86 to read:

87 196.161 Homestead exemptions; lien imposed on property of
 88 person claiming exemption although not a permanent resident.—

89 (1) (a) When the estate of any person is being probated or
 90 administered in another state under an allegation that such
 91 person was a resident of that state and the estate of such
 92 person contains real property situate in this state upon which
 93 homestead exemption has been allowed pursuant to s. 196.031 for
 94 any year or years within 10 years immediately prior to the death
 95 of the deceased, then within 3 years after the death of such
 96 person the property appraiser of the county where the real
 97 property is located shall, upon knowledge of such fact, record a
 98 notice of tax lien against the property among the public records
 99 of that county, and the property shall be subject to the payment
 100 of all taxes exempt thereunder, a penalty of 50 percent of the
 101 unpaid taxes for each year, plus 15 percent interest per year,
 102 unless the circuit court having jurisdiction over the ancillary
 103 administration in this state determines that the decedent was a
 104 permanent resident of this state during the year or years an

105 exemption was allowed, whereupon the lien shall not be filed or,
 106 if filed, shall be canceled of record by the property appraiser
 107 of the county where the real estate is located.

108 (b) In addition, upon determination by the property
 109 appraiser that for any year or years within the prior 10 years a
 110 person who was not entitled to a homestead exemption was granted
 111 a homestead exemption from ad valorem taxes, ~~it shall be the~~
 112 ~~duty of~~ the property appraiser making such determination shall
 113 ~~to~~ serve upon the owner a notice of intent to record in the
 114 public records of the county a notice of tax lien against any
 115 property owned by that person in the county, and such property
 116 shall be identified in the notice of tax lien. Such property
 117 which is situated in this state shall be subject to the taxes
 118 exempted thereby, plus a penalty of 50 percent of the unpaid
 119 taxes for each year and 15 percent interest per annum. However,
 120 if a homestead exemption is improperly granted as a result of a
 121 clerical mistake or an omission by the property appraiser, the
 122 person improperly receiving the exemption shall not be assessed
 123 penalty and interest. Before any such lien may be filed, the
 124 owner so notified must be given 30 days to pay the taxes,
 125 penalties, and interest. The tax lien shall be filed for the
 126 taxes, penalties, and interest that remain unpaid 30 or more
 127 days after the notice is sent and shall remain on the property
 128 until the taxes, penalties, and interest are paid in full.

129 (2) Except when a homestead exemption is improperly
 130 granted as the result of a clerical error by the property

131 appraiser, the taxes, penalties, and interest assessed pursuant
132 to this section that are not paid in full shall be included in
133 the next tax notice and shall be collected in the same manner
134 as, and in addition to, the current ad valorem taxes under
135 chapter 197, including the annual tax certificate sale when
136 appropriate. The collection of the taxes provided in this
137 section shall be in the same manner as existing ad valorem
138 taxes, and the above procedure of recapturing such taxes shall
139 be supplemental to any existing provision under the laws of this
140 state.

141 (3) The lien under subsection (1) constitutes a first lien
142 as set forth in s. 197.122 herein provided shall not attach to
143 the property until the notice of tax lien is filed among the
144 public records of the county where the property is located.
145 Prior to the filing of such notice of lien, any purchaser for
146 value of the subject property shall take free and clear of such
147 lien. Such lien when filed shall attach to any property which is
148 identified in the notice of lien and is owned by the person who
149 illegally or improperly received the homestead exemption. Should
150 such person no longer own property in the county, but own
151 property in some other county or counties in the state, it shall
152 be the duty of the property appraiser to record a notice of tax
153 lien in such other county or counties, identifying the property
154 owned by such person in such county or counties, and it shall
155 become a lien against such property in such county or counties.

156 Section 3. Subsection (3) of section 213.30, Florida

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157 Statutes, is amended to read:

158 213.30 Compensation for information relating to a
159 violation of the tax laws.—

160 (3) Notwithstanding any other provision of law, this
161 section and s. 196.141 are ~~is~~ the sole means by which a ~~any~~
162 person may seek or obtain any moneys as the result of, in
163 relation to, or founded upon the failure by another person to
164 comply with the tax laws of this state. A person's use of any
165 other law to seek or obtain moneys for such failure is in
166 derogation of this section and s. 196.141 and conflicts with the
167 state's duty to administer the tax laws.

168 Section 4. The Legislature finds that this act fulfills an
169 important state interest.

170 Section 5. This act shall take effect July 1, 2016.