

	LEGISLATIVE ACTION	
Senate		House
Comm: RCS		
03/23/2017	•	
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The Committee on Judiciary (Artiles) recommended the following:

Senate Amendment (with title amendment)

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Delete lines 71 - 546

and insert:

Section 2. Subsection (10) of section 193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8)



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(10) (a) If the property appraiser determines that for any year or years within the prior 10 years a person who was not entitled to the homestead property assessment limitation granted under this section was granted the homestead property assessment limitation, the property appraiser making such determination shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county, and such property must be identified in the notice of tax lien. Such property that is situated in this state is subject to the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. However, when a person entitled to exemption pursuant to s. 196.031 inadvertently receives the limitation pursuant to this section following a change of ownership, the assessment of such property must be corrected as provided in paragraph (9)(a), and the person need not pay the unpaid taxes, penalties, or interest. The property appraiser shall waive the unpaid penalties and interest if the property appraiser determines that the person qualified for the property assessment limitation at the time the application was filed; the person acted in good faith; and, other than the improperly received tax savings, the person did not receive any additional financial benefit, such as rental payments or other income. The property appraiser may not waive penalty or interest if the person claimed a homestead-related exemption, limitation, or reduction on another property.

(b) If the property appraiser improperly grants the property assessment limitation as a result of a clerical mistake

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or an omission, the person or entity improperly receiving the property assessment limitation may not be assessed a penalty or interest.

(c) Before a lien may be filed, the person or entity so notified must be given 30 days to pay the taxes and any applicable penalties and interest. If the property appraiser improperly grants the property assessment limitation as a result of a clerical mistake or an omission, the person or entity improperly receiving the property assessment limitation may not be assessed a penalty or interest.

Section 3. Subsection (7) of section 193.703, Florida Statutes, is amended to read:

193.703 Reduction in assessment for living quarters of parents or grandparents.-

(7) (a) If the property appraiser determines that for any year within the previous 10 years a property owner who was not entitled to a reduction in assessed value under this section was granted such reduction, the property appraiser shall serve on the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county, and that property must be identified in the notice of tax lien. Any property that is owned by that person and is situated in this state is subject to the taxes exempted by the improper reduction, plus a penalty of 50 percent of the unpaid taxes for each year and interest at a rate of 15 percent per annum. The property appraiser shall waive the unpaid penalties and interest if the property appraiser determines that the person qualified for the reduction at the time the application was filed; the person acted in good faith; and,

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other than the improperly received tax savings, the person did not receive any additional financial benefit, such as rental payments or other income. The property appraiser may not waive penalty or interest if the person claimed a homestead-related exemption, limitation, or reduction on another property.

- (b) However, if a reduction is improperly granted due to a clerical mistake or an omission by the property appraiser, the person who improperly received the reduction may not be assessed a penalty or interest.
- (c) Before such lien may be filed, the owner must be given 30 days within which to pay the taxes, penalties, and interest. Such lien is subject to s. 196.161(3).

Section 4. Paragraph (d) of subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department. Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board must be signed by the taxpayer or be accompanied at the time of filing by the taxpayer's written authorization or power of attorney, unless the person filing the petition is listed in s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a petition with a value adjustment board without the taxpayer's signature or written authorization by certifying under penalty of perjury that he or she has authorization to file the petition on behalf of the taxpayer. If a taxpayer notifies the value adjustment board that a petition has been filed for the

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taxpayer's property without his or her consent, the value adjustment board may require the person filing the petition to provide written authorization from the taxpayer authorizing the person to proceed with the appeal before a hearing is held. If the value adjustment board finds that a person listed in s. 194.034(1)(a) willfully and knowingly filed a petition that was not authorized by the taxpayer, the value adjustment board shall require such person to provide the taxpayer's written authorization for representation to the value adjustment board clerk before any petition filed by that person is heard, for 1 year after imposition of such requirement by the value adjustment board. A power of attorney or written authorization is valid for 1 assessment year, and a new power of attorney or written authorization by the taxpayer is required for each subsequent assessment year. A petition shall also describe the property by parcel number and shall be filed as follows:

(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173, or s. 196.193 or notice by the tax collector under s. 197.2425. Upon a showing of extenuating circumstances demonstrating to the

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value adjustment board that the petitioner was unable to file a petition in a timely manner, the petitioner may file a petition up to 60 days after the deadline; however, the value adjustment board is not required to delay proceedings for the 60-day timeframe and no late petition is authorized after the value adjustment board has concluded its review of petitions.

Section 5. Paragraph (a) of subsection (2) of section 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.

(2) (a) The clerk of the governing body of the county shall prepare a schedule of appearances before the board based on petitions timely filed with him or her. The clerk shall notify each petitioner of the scheduled time of his or her appearance at least 25 calendar days before the day of the scheduled appearance. The notice must indicate whether the petition has been scheduled to be heard at a particular time or during a block of time. If the petition has been scheduled to be heard within a block of time, the beginning and ending of that block of time must be indicated on the notice; however, as provided in paragraph (b), a petitioner may not be required to wait for more than a reasonable time, not to exceed 2 hours, after the beginning of the block of time. The property appraiser must provide a copy of the property record card containing information relevant to the computation of the current assessment, with confidential information redacted, to the petitioner upon receipt of the petition from the clerk regardless of whether the petitioner initiates evidence exchange, unless the property record card is available online from the property appraiser, in which case the property

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appraiser must notify the petitioner that the property record card is available online. The petitioner and the property appraiser may each reschedule the hearing a single time for good cause. As used in this paragraph, the term "good cause" means circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent the party from having adequate representation at the hearing. However, the term does not include being scheduled for two separate hearings in different jurisdictions at the same time or date, unless the hearings involve the same petitioner or the property appraiser and petitioner agree to reschedule the hearing. Before the commencement of hearings for the value adjustment board roll year, the property appraiser and the individual, agent, or legal entity that signed the petition may identify up to 10 business days per roll year in which they are unavailable for hearings. If the hearing is rescheduled by the petitioner or the property appraiser, the clerk shall notify the petitioner of the rescheduled time of his or her appearance at least 15 calendar days before the day of the rescheduled appearance, unless this notice is waived by both parties.

Section 6. Subsection (1) of section 194.035, Florida Statutes, is amended to read:

194.035 Special magistrates; property evaluators.-

(1) In counties having a population of more than 75,000, the board shall appoint special magistrates for the purpose of taking testimony and making recommendations to the board, which recommendations the board may act upon without further hearing. These special magistrates may not be elected or appointed officials or employees of the county but shall be selected from

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a list of those qualified individuals who are willing to serve as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates. The clerk of the board shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates exist. The Department of Revenue shall provide a list of qualified special magistrates to any county with a population of 75,000 or less. Subject to appropriation, the department shall reimburse counties with a population of 75,000 or less for payments made to special magistrates appointed for the purpose of taking testimony and making recommendations to the value adjustment board pursuant to this section. The department shall establish a reasonable range for payments per case to special magistrates based on such payments in other counties. Requests for reimbursement of payments outside this range shall be justified by the county. If the total of all requests for reimbursement in any year exceeds the amount available pursuant to this section, payments to all counties shall be prorated accordingly. If a county having a population less than 75,000 does not appoint a special magistrate to hear each petition, the person or persons designated to hear petitions before the value adjustment board or the attorney appointed to advise the value adjustment board shall attend the training provided pursuant to subsection (3), regardless of whether the person would otherwise be required to attend, but shall not be required to pay the tuition fee specified in subsection (3). A special magistrate appointed to hear issues of exemptions, classifications, and determinations that a change of

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ownership, a change of ownership or control, or a qualifying improvement has occurred shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years' experience in tangible personal property valuation. A special magistrate need not be a resident of the county in which he or she serves. A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate. An appraisal performed by a special magistrate may not be submitted as evidence to the value adjustment board in any roll year during which he or she has served that board as a special magistrate. Before appointing a special magistrate, a value adjustment board shall verify the special magistrate's qualifications. The value adjustment board shall ensure that the selection of special magistrates is based solely upon the experience and qualifications of the special magistrate and is not influenced by the property appraiser. The special magistrate shall accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, shall include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. The expense of hearings before magistrates and any

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compensation of special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board. When appointing special magistrates or when scheduling special magistrates for specific hearings, the board, the board attorney, and the board clerk may not consider the dollar amount or percentage of any assessment reductions recommended by any special magistrate in the current year or in any previous year.

Section 7. Paragraph (a) of subsection (9) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.

(9) (a) A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for exemption of property within the county after an initial application is made and the exemption granted. The waiver under this subsection of the annual application or statement requirement applies to all exemptions under this chapter except the exemption under s. 196.1995. Notwithstanding such waiver, refiling of an application or statement shall be required when any property granted an exemption is sold or otherwise disposed of, when the ownership changes in any manner, when the applicant for homestead exemption ceases to use the property as his or her homestead, or when the status of the owner changes so as to change the exempt status of the property. In its deliberations on whether to waive the annual application or statement requirement, the governing body shall consider the possibility of fraudulent exemption claims which may occur due to the waiver of the annual application requirement. The owner of any property

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granted an exemption who is not required to file an annual application or statement shall notify the property appraiser promptly whenever the use of the property or the status or condition of the owner changes so as to change the exempt status of the property. If any property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the owner was not entitled to receive such exemption, the owner of the property is subject to the taxes exempted as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted. Except for homestead exemptions controlled by s. 196.161, the property appraiser making such determination shall record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property is subject to the payment of all taxes and penalties. Such lien when filed shall attach to any property, identified in the notice of tax lien, owned by the person who illegally or improperly received the exemption. If such person no longer owns property in that county but owns property in some other county or counties in the state, the property appraiser shall record a notice of tax lien in such other county or counties, identifying the property owned by such person or entity in such county or counties, and it shall become a lien against such property in such county or counties. The property appraiser shall waive the unpaid penalties and interest if the property appraiser determines that the person qualified for the exemption at the time the application was filed; the person acted in good faith; and, other than the improperly

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received tax savings, the person did not receive any additional financial benefit, such as rental payments or other income. The property appraiser may not waive penalty or interest if the person claimed a similar exemption, limitation, or reduction on another property, such as two homestead-related exemptions.

Section 8. Subsections (5) and (7) of section 196.012, Florida Statutes, are amended to read:

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

(5) "Educational institution" means a federal, state, parochial, church, or private school, college, or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools; a nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance; educational direct-support organizations created pursuant to ss. 1001.24, 1004.28, and 1004.70; a nonprofit entity that issues industry certifications identified by the Chancellor of Career and Adult Education as being eligible for workforce education funding per approval by the State Board of Education pursuant to s. 1008.44 or its successor; a nonprofit entity that has entered into statewide articulation agreements with the State Board of Education for articulation of postsecondary credit for related degrees for approved industry certifications; facilities located

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on the property of eligible entities which will become owned by those entities on a date certain; and institutions of higher education, as defined under and participating in the Higher Educational Facilities Financing Act.

(7) "Charitable purpose" means a function or service that which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or service. It is not necessary that public funds be allocated for such function or service but only that any such allocation would be legal. If a nonprofit entity receives a determination from the Internal Revenue Service that it is exempt from federal income tax under s. 501(a) of the Internal Revenue Code as an organization described in s. 501(c)(3) of that code, a rebuttable presumption of charitable purpose exists for purposes of this chapter. The presumption may be rebutted by the property appraiser with clear and convincing evidence.

Section 9. Subsection (9) of section 196.075, Florida Statutes, is amended to read:

196.075 Additional homestead exemption for persons 65 and older.-

(9) (a) If the property appraiser determines that for any year within the immediately previous 10 years a person who was not entitled to the additional homestead exemption under this section was granted such an exemption, the property appraiser shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county, and that property must be identified in the notice of tax lien. Any property that

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is owned by the taxpayer and is situated in this state is subject to the taxes exempted by the improper homestead exemption, plus a penalty of 50 percent of the unpaid taxes for each year and interest at a rate of 15 percent per annum. The property appraiser shall waive the unpaid penalties and interest if the property appraiser determines that the person qualified for the exemption at the time the application was filed; the person acted in good faith; and, other than the improperly received tax savings, the person did not receive any additional financial benefit, such as rental payments or other income. The property appraiser may not waive penalty or interest if the person claimed a homestead-related exemption, limitation, or reduction on another property.

- (b) However, if such an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person who improperly received the exemption may not be assessed a penalty and interest.
- (c) Before any such lien may be filed, the owner must be given 30 days within which to pay the taxes, penalties, and interest. Such a lien is subject to the procedures and provisions set forth in s. 196.161(3).
- Section 10. Subsection (4) of section 196.183, Florida Statutes, is amended to read:
 - 196.183 Exemption for tangible personal property.-
- (4) Owners of property previously assessed by the property appraiser without a return being filed may, at the option of the property appraiser, qualify for the exemption under this section without filing an initial return.
 - Section 11. Section 196.198, Florida Statutes, is amended



to read:

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196.198 Educational property exemption.—Educational institutions within this state and their property used by them or by any other exempt entity or educational institution predominantly or exclusively for educational purposes are exempt from taxation in proportion to the extent of the exempt use of property, as defined in s. 196.012. Sheltered workshops providing rehabilitation and retraining of individuals who have disabilities and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and are exempt from certification, accreditation, and membership requirements set forth in s. 196.012. Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process are exempt from ad valorem taxation. The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and is exempt from ad valorem taxation to the extent of such use. Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property, or if the entity owning 100 percent of the educational institution and the entity owning the property are owned by the identical natural persons. Land, buildings, and other improvements to real property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the land is a nonprofit entity

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and the land is used, under a ground lease or other contractual 419 arrangement, by an educational institution that owns the buildings and other improvements to the real property, is a nonprofit entity under s. 501(c)(3) of the Internal Revenue Code, and provides education limited to students in 423 prekindergarten through grade 8. If legal title to property is held by a governmental agency that leases the property to a 425 lessee, the property shall be deemed to be owned by the governmental agency and used exclusively for educational purposes if the governmental agency continues to use such property exclusively for educational purposes pursuant to a 429 sublease or other contractual agreement with that lessee. If the title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the 433 land exclusively for educational purposes, the land is deemed to 434 be property owned by the educational institution for purposes of 435 this exemption. Property owned by an educational institution 436 shall be deemed to be used for an educational purpose if the 437 institution has taken affirmative steps to prepare the property 438 for educational use. The term "affirmative steps" means 439 environmental or land use permitting activities, creation of 440 architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property 443 to an educational use. Section 12. Subsection (1) of section 196.202, Florida

Statutes, is amended to read:

196.202 Property of widows, widowers, blind persons, and



persons totally and permanently disabled.-

(1) Property to the value of \$5,000 \$500 of every widow, widower, blind person, or totally and permanently disabled person who is a bona fide resident of this state is exempt from taxation. As used in this section, the term "totally and permanently disabled person" means a person who is currently certified by a physician licensed in this state, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration to be totally and permanently disabled.

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========== T I T L E A M E N D M E N T ==============

And the title is amended as follows:

Delete lines 5 - 39

461 and insert:

> claiming adverse possession; amending ss. 193.155, 193.703, 196.011, and 196.075, F.S.; providing criteria under which a property appraiser must waive unpaid penalties and interest for improper nonpayment or reduction payment of ad valorem taxes by certain property owners claiming a homestead exemption; prohibiting such waiver under certain circumstances; amending s. 194.011, F.S.; authorizing petitioners, upon a certain showing of extenuating circumstances, to file petitions with value adjustment boards within a specified timeframe after certain deadlines, subject to certain limitations; amending s. 194.032, F.S.; providing construction relating to the rescheduling of certain hearings for good cause; authorizing property

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appraisers and certain entities to identify a specified number of days per roll year in which they are unavailable for hearings; amending s. 194.035, F.S.; specifying the circumstances under which a special magistrate's appraisal may not be submitted as evidence to a value adjustment board; 196.012, F.S.; redefining the terms "educational institution" and "charitable purpose"; amending s. 196.183, F.S.; providing that property owners assessed, rather than previously assessed, by property appraisers without a certain return filed may qualify for an exemption for tangible personal property under certain circumstances; amending s. 196.198, F.S.; revising a tax exemption for educational institutions to provide that property used predominantly for educational purposes is exempt from taxation in proportion to the extent of such use; amending s. 196.202, F.S.; revising the value of property of widows, widowers, blind persons, and persons totally and permanently disabled which is exempt from taxation; amending s. 200.069, F.S.;