

By Senator Garcia

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1 A bill to be entitled
2 An act relating to property tax administration;
3 amending s. 193.122, F.S.; revising the timeframe
4 under which certain appeals of value adjustment board
5 decisions must be filed by a property appraiser under
6 certain circumstances; amending s. 193.155, F.S.;
7 specifying when erroneous assessments of homestead
8 property must be corrected; deleting a calculation of
9 back taxes; specifying that certain erroneous property
10 assessments may, rather than must, be corrected in a
11 specified manner; amending ss. 193.1554 and 193.1555,
12 F.S.; adding circumstances under which there is no
13 change of ownership for purposes of an assessment
14 limitation on nonhomestead residential property or
15 certain nonresidential real property, respectively;
16 specifying when erroneous property assessments must be
17 corrected; deleting a calculation of back taxes;
18 providing that a taxpayer receiving an erroneously
19 granted property assessment limitation need not pay
20 the unpaid taxes, penalties, or interest; providing
21 construction and retroactive applicability; amending
22 s. 194.011, F.S.; authorizing a taxpayer to appeal the
23 amount of a homestead assessment limitation difference
24 with the value adjustment board; specifying
25 requirements for the petition for appeal; amending s.
26 194.032, F.S.; adding appeals for which a value
27 adjustment board must meet to hear; amending s.
28 194.036, F.S.; revising, for counties above a
29 specified population threshold, a condition under

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30 which a property appraiser may appeal a decision of
31 the value adjustment board; amending s. 196.011, F.S.;
32 providing that a taxpayer need not pay unpaid taxes,
33 penalties, or interest for erroneously granted
34 exemptions for which annual application or statement
35 requirements are waived; providing an effective date.
36

37 Be It Enacted by the Legislature of the State of Florida:
38

39 Section 1. Subsection (4) of section 193.122, Florida
40 Statutes, is amended to read:

41 193.122 Certificates of value adjustment board and property
42 appraiser; extensions on the assessment rolls.—

43 (4) An appeal of a value adjustment board decision pursuant
44 to s. 194.036(1)(a) or (b) by the property appraiser shall be
45 filed prior to extension of the tax roll under subsection (2)
46 or, if the roll was extended pursuant to s. 197.323, within 30
47 days after the date a decision is rendered concerning such
48 assessment by the value adjustment board ~~of recertification~~
49 ~~under subsection (3)~~. The roll may be certified by the property
50 appraiser prior to an appeal being filed pursuant to s.
51 194.036(1)(c), but such appeal shall be filed within 20 days
52 after receipt of the decision of the department relative to
53 further judicial proceedings.

54 Section 2. Subsections (9) and (10) of section 193.155,
55 Florida Statutes, are amended to read:

56 193.155 Homestead assessments.—Homestead property shall be
57 assessed at just value as of January 1, 1994. Property receiving
58 the homestead exemption after January 1, 1994, shall be assessed

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59 at just value as of January 1 of the year in which the property
60 receives the exemption unless the provisions of subsection (8)
61 apply.

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

64 (a) If errors are made in arriving at any assessment under
65 this section due to a material mistake of fact concerning an
66 essential characteristic of the property, the just value and
67 assessed value must be recalculated beginning in the year such
68 mistake is discovered ~~for every such year, including the year in~~
69 ~~which the mistake occurred.~~

70 (b) If changes, additions, or improvements are not assessed
71 at just value as of the first January 1 after they were
72 substantially completed, the property appraiser shall determine
73 the just value for such changes, additions, or improvements for
74 the year they were substantially completed. Assessments for
75 subsequent years, beginning in the year such mistake is
76 discovered, shall be corrected, applying this section if
77 applicable.

78 ~~(c) If back taxes are due pursuant to s. 193.092, the~~
79 ~~corrections made pursuant to this subsection shall be used to~~
80 ~~calculate such back taxes.~~

81 (10) If the property appraiser determines that for any year
82 or years within the prior 10 years a person who was not entitled
83 to the homestead property assessment limitation granted under
84 this section was granted the homestead property assessment
85 limitation, the property appraiser making such determination
86 shall serve upon the owner a notice of intent to record in the
87 public records of the county a notice of tax lien against any

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88 property owned by that person in the county, and such property
89 must be identified in the notice of tax lien. Such property that
90 is situated in this state is subject to the unpaid taxes, plus a
91 penalty of 50 percent of the unpaid taxes for each year and 15
92 percent interest per annum. However, when a person entitled to
93 exemption pursuant to s. 196.031 inadvertently receives the
94 limitation pursuant to this section following a change of
95 ownership, or if the property appraiser improperly grants the
96 property assessment limitation as a result of an error,
97 including, but not limited to, a clerical mistake or an
98 omission, the assessment of such property may ~~must~~ be corrected
99 as provided in paragraph (9) (a), and the person need not pay the
100 unpaid taxes, penalties, or interest. Before a lien may be
101 filed, the person or entity so notified must be given 30 days to
102 pay the taxes and any applicable penalties and interest. ~~If the~~
103 ~~property appraiser improperly grants the property assessment~~
104 ~~limitation as a result of a clerical mistake or an omission, the~~
105 ~~person or entity improperly receiving the property assessment~~
106 ~~limitation may not be assessed a penalty or interest.~~

107 Section 3. Present paragraph (d) of subsection (5) of
108 section 193.1554, Florida Statutes, is redesignated as paragraph
109 (e), a new paragraph (d) is added to that subsection, and
110 subsections (9) and (10) of that section are amended, to read:

111 193.1554 Assessment of nonhomestead residential property.—

112 (5) Except as provided in this subsection, property
113 assessed under this section shall be assessed at just value as
114 of January 1 of the year following a change of ownership or
115 control. Thereafter, the annual changes in the assessed value of
116 the property are subject to the limitations in subsections (3)

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117 and (4). For purpose of this section, a change of ownership or
118 control means any sale, foreclosure, transfer of legal title or
119 beneficial title in equity to any person, or the cumulative
120 transfer of control or of more than 50 percent of the ownership
121 of the legal entity that owned the property when it was most
122 recently assessed at just value, except as provided in this
123 subsection. There is no change of ownership if:

124 (d) The transfer is between an individual or individuals
125 and an entity, or between legal entities, which results solely
126 in a change in the method of holding title to the real property
127 and there is no cumulative transfer of control of more than 50
128 percent of the ownership.

129 (9) Erroneous assessments of nonhomestead residential
130 property assessed under this section may be corrected in the
131 following manner:

132 (a) If errors are made in arriving at any assessment under
133 this section due to a material mistake of fact concerning an
134 essential characteristic of the property, the just value and
135 assessed value must be recalculated beginning in the year such
136 mistake is discovered ~~for every such year, including the year in~~
137 ~~which the mistake occurred.~~

138 (b) If changes, additions, or improvements are not assessed
139 at just value as of the first January 1 after they were
140 substantially completed, the property appraiser shall determine
141 the just value for such changes, additions, or improvements for
142 the year they were substantially completed. Assessments for
143 subsequent years, beginning in the year such mistake is
144 discovered, shall be corrected, applying this section if
145 applicable.

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146 ~~(c) If back taxes are due pursuant to s. 193.092, the~~
147 ~~corrections made pursuant to this subsection shall be used to~~
148 ~~calculate such back taxes.~~

149 (10) If the property appraiser determines that for any year
150 or years within the prior 10 years a person or entity who was
151 not entitled to the property assessment limitation granted under
152 this section was granted the property assessment limitation, the
153 property appraiser making such determination shall serve upon
154 the owner a notice of intent to record in the public records of
155 the county a notice of tax lien against any property owned by
156 that person or entity in the county, and such property must be
157 identified in the notice of tax lien. Such property that is
158 situated in this state is subject to the unpaid taxes, plus a
159 penalty of 50 percent of the unpaid taxes for each year and 15
160 percent interest per annum. However, if the assessment
161 limitation is granted as a result of an error by the property
162 appraiser, including, but not limited to, a clerical mistake or
163 an omission, the taxpayer need not pay the unpaid taxes,
164 penalties, or interest. Before a lien may be filed, the person
165 or entity so notified must be given 30 days to pay the taxes and
166 any applicable penalties and interest. ~~If the property appraiser~~
167 ~~improperly grants the property assessment limitation as a result~~
168 ~~of a clerical mistake or an omission, the person or entity~~
169 ~~improperly receiving the property assessment limitation may not~~
170 ~~be assessed a penalty or interest.~~

171 Section 4. Paragraph (b) of subsection (5) and subsections
172 (9) and (10) of section 193.1555, Florida Statutes, are amended
173 to read:

174 193.1555 Assessment of certain residential and

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175 nonresidential real property.—

176 (5) Except as provided in this subsection, property
177 assessed under this section shall be assessed at just value as
178 of January 1 of the year following a qualifying improvement or
179 change of ownership or control. Thereafter, the annual changes
180 in the assessed value of the property are subject to the
181 limitations in subsections (3) and (4). For purpose of this
182 section:

183 (b) A change of ownership or control means any sale,
184 foreclosure, transfer of legal title or beneficial title in
185 equity to any person, or the cumulative transfer of control or
186 of more than 50 percent of the ownership of the legal entity
187 that owned the property when it was most recently assessed at
188 just value, except as provided in this subsection. There is no
189 change of ownership if:

190 1. The transfer of title is to correct an error.

191 2. The transfer is between legal and equitable title.

192 3. The transfer is between an individual or individuals and
193 an entity, or between legal entities, which results solely in a
194 change in the method of holding title to the real property and
195 there is no cumulative transfer of control of more than 50
196 percent of the ownership.

197 4. For a publicly traded company, the cumulative transfer
198 of more than 50 percent of the ownership of the entity that owns
199 the property occurs through the buying and selling of shares of
200 the company on a public exchange. This exception does not apply
201 to a transfer made through a merger with or acquisition by
202 another company, including acquisition by acquiring outstanding
203 shares of the company.

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204 (9) Erroneous assessments of nonresidential real property
205 assessed under this section may be corrected in the following
206 manner:

207 (a) If errors are made in arriving at any assessment under
208 this section due to a material mistake of fact concerning an
209 essential characteristic of the property, the just value and
210 assessed value must be recalculated beginning in the year such
211 mistake is discovered ~~for every such year, including the year in~~
212 ~~which the mistake occurred.~~

213 (b) If changes, additions, or improvements are not assessed
214 at just value as of the first January 1 after they were
215 substantially completed, the property appraiser shall determine
216 the just value for such changes, additions, or improvements for
217 the year they were substantially completed. Assessments for
218 subsequent years, beginning in the year such mistake is
219 discovered, shall be corrected, applying this section if
220 applicable.

221 ~~(c) If back taxes are due pursuant to s. 193.092, the~~
222 ~~corrections made pursuant to this subsection shall be used to~~
223 ~~calculate such back taxes.~~

224 (10) If the property appraiser determines that for any year
225 or years within the prior 10 years a person or entity who was
226 not entitled to the property assessment limitation granted under
227 this section was granted the property assessment limitation, the
228 property appraiser making such determination shall serve upon
229 the owner a notice of intent to record in the public records of
230 the county a notice of tax lien against any property owned by
231 that person or entity in the county, and such property must be
232 identified in the notice of tax lien. Such property that is

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233 situated in this state is subject to the unpaid taxes, plus a
234 penalty of 50 percent of the unpaid taxes for each year and 15
235 percent interest per annum. However, if the assessment
236 limitation is granted as a result of an error by the property
237 appraiser, including, but not limited to, a clerical mistake or
238 an omission, the taxpayer need not pay the unpaid taxes,
239 penalties, or interest. Before a lien may be filed, the person
240 or entity so notified must be given 30 days to pay the taxes and
241 any applicable penalties and interest. ~~If the property appraiser~~
242 ~~improperly grants the property assessment limitation as a result~~
243 ~~of a clerical mistake or an omission, the person or entity~~
244 ~~improperly receiving the property assessment limitation may not~~
245 ~~be assessed a penalty or interest.~~

246 Section 5. The amendments made by this act to ss.
247 193.1554(5) and 193.1555(5) (b), Florida Statutes, are intended
248 to be remedial and clarifying in nature and apply retroactively,
249 but do not provide a basis for an assessment of any tax or
250 create a right to a refund of any tax paid before the effective
251 date of this act.

252 Section 6. Present paragraphs (a) through (e) of subsection
253 (6) of section 194.011, Florida Statutes, are redesignated as
254 paragraphs (b) through (f), respectively, and a new paragraph
255 (a) is added to that subsection, to read:

256 194.011 Assessment notice; objections to assessments.—

257 (6) The following provisions apply to petitions to the
258 value adjustment board concerning the assessment of homestead
259 property at less than just value under s. 193.155(8):

260 (a) If the taxpayer does not agree with the amount of the
261 assessment limitation difference for which the taxpayer

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262 qualifies as stated by the property appraiser, the taxpayer may
263 appeal the amount of assessment limitation difference. The
264 appeal must be filed as an appeal of the new homestead property
265 to which the contested assessment limitation difference has been
266 applied and must be filed in the tax year in which the
267 assessment limitation difference is first applied to the new
268 homestead property.

269 Section 7. Paragraph (a) of subsection (1) of section
270 194.032, Florida Statutes, is amended to read:

271 194.032 Hearing purposes; timetable.—

272 (1) (a) The value adjustment board shall meet not earlier
273 than 30 days and not later than 60 days after the mailing of the
274 notice provided in s. 194.011(1); however, no board hearing
275 shall be held before approval of all or any part of the
276 assessment rolls by the Department of Revenue. The board shall
277 meet for the following purposes:

278 1. Hearing petitions relating to assessments filed pursuant
279 to s. 194.011(3).

280 2. Hearing complaints relating to homestead exemptions as
281 provided for under s. 196.151.

282 3. Hearing appeals from exemptions denied, or disputes
283 arising from exemptions granted, upon the filing of exemption
284 applications under s. 196.011.

285 4. Hearing appeals concerning ad valorem tax deferrals and
286 classifications.

287 5. Hearing appeals from determinations that a change of
288 ownership under s. 193.155(3), a change of ownership or control
289 under s. 193.1554(5) or s. 193.1555(5), or a qualifying
290 improvement under s. 193.1555(5) has occurred.

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291 6. Hearing appeals concerning the validity or amount, or
292 both, of assessments created under s. 193.092.

293 7. Hearing appeals on the issue of whether a tangible
294 personal property return as required under s. 193.052 was timely
295 filed so as to allow such assessment to be contested at the
296 value adjustment board, and to waive penalties imposed under s.
297 193.072.

298 Section 8. Subsection (1) of section 194.036, Florida
299 Statutes, is amended to read:

300 194.036 Appeals.—Appeals of the decisions of the board
301 shall be as follows:

302 (1) If the property appraiser disagrees with the decision
303 of the board, he or she may appeal the decision to the circuit
304 court if one or more of the following criteria are met:

305 (a) The property appraiser determines and affirmatively
306 asserts in any legal proceeding that there is a specific
307 constitutional or statutory violation, or a specific violation
308 of administrative rules, in the decision of the board, except
309 that nothing herein shall authorize the property appraiser to
310 institute any suit to challenge the validity of any portion of
311 the constitution or of any duly enacted legislative act of this
312 state.†

313 (b) 1. In counties with a population of 75,000 or less,
314 there is a variance from the property appraiser's assessed value
315 in excess of the following: 15 percent variance from any
316 assessment of \$50,000 or less; 10 percent variance from any
317 assessment in excess of \$50,000 but not in excess of \$500,000;
318 7.5 percent variance from any assessment in excess of \$500,000
319 but not in excess of \$1 million; or 5 percent variance from any

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320 assessment in excess of \$1 million.

321 2. In counties with a population of more than 75,000, there
322 is a variance from the property appraiser's assessed value in
323 excess of the following: 30 percent variance from any assessment
324 of \$50,000 or less; 20 percent variance from any assessment in
325 excess of \$50,000 but not in excess of \$500,000; 17.5 percent
326 variance from any assessment in excess of \$500,000 but not in
327 excess of \$1 million; or 15 percent variance from any assessment
328 in excess of \$1 million.~~;~~~~or~~

329 (c) There is an assertion by the property appraiser to the
330 Department of Revenue that there exists a consistent and
331 continuous violation of the intent of the law or administrative
332 rules by the value adjustment board in its decisions. The
333 property appraiser shall notify the department of those portions
334 of the tax roll for which the assertion is made. The department
335 shall thereupon notify the clerk of the board who shall, within
336 15 days of the notification by the department, send the written
337 decisions of the board to the department. Within 30 days of the
338 receipt of the decisions by the department, the department shall
339 notify the property appraiser of its decision relative to
340 further judicial proceedings. If the department finds upon
341 investigation that a consistent and continuous violation of the
342 intent of the law or administrative rules by the board has
343 occurred, it shall so inform the property appraiser, who may
344 thereupon bring suit in circuit court against the value
345 adjustment board for injunctive relief to prohibit continuation
346 of the violation of the law or administrative rules and for a
347 mandatory injunction to restore the tax roll to its just value
348 in such amount as determined by judicial proceeding. However,

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349 when a final judicial decision is rendered as a result of an
350 appeal filed pursuant to this paragraph which alters or changes
351 an assessment of a parcel of property of any taxpayer not a
352 party to such procedure, such taxpayer shall have 60 days from
353 the date of the final judicial decision to file an action to
354 contest such altered or changed assessment pursuant to s.
355 194.171(1), and the provisions of s. 194.171(2) shall not bar
356 such action.

357 Section 9. Paragraph (a) of subsection (9) of section
358 196.011, Florida Statutes, is amended to read:

359 196.011 Annual application required for exemption.—

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

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378 granted an exemption who is not required to file an annual
379 application or statement shall notify the property appraiser
380 promptly whenever the use of the property or the status or
381 condition of the owner changes so as to change the exempt status
382 of the property. If any property owner fails to so notify the
383 property appraiser and the property appraiser determines that
384 for any year within the prior 10 years the owner was not
385 entitled to receive such exemption, the owner of the property is
386 subject to the taxes exempted as a result of such failure plus
387 15 percent interest per annum and a penalty of 50 percent of the
388 taxes exempted. However, if such exemption is granted as a
389 result of an error by the property appraiser, including, but not
390 limited to, a clerical mistake or an omission, the taxpayer need
391 not pay the unpaid taxes, penalties, or interest. Except for
392 homestead exemptions controlled by s. 196.161, the property
393 appraiser making such determination shall record in the public
394 records of the county a notice of tax lien against any property
395 owned by that person or entity in the county, and such property
396 must be identified in the notice of tax lien. Such property is
397 subject to the payment of all taxes and penalties. Such lien
398 when filed shall attach to any property, identified in the
399 notice of tax lien, owned by the person who illegally or
400 improperly received the exemption. If such person no longer owns
401 property in that county but owns property in some other county
402 or counties in the state, the property appraiser shall record a
403 notice of tax lien in such other county or counties, identifying
404 the property owned by such person or entity in such county or
405 counties, and it shall become a lien against such property in
406 such county or counties.

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Section 10. This act shall take effect January 1, 2024.