

By Senator Wright

8-01039-24

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1 A bill to be entitled

2 An act relating to establishment of a new homestead;
3 amending s. 193.155, F.S.; requiring that homestead
4 property be assessed below just value in certain
5 circumstances; limiting the amount of such assessment;
6 providing a contingent effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Section 193.155, Florida Statutes, is amended to
11 read:

12 193.155 Homestead assessments.—Homestead property shall be
13 assessed at just value as of January 1, 1994. Property receiving
14 the homestead exemption after January 1, 1994, shall be assessed
15 at just value as of January 1 of the year in which the property
16 receives the exemption unless the provisions of subsection (8)
17 or subsection (11) apply.

18 (1) Beginning in 1995, or the year following the year the
19 property receives homestead exemption, whichever is later, the
20 property shall be reassessed annually on January 1. Any change
21 resulting from such reassessment shall not exceed the lower of
22 the following:

23 (a) Three percent of the assessed value of the property for
24 the prior year; or

25 (b) The percentage change in the Consumer Price Index for
26 All Urban Consumers, U.S. City Average, all items 1967=100, or
27 successor reports for the preceding calendar year as initially
28 reported by the United States Department of Labor, Bureau of
29 Labor Statistics.

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30 (2) If the assessed value of the property as calculated
31 under subsection (1) exceeds the just value, the assessed value
32 of the property shall be lowered to the just value of the
33 property.

34 (3) (a) Except as provided in this subsection or subsection
35 (8), property assessed under this section shall be assessed at
36 just value as of January 1 of the year following a change of
37 ownership. Thereafter, the annual changes in the assessed value
38 of the property are subject to the limitations in subsections
39 (1) and (2). For the purpose of this section, a change of
40 ownership means any sale, foreclosure, or transfer of legal
41 title or beneficial title in equity to any person, except if any
42 of the following apply:

43 1. Subsequent to the change or transfer, the same person is
44 entitled to the homestead exemption as was previously entitled
45 and:

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

47 b. The transfer is between legal and equitable title or
48 equitable and equitable title and no additional person applies
49 for a homestead exemption on the property;

50 c. The change or transfer is by means of an instrument in
51 which the owner is listed as both grantor and grantee of the
52 real property and one or more other individuals are additionally
53 named as grantee. However, if any individual who is additionally
54 named as a grantee applies for a homestead exemption on the
55 property, the application is considered a change of ownership;

56 d. The change or transfer is by means of an instrument in
57 which the owner entitled to the homestead exemption is listed as
58 both grantor and grantee of the real property and one or more

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59 other individuals, all of whom held title as joint tenants with
60 rights of survivorship with the owner, are named only as
61 grantors and are removed from the title; or

62 e. The person is a lessee entitled to the homestead
63 exemption under s. 196.041(1);

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

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

69 4. Upon the death of the owner, the transfer is between the
70 owner and another who is a permanent resident and who is legally
71 or naturally dependent upon the owner; or

72 5. The transfer occurs with respect to a property where all
73 of the following apply:

74 a. Multiple owners hold title as joint tenants with rights
75 of survivorship;

76 b. One or more owners were entitled to and received the
77 homestead exemption on the property;

78 c. The death of one or more owners occurs; and

79 d. Subsequent to the transfer, the surviving owner or
80 owners previously entitled to and receiving the homestead
81 exemption continue to be entitled to and receive the homestead
82 exemption.

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

87 (4) (a) Except as provided in paragraph (b) and s. 193.624,

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88 changes, additions, or improvements to homestead property shall
89 be assessed at just value as of the first January 1 after the
90 changes, additions, or improvements are substantially completed.

91 (b)1. Changes, additions, or improvements that replace all
92 or a portion of homestead property, including ancillary
93 improvements, damaged or destroyed by misfortune or calamity
94 shall be assessed upon substantial completion as provided in
95 this paragraph. Such assessment must be calculated using the
96 homestead property's assessed value as of the January 1
97 immediately before the date on which the damage or destruction
98 was sustained, subject to the assessment limitations in
99 subsections (1) and (2), when:

100 a. The square footage of the homestead property as changed
101 or improved does not exceed 110 percent of the square footage of
102 the homestead property before the damage or destruction; or

103 b. The total square footage of the homestead property as
104 changed or improved does not exceed 1,500 square feet.

105 2. The homestead property's assessed value must be
106 increased by the just value of that portion of the changed or
107 improved homestead property which is in excess of 110 percent of
108 the square footage of the homestead property before the damage
109 or destruction or of that portion exceeding 1,500 square feet.

110 3. Homestead property damaged or destroyed by misfortune or
111 calamity which, after being changed or improved, has a square
112 footage of less than 100 percent of the homestead property's
113 total square footage before the damage or destruction shall be
114 assessed pursuant to subsection (5).

115 4. Changes, additions, or improvements assessed pursuant to
116 this paragraph must be reassessed pursuant to subsection (1) in

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117 subsequent years. This paragraph applies to changes, additions,
118 or improvements commenced within 3 years after the January 1
119 following the damage or destruction of the homestead.

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

125 1. Was permanently residing on such property when the
126 damage or destruction occurred;

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

129 3. Applies for and receives homestead exemption on such
130 property the following year.

131 (d) Changes, additions, or improvements include
132 improvements made to common areas or other improvements made to
133 property other than to the homestead property by the owner or by
134 an owner association, which improvements directly benefit the
135 homestead property. Such changes, additions, or improvements
136 shall be assessed at just value, and the just value shall be
137 apportioned among the parcels benefiting from the improvement.

138 (5) When property is destroyed or removed and not replaced,
139 the assessed value of the parcel shall be reduced by the
140 assessed value attributable to the destroyed or removed
141 property.

142 (6) Only property that receives a homestead exemption is
143 subject to this section. No portion of property that is assessed
144 solely on the basis of character or use pursuant to s. 193.461
145 or s. 193.501, or assessed pursuant to s. 193.505, is subject to

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146 this section. When property is assessed under s. 193.461, s.
147 193.501, or s. 193.505 and contains a residence under the same
148 ownership, the portion of the property consisting of the
149 residence and curtilage must be assessed separately, pursuant to
150 s. 193.011, for the assessment to be subject to the limitation
151 in this section.

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

155 (8) Property assessed under this section shall be assessed
156 at less than just value when the person who establishes a new
157 homestead has received a homestead exemption as of January 1 of
158 any of the 3 immediately preceding years. For purposes of this
159 subsection, a husband and wife who owned and both permanently
160 resided on a previous homestead shall each be considered to have
161 received the homestead exemption even though only the husband or
162 the wife applied for the homestead exemption on the previous
163 homestead. The assessed value of the newly established homestead
164 shall be determined as provided in this subsection.

165 (a) If the just value of the new homestead as of January 1
166 is greater than or equal to the just value of the immediate
167 prior homestead as of January 1 of the year in which the
168 immediate prior homestead was abandoned, the assessed value of
169 the new homestead shall be the just value of the new homestead
170 minus an amount equal to the lesser of \$500,000 or the
171 difference between the just value and the assessed value of the
172 immediate prior homestead as of January 1 of the year in which
173 the prior homestead was abandoned. Thereafter, the homestead
174 shall be assessed as provided in this section.

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175 (b) If the just value of the new homestead as of January 1
176 is less than the just value of the immediate prior homestead as
177 of January 1 of the year in which the immediate prior homestead
178 was abandoned, the assessed value of the new homestead shall be
179 equal to the just value of the new homestead divided by the just
180 value of the immediate prior homestead and multiplied by the
181 assessed value of the immediate prior homestead. However, if the
182 difference between the just value of the new homestead and the
183 assessed value of the new homestead calculated pursuant to this
184 paragraph is greater than \$500,000, the assessed value of the
185 new homestead shall be increased so that the difference between
186 the just value and the assessed value equals \$500,000.
187 Thereafter, the homestead shall be assessed as provided in this
188 section.

189 (c) If two or more persons who have each received a
190 homestead exemption as of January 1 of any of the 3 immediately
191 preceding years and who would otherwise be eligible to have a
192 new homestead property assessed under this subsection establish
193 a single new homestead, the reduction from just value is limited
194 to the higher of the difference between the just value and the
195 assessed value of either of the prior eligible homesteads as of
196 January 1 of the year in which either of the eligible prior
197 homesteads was abandoned, but may not exceed \$500,000.

198 (d) If two or more persons abandon jointly owned and
199 jointly titled property that received a homestead exemption as
200 of January 1 of any of the 3 immediately preceding years, and
201 one or more such persons who were entitled to and received a
202 homestead exemption on the abandoned property establish a new
203 homestead that would otherwise be eligible for assessment under

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204 this subsection, each such person establishing a new homestead
205 is entitled to a reduction from just value for the new homestead
206 equal to the just value of the prior homestead minus the
207 assessed value of the prior homestead divided by the number of
208 owners of the prior homestead who received a homestead
209 exemption, unless the title of the property contains specific
210 ownership shares, in which case the share of reduction from just
211 value shall be proportionate to the ownership share. In the case
212 of a husband and wife abandoning jointly titled property, the
213 husband and wife may designate the ownership share to be
214 attributed to each spouse by following the procedure in
215 paragraph (f). To qualify to make such a designation, the
216 husband and wife must be married on the date that the jointly
217 owned property is abandoned. In calculating the assessment
218 reduction to be transferred from a prior homestead that has an
219 assessment reduction for living quarters of parents or
220 grandparents pursuant to s. 193.703, the value calculated
221 pursuant to s. 193.703(6) must first be added back to the
222 assessed value of the prior homestead. The total reduction from
223 just value for all new homesteads established under this
224 paragraph may not exceed \$500,000. There shall be no reduction
225 from just value of any new homestead unless the prior homestead
226 is reassessed at just value or is reassessed under this
227 subsection as of January 1 after the abandonment occurs.

228 (e) If one or more persons who previously owned a single
229 homestead and each received the homestead exemption qualify for
230 a new homestead where all persons who qualify for homestead
231 exemption in the new homestead also qualified for homestead
232 exemption in the previous homestead without an additional person

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233 qualifying for homestead exemption in the new homestead, the
234 reduction in just value shall be calculated pursuant to
235 paragraph (a) or paragraph (b), without application of paragraph
236 (c) or paragraph (d).

237 (f) A husband and wife abandoning jointly titled property
238 who wish to designate the ownership share to be attributed to
239 each person for purposes of paragraph (d) must file a form
240 provided by the department with the property appraiser in the
241 county where such property is located. The form must include a
242 sworn statement by each person designating the ownership share
243 to be attributed to each person for purposes of paragraph (d)
244 and must be filed prior to either person filing the form
245 required under paragraph (h) to have a parcel of property
246 assessed under this subsection. Such a designation, once filed
247 with the property appraiser, is irrevocable.

248 (g) For purposes of receiving an assessment reduction
249 pursuant to this subsection, a person entitled to assessment
250 under this section may abandon his or her homestead even though
251 it remains his or her primary residence by notifying the
252 property appraiser of the county where the homestead is located.
253 This notification must be in writing and delivered at the same
254 time as or before timely filing a new application for homestead
255 exemption on the property.

256 (h) In order to have his or her homestead property assessed
257 under this subsection, a person must file a form provided by the
258 department as an attachment to the application for homestead
259 exemption, including a copy of the form required to be filed
260 under paragraph (f), if applicable. The form, which must include
261 a sworn statement attesting to the applicant's entitlement to

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262 assessment under this subsection, shall be considered sufficient
263 documentation for applying for assessment under this subsection.
264 The department shall require by rule that the required form be
265 submitted with the application for homestead exemption under the
266 timeframes and processes set forth in chapter 196 to the extent
267 practicable.

268 (i)1. If the previous homestead was located in a different
269 county than the new homestead, the property appraiser in the
270 county where the new homestead is located must transmit a copy
271 of the completed form together with a completed application for
272 homestead exemption to the property appraiser in the county
273 where the previous homestead was located. If the previous
274 homesteads of applicants for transfer were in more than one
275 county, each applicant from a different county must submit a
276 separate form.

277 2. The property appraiser in the county where the previous
278 homestead was located must return information to the property
279 appraiser in the county where the new homestead is located by
280 April 1 or within 2 weeks after receipt of the completed
281 application from that property appraiser, whichever is later. As
282 part of the information returned, the property appraiser in the
283 county where the previous homestead was located must provide
284 sufficient information concerning the previous homestead to
285 allow the property appraiser in the county where the new
286 homestead is located to calculate the amount of the assessment
287 limitation difference which may be transferred and must certify
288 whether the previous homestead was abandoned and has been or
289 will be reassessed at just value or reassessed according to the
290 provisions of this subsection as of the January 1 following its

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291 abandonment.

292 3. Based on the information provided on the form from the
293 property appraiser in the county where the previous homestead
294 was located, the property appraiser in the county where the new
295 homestead is located shall calculate the amount of the
296 assessment limitation difference which may be transferred and
297 apply the difference to the January 1 assessment of the new
298 homestead.

299 4. All property appraisers having information-sharing
300 agreements with the department are authorized to share
301 confidential tax information with each other pursuant to s.
302 195.084, including social security numbers and linked
303 information on the forms provided pursuant to this section.

304 5. The transfer of any limitation is not final until any
305 values on the assessment roll on which the transfer is based are
306 final. If such values are final after tax notice bills have been
307 sent, the property appraiser shall make appropriate corrections
308 and a corrected tax notice bill shall be sent. Any values that
309 are under administrative or judicial review shall be noticed to
310 the tribunal or court for accelerated hearing and resolution so
311 that the intent of this subsection may be carried out.

312 6. If the property appraiser in the county where the
313 previous homestead was located has not provided information
314 sufficient to identify the previous homestead and the assessment
315 limitation difference is transferable, the taxpayer may file an
316 action in circuit court in that county seeking to establish that
317 the property appraiser must provide such information.

318 7. If the information from the property appraiser in the
319 county where the previous homestead was located is provided

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320 after the procedures in this section are exercised, the property
321 appraiser in the county where the new homestead is located shall
322 make appropriate corrections and a corrected tax notice and tax
323 bill shall be sent.

324 8. This subsection does not authorize the consideration or
325 adjustment of the just, assessed, or taxable value of the
326 previous homestead property.

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

333 10. The taxpayer may correspond with the property appraiser
334 in the county where the previous homestead was located to
335 further seek to identify the homestead and the amount of the
336 assessment limitation difference which is transferable.

337 11. If the property appraiser in the county where the
338 previous homestead was located supplies sufficient information
339 to the property appraiser in the county where the new homestead
340 is located, such information shall be considered timely if
341 provided in time for inclusion on the notice of proposed
342 property taxes sent pursuant to ss. 194.011 and 200.065(1).

343 12. If the property appraiser has not received information
344 sufficient to identify the previous homestead and the amount of
345 the assessment limitation difference which is transferable
346 before mailing the notice of proposed property taxes, the
347 taxpayer may file a petition with the value adjustment board in
348 the county where the new homestead is located.

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349 (j) Any person who is qualified to have his or her property
350 assessed under this subsection and who fails to file an
351 application by March 1 may file an application for assessment
352 under this subsection and may, pursuant to s. 194.011(3), file a
353 petition with the value adjustment board requesting that an
354 assessment under this subsection be granted. Such petition may
355 be filed at any time during the taxable year on or before the
356 25th day following the mailing of the notice by the property
357 appraiser as provided in s. 194.011(1). Notwithstanding s.
358 194.013, such person must pay a nonrefundable fee of \$15 upon
359 filing the petition. Upon reviewing the petition, if the person
360 is qualified to receive the assessment under this subsection and
361 demonstrates particular extenuating circumstances judged by the
362 property appraiser or the value adjustment board to warrant
363 granting the assessment, the property appraiser or the value
364 adjustment board may grant an assessment under this subsection.

365 (k) Any person who is qualified to have his or her property
366 assessed under this subsection and who fails to timely file an
367 application for his or her new homestead in the first year
368 following eligibility may file in a subsequent year. The
369 assessment reduction shall be applied to assessed value in the
370 year the transfer is first approved, and refunds of tax may not
371 be made for previous years.

372 (l) The property appraisers of the state shall, as soon as
373 practicable after March 1 of each year and on or before July 1
374 of that year, carefully consider all applications for assessment
375 under this subsection which have been filed in their respective
376 offices on or before March 1 of that year. If, upon
377 investigation, the property appraiser finds that the applicant

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378 is entitled to assessment under this subsection, the property
379 appraiser shall make such entries upon the tax rolls of the
380 county as are necessary to allow the assessment. If, after due
381 consideration, the property appraiser finds that the applicant
382 is not entitled to the assessment under this subsection, the
383 property appraiser shall immediately prepare a notice of such
384 disapproval, giving his or her reasons therefor, and a copy of
385 the notice must be served upon the applicant by the property
386 appraiser by personal delivery or by registered mail to the post
387 office address given by the applicant. The applicant may appeal
388 the decision of the property appraiser refusing to allow the
389 assessment under this subsection to the value adjustment board,
390 and the board shall review the application and evidence
391 presented to the property appraiser upon which the applicant
392 based the claim and hear the applicant in person or by agent on
393 behalf of his or her right to such assessment. Such appeal shall
394 be heard by an attorney special magistrate if the value
395 adjustment board uses special magistrates. The value adjustment
396 board shall reverse the decision of the property appraiser in
397 the cause and grant assessment under this subsection to the
398 applicant if, in its judgment, the applicant is entitled to the
399 assessment or shall affirm the decision of the property
400 appraiser. The action of the board is final in the cause unless
401 the applicant, within 60 days following the date of refusal of
402 the application by the board, files in the circuit court of the
403 county in which the homestead is located a proceeding against
404 the property appraiser for a declaratory judgment as is provided
405 under chapter 86 or other appropriate proceeding. The failure of
406 the taxpayer to appear before the property appraiser or value

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407 adjustment board or to file any paper other than the application
408 as provided in this subsection does not constitute a bar to or
409 defense in the proceedings.

410 (m) For purposes of receiving an assessment reduction
411 pursuant to this subsection, an owner of a homestead property
412 that was significantly damaged or destroyed as a result of a
413 named tropical storm or hurricane may elect, in the calendar
414 year following the named tropical storm or hurricane, to have
415 the significantly damaged or destroyed homestead deemed to have
416 been abandoned as of the date of the named tropical storm or
417 hurricane even though the owner received a homestead exemption
418 on the property as of January 1 of the year immediately
419 following the named tropical storm or hurricane. The election
420 provided for in this paragraph is available only if the owner
421 establishes a new homestead as of January 1 of the third year
422 immediately following the storm or hurricane. This paragraph
423 shall apply to homestead property damaged or destroyed on or
424 after January 1, 2017.

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

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

432 (b) If changes, additions, or improvements are not assessed
433 at just value as of the first January 1 after they were
434 substantially completed, the property appraiser shall determine
435 the just value for such changes, additions, or improvements for

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436 the year they were substantially completed. Assessments for
437 subsequent years shall be corrected, applying this section if
438 applicable.

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

442 (10) If the property appraiser determines that for any year
443 or years within the prior 10 years a person who was not entitled
444 to the homestead property assessment limitation granted under
445 this section was granted the homestead property assessment
446 limitation, the property appraiser making such determination
447 shall serve upon the owner a notice of intent to record in the
448 public records of the county a notice of tax lien against any
449 property owned by that person in the county, and such property
450 must be identified in the notice of tax lien. Such property that
451 is situated in this state is subject to the unpaid taxes, plus a
452 penalty of 50 percent of the unpaid taxes for each year and 15
453 percent interest per annum. However, when a person entitled to
454 exemption pursuant to s. 196.031 inadvertently receives the
455 limitation pursuant to this section following a change of
456 ownership, the assessment of such property must be corrected as
457 provided in paragraph (9) (a), and the person need not pay the
458 unpaid taxes, penalties, or interest. Before a lien may be
459 filed, the person or entity so notified must be given 30 days to
460 pay the taxes and any applicable penalties and interest. If the
461 property appraiser improperly grants the property assessment
462 limitation as a result of a clerical mistake or an omission, the
463 person or entity improperly receiving the property assessment
464 limitation may not be assessed a penalty or interest.

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465 (11) (a) Property assessed under this section shall be
466 assessed at less than just value when all of the following
467 conditions are met:

468 1. The property being established as a new homestead was
469 assessed under s. 193.1554 or s. 193.1555 the previous January
470 1.

471 2. The person who establishes a new homestead owned the
472 property when it was assessed the previous January 1.

473 3. The newly established homestead did not change ownership
474 between the prior assessment on January 1 and the establishment
475 of the new homestead.

476 (b) The increase in assessed value for a new homestead
477 established under this paragraph shall not exceed 10 percent of
478 the assessment for the previous year.

479 Section 2. This act shall take effect on the effective date
480 of the amendment to the State Constitution proposed by SJR 1374
481 or a similar joint resolution having substantially the same
482 specific intent and purpose, if such amendment is approved at
483 the next general election or at an earlier special election
484 specifically authorized by law for that purpose.