

By Senator Garcia

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1 A bill to be entitled
2 An act relating to homestead assessments; amending s.
3 193.155, F.S.; revising the manner for assessing
4 property that receives a homestead exemption;
5 providing a contingent effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 193.155, Florida Statutes, is amended to
10 read:

11 193.155 Homestead assessments.—Homestead property shall be
12 assessed at just value as of January 1, 1994. Property receiving
13 the homestead exemption after January 1, 1994, shall be assessed
14 under the provisions of s. 193.1554 or s. 193.1555 ~~at just value~~
15 as of January 1 of the year in which the property receives the
16 exemption unless the provisions of subsection (8) apply.

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

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

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

29 (2) If the assessed value of the property as calculated

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

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

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

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

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

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

55 d. The change or transfer is by means of an instrument in
56 which the owner entitled to the homestead exemption is listed as
57 both grantor and grantee of the real property and one or more
58 other individuals, all of whom held title as joint tenants with

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59 rights of survivorship with the owner, are named only as
60 grantors and are removed from the title; or

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

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

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

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

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

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

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

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

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

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

86 (4) (a) Except as provided in paragraph (b) and s. 193.624,
87 changes, additions, or improvements to homestead property shall

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

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

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

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

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

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

114 4. Changes, additions, or improvements assessed pursuant to
115 this paragraph must be reassessed pursuant to subsection (1) in
116 subsequent years. This paragraph applies to changes, additions,

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117 or improvements commenced within 3 years after the January 1
118 following the damage or destruction of the homestead.

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

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

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

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

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

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

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

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

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

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

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

174 (b) If the just value of the new homestead as of January 1

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

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

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

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

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

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233 reduction in just value shall be calculated pursuant to
234 paragraph (a) or paragraph (b), without application of paragraph
235 (c) or paragraph (d).

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

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

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

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

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

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

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

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

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

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

317 7. If the information from the property appraiser in the
318 county where the previous homestead was located is provided
319 after the procedures in this section are exercised, the property

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320 appraiser in the county where the new homestead is located shall
321 make appropriate corrections and a corrected tax notice and tax
322 bill shall be sent.

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

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

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

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

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

348 (j) Any person who is qualified to have his or her property

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

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

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

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

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407 as provided in this subsection does not constitute a bar to or
408 defense in the proceedings.

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

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

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

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

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436 subsequent years shall be corrected, applying this section if
437 applicable.

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

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

464 Section 2. This act shall take effect on the effective date

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465 of the amendment to the State Constitution proposed by SJR _____
466 or a similar joint resolution having substantially the same
467 specific intent and purpose, if such amendment to the State
468 Constitution is approved at the next general election or at an
469 earlier special election specifically authorized by law for that
470 purpose.