

FLORIDA STATUTES CHAPTER 194, 196, 197, 286

CHAPTER 194

ADMINISTRATIVE AND JUDICIAL REVIEW OF PROPERTY TAXES

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PART I

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194.011 Assessment notice; objections to assessments.--

(1) Each taxpayer whose property is subject to real or tangible personal ad valorem taxes shall be notified of the assessment of each taxable item of such property, as provided in s. 200.069.

¹(2) Any taxpayer who objects to the assessment placed on any property taxable to him or her, including the assessment of homestead property at less than just value under s.

193.155(8), may request the property appraiser to informally confer with the taxpayer. Upon receiving the request, the property appraiser, or a member of his or her staff, shall confer with the taxpayer regarding the correctness of the assessment. At this informal conference, the taxpayer shall present those facts considered by the taxpayer to be supportive of the taxpayer's claim for a change in the assessment of the property appraiser. The property appraiser or his or her representative at this conference shall present those facts considered by the property appraiser to be supportive of the correctness of the assessment. However, nothing herein shall be construed to be a prerequisite to administrative or judicial review of property 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 shall describe the property by parcel number and shall be filed as follows:

(a) The property appraiser shall have available and shall distribute forms prescribed by the Department of Revenue on which the petition shall be made. Such petition shall be sworn to by the petitioner.

(b) The completed petition shall be filed with the clerk of the value adjustment board of the county, who shall acknowledge receipt thereof and promptly furnish a copy thereof to the property appraiser.

(c) The petition shall state the approximate time anticipated by the taxpayer to present and argue his or her petition before the board.

(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, or s. 196.193 or notice by the tax collector under s. 197.253.

(e) A condominium association, cooperative association, or any homeowners' association as defined in s. 723.075, with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association as defined in s. 723.075 shall provide the unit owners with notice of its intent to petition the value adjustment board and shall provide at least 20 days for a unit owner to elect, in writing, that his or her unit not be included in the petition.

(f) An owner of contiguous, undeveloped parcels may file with the value adjustment board a single joint petition if the property appraiser determines such parcels are substantially similar in nature.

(g) The individual, agent, or legal entity that signs the petition becomes an agent of the taxpayer for the purpose of serving process to obtain personal jurisdiction over the taxpayer for the entire value adjustment board proceedings, including any appeals of a board decision by the property appraiser pursuant to s. 194.036.

(4)(a) At least 15 days before the hearing the petitioner shall provide to the property appraiser a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses.

(b) No later than 7 days before the hearing, if the petitioner has provided the information required under paragraph (a), and if requested in writing by the petitioner, the property appraiser shall provide to the petitioner a list of evidence to be presented at the hearing, together with copies of all documentation to be considered by the value adjustment board and a summary of evidence to be presented by witnesses. The evidence list must contain the property record card if provided by the clerk. Failure of the property appraiser to timely comply with the requirements of this paragraph shall result in a rescheduling of the hearing.

(5)(a) The department shall by rule prescribe uniform procedures for hearings before the value adjustment board which include requiring:

1. Procedures for the exchange of information and evidence by the property appraiser and the petitioner consistent with s. 194.032.
2. That the value adjustment board hold an organizational meeting for the purpose of making these procedures available to petitioners.

(b) The department shall develop a uniform policies and procedures manual that shall be used by value adjustment boards, special magistrates, and taxpayers in proceedings before value adjustment boards. The manual shall be made available, at a minimum, on the department's website and on the existing websites of the clerks of circuit courts.

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

(a) If the taxpayer does not agree with the amount of the assessment limitation difference for which the taxpayer qualifies as stated by the property appraiser in the county where the previous homestead property was located, or if the property appraiser in that county has not stated that the taxpayer qualifies to transfer any assessment limitation difference, upon the taxpayer filing a petition to the value adjustment board in the county where the

new homestead property is located, the value adjustment board in that county shall, upon receiving the appeal, send a notice to the value adjustment board in the county where the previous homestead was located, which shall reconvene if it has already adjourned.

(b) Such notice operates as a petition in, and creates an appeal to, the value adjustment board in the county where the previous homestead was located of all issues surrounding the previous assessment differential for the taxpayer involved. However, the taxpayer may not petition to have the just, assessed, or taxable value of the previous homestead changed.

(c) The value adjustment board in the county where the previous homestead was located shall set the petition for hearing and notify the taxpayer, the property appraiser in the county where the previous homestead was located, the property appraiser in the county where the new homestead is located, and the value adjustment board in that county, and shall hear the appeal. Such appeal shall be heard by an attorney special magistrate if the value adjustment board in the county where the previous homestead was located uses special magistrates. The taxpayer may attend such hearing and present evidence, but need not do so. The value adjustment board in the county where the previous homestead was located shall issue a decision and send a copy of the decision to the value adjustment board in the county where the new homestead is located.

(d) In hearing the appeal in the county where the new homestead is located, that value adjustment board shall consider the decision of the value adjustment board in the county where the previous homestead was located on the issues pertaining to the previous homestead and on the amount of any assessment reduction for which the taxpayer qualifies. The value adjustment board in the county where the new homestead is located may not hold its hearing until it has received the decision from the value adjustment board in the county where the previous homestead was located.

(e) In any circuit court proceeding to review the decision of the value adjustment board in the county where the new homestead is located, the court may also review the decision of the value adjustment board in the county where the previous homestead was located.

History.--s. 25, ch. 4322, 1895; GS 525; s. 1, ch. 5605, 1907; ss. 23, 66, ch. 5596, 1907; RGS 723, 724; CGL 929, 930; s. 1, ch. 67-415; ss. 1, 2, ch. 69-55; s. 1, ch. 69-140; ss. 21, 35, ch. 69-106; s. 25, ch. 70-243; s. 34, ch. 71-355; s. 11, ch. 73-172; s. 5, ch. 76-133; s. 1, ch. 76-234; s. 1, ch. 77-102; s. 1, ch. 77-174; s. 2, ch. 78-354; s. 36, ch. 80-274; s. 13, ch. 82-208; ss. 8, 55, 80, ch. 82-226; s. 209, ch. 85-342; s. 1, ch. 86-175; s. 1, ch. 88-146; s. 143, ch. 91-112; s. 1, ch. 92-32; s. 977, ch. 95-147; s. 6, ch. 95-404; s. 4, ch. 96-204; s. 3, ch. 97-117; s. 2, ch. 2002-18; s. 1, ch. 2004-349; s. 7, ch. 2008-173; s. 3, ch. 2008-197.

¹**Note.**--Section 13, ch. 2008-173, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

Note.--Former s. 193.25.

194.013 Filing fees for petitions; disposition; waiver.--

(1) If so required by resolution of the value adjustment board, a petition filed pursuant to s. 194.011 shall be accompanied by a filing fee to be paid to the clerk of the value adjustment board in an amount determined by the board not to exceed \$15 for each separate parcel of property, real or personal, covered by the petition and subject to appeal. However, no such filing fee may be required with respect to an appeal from the disapproval of homestead exemption under s. 196.151 or from the denial of tax deferral under s. 197.253. Only a single filing fee shall be charged under this section as to any particular parcel of property despite the existence of multiple issues and hearings pertaining to such parcel. For joint petitions filed pursuant to s. 194.011(3)(e) or (f), a single filing fee shall be charged. Such fee shall be calculated as the cost of the special magistrate for the time involved in hearing the joint petition and shall not exceed \$5 per parcel. Said fee is to be proportionately paid by affected parcel owners.

(2) The value adjustment board shall waive the filing fee with respect to a petition filed by a taxpayer who demonstrates at the time of filing, by an appropriate certificate or other documentation issued by the Department of Children and Family Services and submitted with the petition, that the petitioner is then an eligible recipient of temporary assistance under chapter 414.

(3) All filing fees imposed under this section shall be paid to the clerk of the value adjustment board at the time of filing. If such fees are not paid at that time, the petition shall be deemed invalid and shall be rejected.

(4) All filing fees collected by the clerk shall be allocated and utilized to defray, to the extent possible, the costs incurred in connection with the administration and operation of the value adjustment board.

History.--s. 19, ch. 83-204; s. 210, ch. 85-342; s. 2, ch. 86-175; s. 4, ch. 86-300; s. 2, ch. 88-146; s. 144, ch. 91-112; s. 55, ch. 96-175; s. 18, ch. 99-8; s. 3, ch. 2000-262; s. 70, ch. 2004-11.

194.015 Value adjustment board.--There is hereby created a value adjustment board for each county, which shall consist of two members of the governing body of the county as elected from the membership of the board of said governing body, one of whom shall be elected chairperson, and one member of the school board as elected from the membership of the school board, and two citizen members, one of whom shall be appointed by the governing body of the county and must own homestead property within the county and one of whom must be appointed by the school board and must own a business occupying commercial space located within the school district. A citizen member may not be a member or an employee of any taxing authority, and may not be a person who represents property owners in any administrative or judicial review of property taxes. The members of the board may be temporarily replaced by other members of the respective boards on appointment by their respective chairpersons. Any three members shall constitute a quorum of the board, except that each quorum must include at

least one member of said governing board, at least one member of the school board, and at least one citizen member and no meeting of the board shall take place unless a quorum is present. Members of the board may receive such per diem compensation as is allowed by law for state employees if both bodies elect to allow such compensation. The clerk of the governing body of the county shall be the clerk of the value adjustment board. The board shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. No meeting of the board shall take place unless counsel to the board is present. Two-fifths of the expenses of the board shall be borne by the district school board and three-fifths by the district county commission.

History.--s. 2, ch. 69-140; s. 1, ch. 69-300; s. 26, ch. 70-243; s. 22, ch. 73-172; s. 5, ch. 74-234; s. 1, ch. 75-77; s. 6, ch. 76-133; s. 2, ch. 76-234; s. 1, ch. 77-69; s. 145, ch. 91-112; s. 978, ch. 95-147; s. 4, ch. 2008-197.

194.032 Hearing purposes; timetable.--

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

1. Hearing petitions relating to assessments filed pursuant to s. 194.011(3).
2. Hearing complaints relating to homestead exemptions as provided for under s. 196.151.
3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications under s. 196.011.
4. Hearing appeals concerning ad valorem tax deferrals and classifications.

(b) Notwithstanding the provisions of paragraph (a), the value adjustment board may meet prior to the approval of the assessment rolls by the Department of Revenue, but not earlier than July 1, to hear appeals pertaining to the denial by the property appraiser of exemptions, agricultural and high-water recharge classifications, classifications as historic property used for commercial or certain nonprofit purposes, and deferrals under subparagraphs (a)2., 3., and 4. In such event, however, the board may not certify any assessments under s. 193.122 until the Department of Revenue has approved the assessments in accordance with s. 193.1142 and all hearings have been held with respect to the particular parcel under appeal.

(c) In no event may a hearing be held pursuant to this subsection relative to valuation issues prior to completion of the hearings required under s. 200.065(2)(c).

(2) 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 no less than 25 calendar days prior to the day of such scheduled appearance. Upon receipt of this notification, the petitioner shall have the right to reschedule the hearing a single time by submitting to the clerk of the governing body of the county a written request to reschedule, no less than 5 calendar days before the day of the originally scheduled hearing. A copy of the property record card containing relevant information used in computing the taxpayer's current assessment shall be included with such notice, if said card was requested by the taxpayer. Such request shall be made by checking an appropriate box on the petition form. No petitioner shall be required to wait for more than 4 hours from the scheduled time; and, if his or her petition is not heard in that time, the petitioner may, at his or her option, report to the chairperson of the meeting that he or she intends to leave; and, if he or she is not heard immediately, the petitioner's administrative remedies will be deemed to be exhausted, and he or she may seek further relief as he or she deems appropriate. Failure on three occasions with respect to any single tax year to convene at the scheduled time of meetings of the board shall constitute grounds for removal from office by the Governor for neglect of duties.

(3) The board shall remain in session from day to day until all petitions, complaints, appeals, and disputes are heard. If all or any part of an assessment roll has been disapproved by the department pursuant to s. 193.1142, the board shall reconvene to hear petitions, complaints, or appeals and disputes filed upon the finally approved roll or part of a roll.

History.--s. 4, ch. 69-140; ss. 21, 35, ch. 69-106; s. 27, ch. 70-243; s. 12, ch. 73-172; s. 6, ch. 74-234; s. 7, ch. 76-133; s. 3, ch. 76-234; s. 1, ch. 77-174; s. 13, ch. 77-301; ss. 1, 9, 37, ch. 80-274; s. 5, ch. 81-308; ss. 14, 16, ch. 82-208; ss. 9, 11, 23, 26, 80, ch. 82-226; ss. 20, 21, 22, 23, 24, 25, ch. 83-204; s. 146, ch. 91-112; s. 979, ch. 95-147; s. 5, ch. 96-204; s. 4, ch. 97-117; s. 2, ch. 98-52; s. 3, ch. 2002-18; s. 2, ch. 2004-349.

194.034 Hearing procedures; rules.--

(1)(a) Petitioners before the board may be represented by an attorney or agent and present testimony and other evidence. The property appraiser or his or her authorized representatives may be represented by an attorney in defending the property appraiser's assessment or opposing an exemption and may present testimony and other evidence. The property appraiser, each petitioner, and all witnesses shall be required, upon the request of either party, to testify under oath as administered by the chairperson of the board. Hearings shall be conducted in the manner prescribed by rules of the department, which rules shall include the right of cross-examination of any witness.

(b) Nothing herein shall preclude an aggrieved taxpayer from contesting his or her assessment in the manner provided by s. 194.171, whether or not he or she has initiated an action pursuant to s. 194.011.

(c) The rules shall provide that no evidence shall be considered by the board except when presented during the time scheduled for the petitioner's hearing or at a time when the petitioner has been given reasonable notice; that a verbatim record of the proceedings shall be made, and proof of any documentary evidence presented shall be preserved and made available to the Department of Revenue, if requested; and that further judicial proceedings shall be as provided in s. 194.036.

(d) Notwithstanding the provisions of this subsection, no petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were requested of the petitioner in writing by the property appraiser of which the petitioner had knowledge and denied to the property appraiser.

(e) Chapter 120 does not apply to hearings of the value adjustment board.

(f) An assessment may not be contested until a return required by s. 193.052 has been filed.

(2) In each case, except when a complaint is withdrawn by the petitioner or is acknowledged as correct by the property appraiser, the value adjustment board shall render a written decision. All such decisions shall be issued within 20 calendar days of the last day the board is in session under s. 194.032. The decision of the board shall contain findings of fact and conclusions of law and shall include reasons for upholding or overturning the determination of the property appraiser. When a special magistrate has been appointed, the recommendations of the special magistrate shall be considered by the board. The clerk, upon issuance of the decisions, shall, on a form provided by the Department of Revenue, notify by first-class mail each taxpayer, the property appraiser, and the department of the decision of the board.

(3) Appearance before an advisory board or agency created by the county may not be required as a prerequisite condition to appearing before the value adjustment board.

(4) A condominium homeowners' association may appear before the board to present testimony and evidence regarding the assessment of condominium units which the association represents. Such testimony and evidence shall be considered by the board with respect to hearing petitions filed by individual condominium unit owners, unless the owner requests otherwise.

(5) For the purposes of review of a petition, the board may consider assessments among comparable properties within homogeneous areas or neighborhoods.

(6) For purposes of hearing joint petitions filed pursuant to s. 194.011(3)(e), each included parcel shall be considered by the board as a separate petition. Such separate petitions shall be heard consecutively by the board. If a special magistrate is appointed, such separate petitions shall all be assigned to the same special magistrate.

History.--s. 21, ch. 83-204; s. 12, ch. 83-216; s. 3, ch. 86-175; s. 147, ch. 91-112; s. 2, ch. 92-32; s. 980, ch. 95-147; s. 71, ch. 2004-11.

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 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 and classifications 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. 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 compensation of

special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board.

(2) The value adjustment board of each county may employ qualified property appraisers or evaluators to appear before the value adjustment board at that meeting of the board which is held for the purpose of hearing complaints. Such property appraisers or evaluators shall present testimony as to the just value of any property the value of which is contested before the board and shall submit to examination by the board, the taxpayer, and the property appraiser.

(3) The department shall provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state. Such training shall emphasize the department's standard measures of value, including the guidelines for real and tangible personal property. Notwithstanding subsection (1), a person who has 3 years of relevant experience and who has completed the training provided by the department under this subsection may be appointed as a special magistrate. The training shall be open to the public. The department shall charge tuition fees to any person attending this training in an amount sufficient to fund the department's costs to conduct all aspects of the training. The department shall deposit the fees collected into the Certification Program Trust Fund pursuant to s. 195.002(2).

History.--s. 22, ch. 83-204; s. 148, ch. 91-112; s. 981, ch. 95-147; s. 4, ch. 2002-18; s. 72, ch. 2004-11; s. 5, ch. 2008-197.

194.036 Appeals.--Appeals of the decisions of the board shall be as follows:

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

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

(b) There is a variance from the property appraiser's assessed value in excess of the following: 15 percent variance from any assessment of \$50,000 or less; 10 percent variance from any assessment in excess of \$50,000 but not in excess of \$500,000; 7.5 percent variance from any assessment in excess of \$500,000 but not in excess of \$1 million; or 5 percent variance from any assessment in excess of \$1 million; or

(c) There is an assertion by the property appraiser to the Department of Revenue that there exists a consistent and continuous violation of the intent of the law or administrative rules by the value adjustment board in its decisions. The property appraiser shall notify the department of those portions of the tax roll for which the assertion is made. The department shall thereupon notify the clerk of the board who shall, within 15 days of the notification by the department, send the written decisions of the board to the department.

Within 30 days of the receipt of the decisions by the department, the department shall notify the property appraiser of its decision relative to further judicial proceedings. If the department finds upon investigation that a consistent and continuous violation of the intent of the law or administrative rules by the board has occurred, it shall so inform the property appraiser, who may thereupon bring suit in circuit court against the value adjustment board for injunctive relief to prohibit continuation of the violation of the law or administrative rules and for a mandatory injunction to restore the tax roll to its just value in such amount as determined by judicial proceeding. However, when a final judicial decision is rendered as a result of an appeal filed pursuant to this paragraph which alters or changes an assessment of a parcel of property of any taxpayer not a party to such procedure, such taxpayer shall have 60 days from the date of the final judicial decision to file an action to contest such altered or changed assessment pursuant to s. 194.171(1), and the provisions of s. 194.171(2) shall not bar such action.

(2) Any taxpayer may bring an action to contest a tax assessment pursuant to s. 194.171.

(3) The circuit court proceeding shall be de novo, and the burden of proof shall be upon the party initiating the action.

History.--s. 23, ch. 83-204; s. 149, ch. 91-112; s. 982, ch. 95-147.

194.037 Disclosure of tax impact.--

(1) After hearing all petitions, complaints, appeals, and disputes, the clerk shall make public notice of the findings and results of the board in at least a quarter-page size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county. The newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter, pursuant to chapter 50. The headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(a) In the first column, the number of parcels for which the board granted exemptions that had been denied or that had not been acted upon by the property appraiser.

(b) In the second column, the number of parcels for which petitions were filed concerning a property tax exemption.

(c) In the third column, the number of parcels for which the board considered the petition and reduced the assessment from that made by the property appraiser on the initial assessment roll.

(d) In the fourth column, the number of parcels for which petitions were filed but not considered by the board because such petitions were withdrawn or settled prior to the board's consideration.

(e) In the fifth column, the number of parcels for which petitions were filed requesting a change in assessed value, including requested changes in assessment classification.

(f) In the sixth column, the net change in taxable value from the assessor's initial roll which results from board decisions.

(g) In the seventh column, the net shift in taxes to parcels not granted relief by the board. The shift shall be computed as the amount shown in column 6 multiplied by the applicable millage rates adopted by the taxing authorities in hearings held pursuant to s. 200.065(2)(d) or adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution, but without adjustment as authorized pursuant to s. 200.065(6). If for any taxing authority the hearing has not been completed at the time the notice required herein is prepared, the millage rate used shall be that adopted in the hearing held pursuant to s. 200.065(2)(c).

(2) There must be a line entry in each of the columns described in subsection (1), for each of the following property classes:

(a) Improved residential property, which must be identified as "Residential."

(b) Improved commercial property, which must be identified as "Commercial."

(c) Improved industrial property, utility property, leasehold interests, subsurface rights, and other property not properly attributable to other classes listed in this section, which must be identified as "Industrial and Misc."

(d) Agricultural property, which must be identified as "Agricultural."

(e) High-water recharge property, which must be identified as "High-Water Recharge."

(f) Historic property used for commercial or certain nonprofit purposes, which shall be identified as "Historic Commercial or Nonprofit."

(g) Tangible personal property, which must be identified as "Business Machinery and Equipment."

(h) Vacant land and nonagricultural acreage, which must be identified as "Vacant Lots and Acreage."

(3) The form of the notice, including appropriate narrative and column descriptions, shall be prescribed by department rule and shall be brief and nontechnical to minimize confusion for the average taxpayer.

History.--s. 24, ch. 83-204; s. 150, ch. 91-112; s. 6, ch. 96-204; s. 5, ch. 97-117; s. 6, ch. 2007-321; s. 6, ch. 2008-197.

PART II

JUDICIAL REVIEW

194.171 Circuit court to have original jurisdiction in tax cases.

194.181 Parties to a tax suit.

194.192 Costs; interest on unpaid taxes; penalty.

194.211 Injunction against tax sales.

194.231 Parties in suits relating to distribution, etc., of funds to counties, etc.

194.171 Circuit court to have original jurisdiction in tax cases.--

(1) The circuit courts have original jurisdiction at law of all matters relating to property taxation. Venue is in the county where the property is located, except that venue shall be in Leon County when the property is assessed pursuant to s. 193.085(4).

(2) No action shall be brought to contest a tax assessment after 60 days from the date the assessment being contested is certified for collection under s. 193.122(2), or after 60 days from the date a decision is rendered concerning such assessment by the value adjustment board if a petition contesting the assessment had not received final action by the value adjustment board prior to extension of the roll under s. 197.323.

(3) Before an action to contest a tax assessment may be brought, the taxpayer shall pay to the collector not less than the amount of the tax which the taxpayer admits in good faith to be owing. The collector shall issue a receipt for the payment, and the receipt shall be filed with the complaint. Notwithstanding the provisions of chapter 197, payment of the taxes the taxpayer admits to be due and owing and the timely filing of an action pursuant to this section shall suspend all procedures for the collection of taxes prior to final disposition of the action.

(4) Payment of a tax shall not be deemed an admission that the tax was due and shall not prejudice the right to bring a timely action as provided in subsection (2) to challenge such tax and seek a refund.

(5) No action to contest a tax assessment may be maintained, and any such action shall be dismissed, unless all taxes on the property assessed in years after the action is brought, which the taxpayer in good faith admits to be owing, are paid before they become delinquent.

(6) The requirements of subsections (2), (3), and (5) are jurisdictional. No court shall have jurisdiction in such cases until after the requirements of both subsections (2) and (3) have been met. A court shall lose jurisdiction of a case when the taxpayer has failed to comply with the requirements of subsection (5).

History.--s. 1, ch. 8586, 1921; CGL 1038; s. 2, ch. 29737, 1955; s. 1, ch. 67-538; ss. 1, 2, ch. 69-55; s. 8, ch. 69-102; s. 6, ch. 69-140; ss. 30, 31, ch. 70-243; s. 1, ch. 72-239; s. 6, ch. 74-234; s. 17, ch. 82-226; s. 7, ch. 83-204; s. 56, ch. 83-217; s. 211, ch. 85-342; s. 3, ch. 88-146; s. 151, ch. 91-112; s. 32, ch. 94-353; s. 1470, ch. 95-147.

Note.--Former ss. 192.21, 194.151, 196.01.

194.181 Parties to a tax suit.--

(1) The plaintiff in any tax suit shall be:

(a) The taxpayer or other person contesting the assessment of any tax, the payment of which he or she is responsible for under a statute or a person who is responsible for the entire tax payment pursuant to a contract and has the written consent of the property owner, or the condominium association, cooperative association, or homeowners' association as defined in s. 723.075 which operates the units subject to the assessment; or

(b) The property appraiser pursuant to s. 194.036.

(2) In any case brought by the taxpayer or association contesting the assessment of any property, the county property appraiser shall be party defendant. In any case brought by the property appraiser pursuant to s. 194.036(1)(a) or (b), the taxpayer shall be party defendant. In any case brought by the property appraiser pursuant to s. 194.036(1)(c), the value adjustment board shall be party defendant.

(3) In any suit involving the collection of any tax on property, as well as questions relating to tax certificates or applications for tax deeds, the tax collector charged under the law with collecting such tax shall be the defendant.

(4) In any suit involving a tax other than an ad valorem tax on property, the tax collector charged under the law with collecting such tax shall be defendant. However, this section does not apply in any instance wherein general law provides for some other person to be the party defendant.

(5) In any suit in which the assessment of any tax, or the collection of any tax, tax certificate, or tax deed is contested on the ground that it is contrary to the State Constitution, the official of the state government responsible for overall supervision of the assessment and collection of such tax shall be made a party defendant of such suit. Any such suit shall be brought in that county having venue under s. 194.171 or, when that section is inapplicable, in the Circuit Court of Leon County, and the attorney for the defendant county officer shall upon request represent the state official in any such suit or proceeding, for which he or she shall receive no additional compensation.

(6) In any suit in which the validity of any statute or regulation found in, or issued pursuant to, chapters 192-197, inclusive, is contested, the public officer affected may be a party plaintiff.

History.--s. 3, ch. 8586, 1921; CGL 1040; ss. 1, 2, ch. 69-55; s. 7, ch. 69-140; s. 32, ch. 70-243; s. 1, ch. 73-74; s. 9, ch. 76-133; s. 4, ch. 76-234; s. 1, ch. 77-174; s. 27, ch. 83-204; s. 4, ch. 88-146; s. 152, ch. 91-112; s. 983, ch. 95-147; s. 7, ch. 2004-349.

Note.--Former s. 196.03.

194.192 Costs; interest on unpaid taxes; penalty.--

(1) In any suit involving the assessment or collection of any tax, the court shall assess all costs.

(2) If the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid, it shall enter judgment against the taxpayer for the deficiency and for interest on the deficiency at the rate of 12 percent per year from the date the tax became delinquent. If it finds that the amount of tax which the taxpayer has admitted to be owing is grossly disproportionate to the amount of tax found to be due and that the taxpayer's admission was not made in good faith, the court shall also assess a penalty at the rate of 10 percent of the deficiency per year from the date the tax became delinquent.

History.--s. 8, ch. 69-140; s. 33, ch. 70-243; s. 35, ch. 71-355; s. 2, ch. 72-239; s. 18, ch. 82-226; s. 4, ch. 96-397.

194.211 Injunction against tax sales.--In any tax suit, the court may issue injunctions to restrain the sale of real or personal property for any tax which shall appear to be contrary to law or equity, and in no case shall any complaint be dismissed because the tax assessment complained of, or the injunction asked for, involves personal property only.

History.--s. 2, ch. 8586, 1921; CGL 1039; ss. 1, 2, ch. 69-55; s. 34, ch. 70-243.

Note.--Former s. 196.02.

194.231 Parties in suits relating to distribution, etc., of funds to counties, etc.--

(1) No court shall hereafter enter any interlocutory or final order, decree, or judgment in any case involving the validity or constitutionality of any law relating to the distribution, apportionment, or allocation of any state excise or other taxes equally to the several counties in this state under such law, until it shall be made to appear of record in the case that the party to the cause seeking such order, decree, or judgment has duly served upon the chairperson of the board of county commissioners or the chairperson of the school board of each of the counties of this state or upon both such chairpersons of said boards, depending upon whether one or both of said boards has an interest in the subject matter, written notice of the pendency of the case and thereafter of all hearings of all applications

or motions for such orders, decrees of judgments in such cases, at least 5 days before all hearings.

(2) Such notice shall state the time, place and date of each such hearing and adjournments thereof, and shall be accompanied by copy of the complaint and petition, motion or application for any such order, decree, or judgment and the exhibits thereto attached, if any; and upon such service such boards of such counties having an interest in the subject matter of the case shall forthwith be and become parties to the cause, and shall be by order of the court properly aligned as parties plaintiff or defendant.

History.--s. 1, ch. 19029, 1939; CGL 1940 Supp. 1279(110-f); s. 2, ch. 29737, 1955; ss. 1, 2, ch. 69-55; s. 1, ch. 69-300; s. 984, ch. 95-147.

Note.--Former s. 196.13.

PART III

ASSESSMENT: PRESUMPTION OF CORRECTNESS

194.301 Challenge to ad valorem tax assessment.

194.3015 Burden of proof.

¹194.301 Challenge to ad valorem tax assessment.--

(1) In any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the property appraiser's assessment is presumed correct if the appraiser proves by a preponderance of the evidence that the assessment was arrived at by complying with s. 193.011, any other applicable statutory requirements relating to classified use values or assessment caps, and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. However, a taxpayer who challenges an assessment is entitled to a determination by the value adjustment board or court of the appropriateness of the appraisal methodology used in making the assessment. The value of property must be determined by an appraisal methodology that complies with the criteria of s. 193.011 and professionally accepted appraisal practices. The provisions of this subsection preempt any prior case law that is inconsistent with this subsection.

(2) In an administrative or judicial action in which an ad valorem tax assessment is challenged, the burden of proof is on the party initiating the challenge.

(a) If the challenge is to the assessed value of the property, the party initiating the challenge has the burden of proving by a preponderance of the evidence that the assessed value:

1. Does not represent the just value of the property after taking into account any applicable limits on annual increases in the value of the property;

2. Does not represent the classified use value or fractional value of the property if the property is required to be assessed based on its character or use; or

3. Is arbitrarily based on appraisal practices that are different from the appraisal practices generally applied by the property appraiser to comparable property within the same county.

(b) If the party challenging the assessment satisfies the requirements of paragraph (a), the presumption provided in subsection (1) is overcome, and the value adjustment board or the court shall establish the assessment if there is competent, substantial evidence of value in the record which cumulatively meets the criteria of s. 193.011 and professionally accepted appraisal practices. If the record lacks such evidence, the matter must be remanded to the property appraiser with appropriate directions from the value adjustment board or the court, and the property appraiser must comply with those directions.

(c) If the revised assessment following remand is challenged, the procedures described in this section apply.

(d) If the challenge is to the classification or exemption status of the property, there is no presumption of correctness, and the party initiating the challenge has the burden of proving by a preponderance of the evidence that the classification or exempt status assigned to the property is incorrect.

History.--s. 1, ch. 97-85; s. 1, ch. 2009-121.

¹**Note.**--Section 3, ch. 2009-121, provides that "[t]his act shall take effect [June 4, 2009,] and shall first apply to assessments in 2009."

¹**194.3015 Burden of proof.**--

(1) It is the express intent of the Legislature that a taxpayer shall never have the burden of proving that the property appraiser's assessment is not supported by any reasonable hypothesis of a legal assessment. All cases establishing the every-reasonable-hypothesis standard were expressly rejected by the Legislature on the adoption of chapter 97-85, Laws of Florida. It is the further intent of the Legislature that any cases published since 1997 citing the every-reasonable-hypothesis standard are expressly rejected to the extent that they are interpretative of legislative intent.

(2) This section is intended to clarify existing law and apply retroactively.

History.--s. 2, ch. 2009-121.

¹**Note.**--Section 3, ch. 2009-121, provides that "[t]his act shall take effect [June 4, 2009,] and shall first apply to assessments in 2009."

CHAPTER 196

EXEMPTION

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196.001 Property subject to taxation.--Unless expressly exempted from taxation, the following property shall be subject to taxation in the manner provided by law:

(1) All real and personal property in this state and all personal property belonging to persons residing in this state; and

(2) All leasehold interests in property of the United States, of the state, or any political subdivision, municipality, agency, authority, or other public body corporate of the state.

History.--s. 16, ch. 71-133.

¹196.002 Legislative intent.--For the purposes of assessment roll recordkeeping and reporting, the exemptions authorized by each provision of this chapter shall be reported separately for each category of exemption in each such provision, both as to total value exempted and as to the number of exemptions granted.

History.--s. 8, ch. 79-332; s. 3, ch. 2007-339.

¹Note.--Section 1, ch. 2007-339, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) In anticipation of implementing this act, the executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of making necessary changes and preparations so that forms, methods, and data records, electronic or otherwise, are ready and in place if sections 3 through 9 and sections 10, 12, and 14 . . . of this act become law.

"(3) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

196.011 Annual application required for exemption.--

(1)(a) Every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(b) The form to apply for an exemption under s. 196.031, s. 196.081, s. 196.091, s. 196.101, or s. 196.202 must include a space for the applicant to list the social security number of the applicant and of the applicant's spouse, if any. If an applicant files a timely and otherwise complete application, and omits the required social security numbers, the application is incomplete. In that event, the property appraiser shall contact the applicant, who may refile a complete application by April 1. Failure to file a complete application

by that date constitutes a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(2) However, application for exemption will not be required on public roads rights-of-way and borrow pits owned, leased, or held for exclusive governmental use and benefit or on property owned and used exclusively by a municipality for municipal or public purposes in order for such property to be released from all ad valorem taxation.

(3) It shall not be necessary to make annual application for exemption on houses of public worship, the lots on which they are located, personal property located therein or thereon, parsonages, burial grounds and tombs owned by houses of public worship, individually owned burial rights not held for speculation, or other such property not rented or hired out for other than religious or educational purposes at any time; household goods and personal effects of permanent residents of this state; and property of the state or any county, any municipality, any school district, or community college district thereof.

(4) When any property has been determined to be fully exempt from taxation because of its exclusive use for religious, literary, scientific, or charitable purposes and the application for its exemption has met the criteria of s. 196.195, the property appraiser may accept, in lieu of the annual application for exemption, a statement certified under oath that there has been no change in the ownership and use of the property.

(5) The owner of property that received an exemption in the prior year, or a property owner who filed an original application that was denied in the prior year solely for not being timely filed, may reapply on a short form as provided by the department. The short form shall require the applicant to affirm that the use of the property and his or her status as a permanent resident have not changed since the initial application.

¹(6)(a) Once an original application for tax exemption has been granted, in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant, and the property appraiser shall accept from each such applicant a renewal application on a form prescribed by the Department of Revenue. Such renewal application shall be accepted as evidence of exemption by the property appraiser unless he or she denies the application. Upon denial, the property appraiser shall serve, on or before July 1 of each year, a notice setting forth the grounds for denial on the applicant by first-class mail. Any applicant objecting to such denial may file a petition as provided for in s. 194.011(3).

(b) Once an original application for tax exemption has been granted under s. 196.26, in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant on a form prescribed by the Department of Revenue. The applicant must certify on the form that the use of the property complies with the restrictions and requirements of the conservation easement. The form shall include a statement that the exemption granted under s. 196.26 will not be renewed unless the application is returned to the property appraiser.

(7) The value adjustment board shall grant any exemption for an otherwise eligible applicant if the applicant can clearly document that failure to apply by March 1 was the result of postal error.

(8) Any applicant who is qualified to receive any exemption under subsection (1) and who fails to file an application by March 1, must file an application for the exemption with the property appraiser on or before the 25th day following the mailing by the property appraiser of the notices required under s. 194.011(1). Upon receipt of sufficient evidence, as determined by the property appraiser, demonstrating the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrating extenuating circumstances judged by the property appraiser to warrant granting the exemption, the property appraiser may grant the exemption. If the applicant fails to produce sufficient evidence demonstrating the applicant was unable to apply for the exemption in a timely manner or otherwise demonstrating extenuating circumstances as judged by the property appraiser, the applicant may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the exemption be granted. Such petition must be filed during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding the provisions of s. 194.013, such person must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the exemption and demonstrates particular extenuating circumstances judged by the value adjustment board to warrant granting the exemption, the value adjustment board may grant the exemption for the current year.

¹(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 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.

(b) The owner of any property granted an exemption under s. 196.26 shall notify the property appraiser promptly whenever the use of the property no longer complies with the restrictions and requirements of the conservation easement. If the property owner fails to so notify the property appraiser and the property appraiser determines that for any year within the preceding 10 years the owner was not entitled to receive the exemption, the owner of the property is subject to taxes exempted as a result of the failure plus 18 percent interest per annum and a penalty of 100 percent of the taxes exempted. The provisions for tax liens in paragraph (a) apply to property granted an exemption under s. 196.26.

(c) 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 be made for the veteran's disability discount granted pursuant to s. 6(g), Art. VII of the State Constitution after an initial application is made and the discount granted. The disabled veteran receiving a discount for which annual application has been waived shall notify the property appraiser promptly whenever the use of the property or the percentage of disability to which the veteran is entitled changes. If a disabled veteran fails to notify the property appraiser and the property appraiser determines that for any year within the prior 10 years the veteran was not entitled to receive all or a portion of such discount, the penalties and processes in paragraph (a) relating to the failure to notify the property appraiser of ineligibility for an exemption shall apply.

(d) For any exemption under s. 196.101(2), the statement concerning gross income must be filed with the property appraiser not later than March 1 of every year.

(e) If an exemption for which the annual application is waived pursuant to this subsection will be denied by the property appraiser in the absence of the refiling of the application, notification of an intent to deny the exemption shall be mailed to the owner of the property prior to February 1. If the property appraiser fails to timely mail such notice, the application deadline for such property owner pursuant to subsection (1) shall be extended to 28 days after the date on which the property appraiser mails such notice.

(10) At the option of the property appraiser and notwithstanding any other provision of this section, initial or original applications for homestead exemption for the succeeding year may be accepted and granted after March 1. Reapplication on a short form as authorized by subsection (5) shall be required if the county has not waived the

requirement of an annual application. Once the initial or original application and reapplication have been granted, the property may qualify for the exemption in each succeeding year pursuant to the provisions of subsection (6) or subsection (9).

(11) For exemptions enumerated in paragraph (1)(b), granted for the 2001 tax year and thereafter, social security numbers of the applicant and the applicant's spouse, if any, are required and must be submitted to the department. Applications filed pursuant to subsection (5) or subsection (6) may be required to include social security numbers of the applicant and the applicant's spouse, if any, and shall include such information if filed for the 2001 tax year or thereafter. For counties where the annual application requirement has been waived, property appraisers may require refiling of an application to obtain such information.

(12) Notwithstanding subsection (1), when the owner of property otherwise entitled to a religious exemption from ad valorem taxation fails to timely file an application for exemption, and because of a misidentification of property ownership on the property tax roll the owner is not properly notified of the tax obligation by the property appraiser and the tax collector, the owner of the property may file an application for exemption with the property appraiser. The property appraiser must consider the application, and if he or she determines the owner of the property would have been entitled to the exemption had the property owner timely applied, the property appraiser must grant the exemption. Any taxes assessed on such property shall be canceled, and if paid, refunded. Any tax certificates outstanding on such property shall be canceled and refund made pursuant to s. 197.432(10).

History.--s. 1, ch. 63-342; ss. 1, 2, ch. 69-55; ss. 21, 35, ch. 69-106; s. 4, ch. 71-133; s. 1, ch. 72-276; s. 2, ch. 72-290; s. 2, ch. 72-367; s. 1, ch. 74-2; s. 14, ch. 74-234; s. 3, ch. 74-264; s. 7, ch. 76-234; s. 1, ch. 77-102; s. 34, ch. 79-164; s. 17, ch. 79-334; s. 2, ch. 80-274; s. 1, ch. 81-219; s. 7, ch. 81-308; s. 13, ch. 82-226; s. 25, ch. 83-204; s. 8, ch. 85-202; s. 1, ch. 85-315; s. 1, ch. 88-65; s. 3, ch. 88-101; s. 59, ch. 89-356; s. 1, ch. 89-365; s. 3, ch. 90-343; s. 155, ch. 91-112; s. 4, ch. 92-32; ss. 22, 45, ch. 94-353; s. 1471, ch. 95-147; s. 1, ch. 98-289; s. 6, ch. 2000-157; s. 1, ch. 2000-262; s. 4, ch. 2000-335; s. 2, ch. 2007-36; s. 2, ch. 2009-135; s. 5, ch. 2009-157.

¹**Note.**--Section 9, ch. 2009-157, provides that "[t]his act shall take effect [June 10, 2009,] and shall apply to property tax assessments made on or after January 1, 2010."

Note.--Former s. 192.062.

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

(1) "Exempt use of property" or "use of property for exempt purposes" means predominant or exclusive use of property owned by an exempt entity for educational, literary, scientific, religious, charitable, or governmental purposes, as defined in this chapter.

(2) "Exclusive use of property" means use of property solely for exempt purposes. Such purposes may include more than one class of exempt use.

(3) "Predominant use of property" means use of property for exempt purposes in excess of 50 percent but less than exclusive.

(4) "Use" means the exercise of any right or power over real or personal property incident to the ownership of the property.

(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; facilities located 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.

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. 331.303, or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United

States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term "governmental purpose" also includes a direct use of property on federal lands in connection with the Federal Government's Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. "Owned by the lessee" as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of "ownership," buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed "owned" by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(15), and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator's provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

(7) "Charitable purpose" means a function or service 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.

(8) "Hospital" means an institution which possesses a valid license granted under chapter 395 on January 1 of the year for which exemption from ad valorem taxation is requested.

(9) "Nursing home" or "home for special services" means an institution which possesses a valid license under chapter 400 on January 1 of the year for which exemption from ad valorem taxation is requested.

(10) "Gross income" means all income from whatever source derived, including, but not limited to, the following items, whether actually owned by or received by, or not received by but available to, any person or couple: earned income, income from investments, gains derived from dealings in property, interest, rents, royalties, dividends, annuities, income from retirement plans, pensions, trusts, estates and inheritances, and direct and indirect gifts. Gross income specifically does not include payments made for the medical care of

the individual, return of principal on the sale of a home, social security benefits, or public assistance payments payable to the person or assigned to an organization designated specifically for the support or benefit of that person.

(11) "Totally and permanently disabled person" means a person who is currently certified by two licensed physicians of this state who are professionally unrelated, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration, to be totally and permanently disabled.

(12) "Couple" means a husband and wife legally married under the laws of any state or territorial possession of the United States or of any foreign country.

(13) "Real estate used and owned as a homestead" means real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion thereof used for commercial purposes, with the title of such property being recorded in the official records of the county in which the property is located. Property rented for more than 6 months is presumed to be used for commercial purposes.

(14) "Renewable energy source device" or "device" means any of the following equipment which, when installed in connection with a dwelling unit or other structure, collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

(a) Solar energy collectors.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, conventional backup systems of any type are not included in this definition.

(j) Windmills.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(15) "New business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant;

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(b) Any business located in an enterprise zone or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

(c) A business that is situated on property annexed into a municipality and that, at the time of the annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

(16) "Expansion of an existing business" means:

(a)1. A business establishing 10 or more jobs to employ 10 or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

2. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operations on a site colocated with a commercial or industrial operation owned by the

same business, resulting in a net increase in employment of not less than 10 percent or an increase in productive output of not less than 10 percent.

(b) Any business located in an enterprise zone or brownfield area that increases operations on a site colocated with a commercial or industrial operation owned by the same business.

(17) "Permanent resident" means a person who has established a permanent residence as defined in subsection (18).

(18) "Permanent residence" means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. A person may have only one permanent residence at a time; and, once a permanent residence is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred.

(19) "Enterprise zone" means an area designated as an enterprise zone pursuant to s. 290.0065. This subsection expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

(20) "Ex-servicemember" means any person who has served as a member of the United States Armed Forces on active duty or state active duty, a member of the Florida National Guard, or a member of the United States Reserve Forces.

History.--s. 1, ch. 71-133; s. 1, ch. 72-367; s. 1, ch. 73-340; s. 14, ch. 74-234; s. 13, ch. 76-234; s. 1, ch. 77-447; s. 6, ch. 80-163; s. 1, ch. 80-347; s. 2, ch. 81-219; s. 85, ch. 81-259; s. 9, ch. 82-119; s. 29, ch. 84-356; s. 1, ch. 88-102; s. 45, ch. 91-45; s. 87, ch. 91-112; s. 1, ch. 91-121; s. 1, ch. 91-196; s. 3, ch. 92-167; s. 58, ch. 92-289; s. 9, ch. 93-132; s. 3, ch. 93-233; s. 61, ch. 93-268; s. 67, ch. 94-136; ss. 59, 66, ch. 94-353; s. 1472, ch. 95-147; s. 4, ch. 95-404; s. 3, ch. 97-197; s. 25, ch. 97-255; s. 2, ch. 97-294; s. 109, ch. 99-251; s. 11, ch. 99-256; s. 29, ch. 2001-79; s. 2, ch. 2002-183; s. 907, ch. 2002-387; s. 20, ch. 2003-32; s. 1, ch. 2005-42; s. 20, ch. 2005-132; s. 17, ch. 2005-287; s. 52, ch. 2006-60; s. 4, ch. 2006-291; s. 14, ch. 2007-5; s. 6, ch. 2008-227.

196.015 Permanent residency; factual determination by property appraiser.--

Intention to establish a permanent residence in this state is a factual determination to be made, in the first instance, by the property appraiser. Although any one factor is not conclusive of the establishment or nonestablishment of permanent residence, the following are relevant factors that may be considered by the property appraiser in making his or her determination as to the intent of a person claiming a homestead exemption to establish a permanent residence in this state:

(1) A formal declaration of domicile by the applicant recorded in the public records of the county in which the exemption is being sought.

(2) Evidence of the location where the applicant's dependent children are registered for school.

(3) The place of employment of the applicant.

- (4) The previous permanent residency by the applicant in a state other than Florida or in another country and the date non-Florida residency was terminated.
- (5) Proof of voter registration in this state with the voter information card address of the applicant, or other official correspondence from the supervisor of elections providing proof of voter registration, matching the address of the physical location where the exemption is being sought.
- (6) A valid Florida driver's license issued under s. 322.18 or a valid Florida identification card issued under s. 322.051 and evidence of relinquishment of driver's licenses from any other states.
- (7) Issuance of a Florida license tag on any motor vehicle owned by the applicant.
- (8) The address as listed on federal income tax returns filed by the applicant.
- (9) The location where the applicant's bank statements and checking accounts are registered.
- (10) Proof of payment for utilities at the property for which permanent residency is being claimed.

History.--s. 2, ch. 81-219; s. 990, ch. 95-147; s. 8, ch. 2006-312; s. 3, ch. 2009-135.

196.021 Tax returns to show all exemptions and claims.--In making tangible personal property tax returns under this chapter it shall be the duty of the taxpayer to completely disclose and claim any and all lawful or constitutional exemptions from taxation to which the taxpayer may be entitled or which he or she may desire to claim in respect to taxable tangible personal property. The failure to disclose and include such exemptions, if any, in a tangible personal property tax return made under this chapter shall be deemed a waiver of the same on the part of the taxpayer and no such exemption or claim thereof shall thereafter be allowed for that tax year.

History.--s. 14, ch. 20723, 1941; ss. 1, 2, ch. 69-55; s. 991, ch. 95-147.

Note.--Former s. 200.15.

¹196.031 Exemption of homesteads.--

(1)(a) Every person who, on January 1, has the legal title or beneficial title in equity to real property in this state and who resides thereon and in good faith makes the same his or her permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation, except for assessments for special benefits, up to the assessed valuation of \$25,000 on the residence and contiguous real property, as defined in s. 6, Art. VII of the State Constitution. Such title may be held by the entireties, jointly, or in common with others, and the exemption may be apportioned among such of the owners as shall reside thereon,

as their respective interests shall appear. If only one of the owners of an estate held by the entirety or held jointly with the right of survivorship resides on the property, that owner is allowed an exemption of up to the assessed valuation of \$25,000 on the residence and contiguous real property. However, no such exemption of more than \$25,000 is allowed to any one person or on any one dwelling house, except that an exemption up to the assessed valuation of \$25,000 may be allowed on each apartment or mobile home occupied by a tenant-stockholder or member of a cooperative corporation and on each condominium parcel occupied by its owner. Except for owners of an estate held by the entirety or held jointly with the right of survivorship, the amount of the exemption may not exceed the proportionate assessed valuation of all owners who reside on the property. Before such exemption may be granted, the deed or instrument shall be recorded in the official records of the county in which the property is located. The property appraiser may request the applicant to provide additional ownership documents to establish title.

(b) Every person who qualifies to receive the exemption provided in paragraph (a) is entitled to an additional exemption of up to \$25,000 on the assessed valuation greater than \$50,000 for all levies other than school district levies.

(2) As used in subsection (1), the term "cooperative corporation" means a corporation, whether for profit or not for profit, organized for the purpose of owning, maintaining, and operating an apartment building or apartment buildings or a mobile home park to be occupied by its stockholders or members; and the term "tenant-stockholder or member" means an individual who is entitled, solely by reason of his or her ownership of stock or membership in a cooperative corporation, as evidenced in the official records of the office of the clerk of the circuit court of the county in which the apartment building is located, to occupy for dwelling purposes an apartment in a building owned by such corporation or to occupy for dwelling purposes a mobile home which is on or a part of a cooperative unit. A corporation leasing land for a term of 98 years or more for the purpose of maintaining and operating a cooperative thereon shall be deemed the owner for purposes of this exemption.

(3) The exemption provided in this section does not apply with respect to the assessment roll of a county unless and until the roll of that county has been approved by the executive director pursuant to s. 193.1142.

(4) The exemption provided in this section applies only to those parcels classified and assessed as owner-occupied residential property or only to the portion of property so classified and assessed.

(5) A person who is receiving or claiming the benefit of an ad valorem tax exemption or a tax credit in another state where permanent residency is required as a basis for the granting of that ad valorem tax exemption or tax credit is not entitled to the homestead exemption provided by this section. This subsection does not apply to a person who has the legal or equitable title to real estate in Florida and maintains thereon the permanent residence of another legally or naturally dependent upon the owner.

(6) When homestead property is damaged or destroyed by misfortune or calamity and the property is uninhabitable on January 1 after the damage or destruction occurs, the homestead exemption may be granted if the property is otherwise qualified and if the property owner notifies the property appraiser that he or she intends to repair or rebuild the property and live in the property as his or her primary residence after the property is repaired or rebuilt and does not claim a homestead exemption on any other property or otherwise violate this section. Failure by the property owner to commence the repair or rebuilding of the homestead property within 3 years after January 1 following the property's damage or destruction constitutes abandonment of the property as a homestead.

²(7) The exemptions provided in paragraphs (1)(a) and (b) and other homestead exemptions shall be applied as follows:

(a) The exemption in paragraph (1)(a) shall apply to the first \$25,000 of assessed value;

(b) The second \$25,000 of assessed value shall be taxable unless other exemptions, as listed in paragraph (d), are applicable in the order listed;

(c) The additional homestead exemption in paragraph (1)(b), for levies other than school district levies, shall be applied to the assessed value greater than \$50,000 before any other exemptions are applied to that assessed value; and

(d) Other exemptions include and shall be applied in the following order: widows, widowers, blind persons, and disabled persons, as provided in s. 196.202; disabled ex-servicemembers and surviving spouses, as provided in s. 196.24, applicable to all levies; the local option low-income senior exemption up to \$50,000, applicable to county levies or municipal levies, as provided in s. 196.075; and the veterans percentage discount, as provided in s. 196.082.

History.--ss. 1, 2, ch. 17060, 1935; CGL 1936 Supp. 897(2); s. 1, ch. 67-339; ss. 1, 2, ch. 69-55; ss. 1, 3, ch. 71-309; s. 1, ch. 72-372; s. 1, ch. 72-373; s. 9, ch. 74-227; s. 1, ch. 74-264; s. 1, ch. 77-102; s. 3, ch. 79-332; s. 4, ch. 80-261; s. 10, ch. 80-274; s. 3, ch. 81-219; s. 9, ch. 81-308; s. 11, ch. 82-208; ss. 24, 80, ch. 82-226; s. 1, ch. 84-327; s. 1, ch. 85-232; s. 5, ch. 92-32; s. 1, ch. 93-65; s. 10, ch. 93-132; ss. 33, 34, ch. 94-353; s. 1473, ch. 95-147; s. 2, ch. 2001-204; s. 908, ch. 2002-387; s. 2, ch. 2006-311; s. 6, ch. 2007-339; s. 8, ch. 2008-173.

¹**Note.**--Section 1, ch. 2007-339, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) In anticipation of implementing this act, the executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of making necessary changes and preparations so that forms, methods, and data records, electronic or otherwise, are ready and in place if sections 3 through 9 and sections 10, 12, and 14 . . . of this act become law.

"(3) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

²**Note.**--Section 13, ch. 2008-173, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

Note.--Former s. 192.12.

196.041 Extent of homestead exemptions.--

(1) Vendees in possession of real estate under bona fide contracts to purchase when such instruments, under which they claim title, are recorded in the office of the clerk of the circuit court where said properties lie, and who reside thereon in good faith and make the same their permanent residence; persons residing on real estate by virtue of dower or other estates therein limited in time by deed, will, jointure, or settlement; and lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a residential parcel or in a condominium parcel as defined in chapter 718, or persons holding leases of 50 years or more, existing prior to June 19, 1973, for the purpose of homestead exemptions from ad valorem taxes and no other purpose, shall be deemed to have legal or beneficial and equitable title to said property. In addition, a tenant-stockholder or member of a cooperative apartment corporation who is entitled solely by reason of ownership of stock or membership in the corporation to occupy for dwelling purposes an apartment in a building owned by the corporation, for the purpose of homestead exemption from ad valorem taxes and for no other purpose, is deemed to have beneficial title in equity to said apartment and a proportionate share of the land on which the building is situated.

(2) A person who otherwise qualifies by the required residence for the homestead tax exemption provided in s. 196.031 shall be entitled to such exemption where the person's possessory right in such real property is based upon an instrument granting to him or her a beneficial interest for life, such interest being hereby declared to be "equitable title to real estate," as that term is employed in s. 6, Art. VII of the State Constitution; and such person shall be entitled to the homestead tax exemption irrespective of whether such interest was created prior or subsequent to the effective date of this act.

History.--s. 2, ch. 17060, 1935; CGL 1936 Supp. 897(3); s. 1, ch. 65-281; s. 2, ch. 67-339; ss. 1, 2, ch. 69-55; s. 1, ch. 69-68; s. 1, ch. 73-201; s. 1, ch. 78-324; s. 35, ch. 79-164; s. 4, ch. 81-219; s. 35, ch. 94-353; s. 1474, ch. 95-147.

Note.--Former s. 192.13.

196.061 Rental of homestead to constitute abandonment.--The rental of an entire dwelling previously claimed to be a homestead for tax purposes shall constitute the abandonment of said dwelling as a homestead, and said abandonment shall continue until such dwelling is physically occupied by the owner thereof. However, such abandonment of such homestead after January 1 of any year shall not affect the homestead exemption for tax purposes for that particular year so long as this provision is not used for 2 consecutive years. The provisions of this section shall not apply to a member of the Armed Forces of the United States whose service in such forces is the result of a mandatory obligation imposed by the federal Selective Service Act or who volunteers for service as a member of the Armed Forces of the United States.

History.--s. 1, ch. 59-270; s. 1, ch. 67-459; ss. 1, 2, ch. 69-55; s. 5, ch. 95-404; s. 8, ch. 96-397.

Note.--Former s. 192.141.

196.071 Homestead exemptions; claims by members of armed forces.--Every person who is entitled to homestead exemption in this state and who is serving in any branch of the Armed Forces of the United States, shall file a claim for such exemption as required by law, either in person, or, if by reason of such service he or she is unable to file such claim in person he or she may file such claim through his or her next of kin or through any other person he or she may duly authorize in writing to file such claim.

History.--s. 1, ch. 28199, 1953; ss. 1, 2, ch. 69-55; s. 992, ch. 95-147.

Note.--Former s. 192.161.

196.075 Additional homestead exemption for persons 65 and older.--

(1) As used in this section, the term:

(a) "Household" means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.

(b) "Household income" means the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.

(2) In accordance with s. 6(f), Art. VII of the State Constitution, the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow an additional homestead exemption of up to \$50,000 for any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age 65, and whose household income does not exceed \$20,000.

(3) Beginning January 1, 2001, the \$20,000 income limitation shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same

period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

(4) An ordinance granting additional homestead exemption as authorized by this section must meet the following requirements:

(a) It must be adopted under the procedures for adoption of a nonemergency ordinance specified in chapter 125 by a board of county commissioners, or chapter 166 by a municipal governing authority.

(b) It must specify that the exemption applies only to taxes levied by the unit of government granting the exemption. Unless otherwise specified by the county or municipality, this exemption will apply to all tax levies of the county or municipality granting the exemption, including dependent special districts and municipal service taxing units.

(c) It must specify the amount of the exemption, which may not exceed \$50,000. If the county or municipality specifies a different exemption amount for dependent special districts or municipal service taxing units, the exemption amount must be uniform in all dependent special districts or municipal service taxing units within the county or municipality.

(d) It must require that a taxpayer claiming the exemption annually submit to the property appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue.

(5) The department must require by rule that the filing of the statement be supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), any request for an extension of time to file returns, and any other documents it finds necessary, for each member of the household, to be submitted for inspection by the property appraiser. The taxpayer's sworn statement shall attest to the accuracy of the documents and grant permission to allow review of the documents if requested by the property appraiser. Submission of supporting documentation is not required for the renewal of an exemption under this section unless the property appraiser requests such documentation. Once the documents have been inspected by the property appraiser, they shall be returned to the taxpayer or otherwise destroyed. The property appraiser is authorized to generate random audits of the taxpayers' sworn statements to ensure the accuracy of the household income reported. If so selected for audit, a taxpayer shall execute Internal Revenue Service Form 8821 or 4506, which authorizes the Internal Revenue Service to release tax information to the property appraiser's office. All reviews conducted in accordance with this section shall be completed on or before June 1. The property appraiser may not grant or renew the exemption if the required documentation requested is not provided.

(6) The board of county commissioners or municipal governing authority must deliver a copy of any ordinance adopted under this section to the property appraiser no later than December 1 of the year prior to the year the exemption will take effect. If the ordinance is repealed, the board of county commissioners or municipal governing authority shall notify the property appraiser no later than December 1 of the year prior to the year the exemption expires.

(7) Those persons entitled to the homestead exemption in s. 196.031 may apply for and receive an additional homestead exemption as provided in this section. Receipt of the additional homestead exemption provided for in this section shall be subject to the provisions of ss. 196.131 and 196.161, if applicable.

(8) If title is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.

(9) 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 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. However, if such an exemption is improperly granted as a result of a clerical mistake or omission by the property appraiser, the person who improperly received the exemption may not be assessed a penalty and interest. 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).

History.--s. 1, ch. 99-341; s. 1, ch. 2002-52; s. 1, ch. 2007-4.

196.081 Exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans.--

(1) Any real estate that is owned and used as a homestead by a veteran who was honorably discharged with a service-connected total and permanent disability and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran is totally and permanently disabled is exempt from taxation, if the veteran is a permanent resident of this state on January 1 of the tax year for which exemption is being claimed or was a permanent resident of this state on January 1 of the year the veteran died.

(2) The production by a veteran or the spouse or surviving spouse of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs or its predecessor before the property appraiser of the county in which

property of the veteran lies is prima facie evidence of the fact that the veteran or the surviving spouse is entitled to the exemption.

(3) If the totally and permanently disabled veteran predeceases his or her spouse and if, upon the death of the veteran, the spouse holds the legal or beneficial title to the homestead and permanently resides thereon as specified in s. 196.031, the exemption from taxation carries over to the benefit of the veteran's spouse until such time as he or she remarries or sells or otherwise disposes of the property. If the spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence, as long as it is used as his or her primary residence and he or she does not remarry.

(4)(a) Any real estate that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran who died from service-connected causes while on active duty is exempt from taxation if the veteran was a permanent resident of this state on January 1 of the year in which the veteran died.

(b) The production by the surviving spouse of a letter that was issued as required under paragraph (a) and that attests the veteran's death while on active duty is prima facie evidence of the fact that the surviving spouse is entitled to an exemption under paragraph (a).

(c) The tax exemption that applies under paragraph (a) to the surviving spouse carries over to the benefit of the veteran's surviving spouse as long as the spouse holds the legal or beneficial title to the homestead, permanently resides thereon as specified in s. 196.031, and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted from the most recent ad valorem tax roll may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.

History.--s. 1, ch. 57-778; s. 1, ch. 65-193; ss. 1, 2, ch. 69-55; s. 2, ch. 71-133; s. 1, ch. 76-163; s. 1, ch. 77-102; s. 1, ch. 83-71; s. 10, ch. 86-177; s. 1, ch. 92-167; s. 62, ch. 93-268; s. 1, ch. 93-400; s. 1, ch. 97-157.

Note.--Former s. 192.111.

196.082 Discounts for disabled veterans.--

(1) Each veteran who is age 65 or older and is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property that the veteran owns and resides in if:

(a) The disability was combat-related;

(b) The veteran was a resident of this state at the time of entering the military service of the United States; and

(c) The veteran was honorably discharged upon separation from military service.

(2) The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.

(3) To qualify for the discount granted under this section, an applicant must submit to the county property appraiser by March 1:

(a) Proof of residency at the time of entering military service;

(b) An official letter from the United States Department of Veterans Affairs which states the percentage of the veteran's service-connected disability and evidence that reasonably identifies the disability as combat-related;

(c) A copy of the veteran's honorable discharge; and

(d) Proof of age as of January 1 of the year to which the discount will apply.

Any applicant who is qualified to receive a discount under this section and who fails to file an application by March 1 may file an application for the discount and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the discount be granted. Such application and petition shall be subject to the same procedures as for exemptions set forth in s. 196.011(8).

(4) If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing, stating the reasons for denial, on or before July 1 of the year for which the application was filed. The applicant may reapply for the discount in a subsequent year using the procedure in this section. All notifications must specify the right to appeal to the value adjustment board and the procedures to follow in obtaining such an appeal under s. 196.193(5).

(5) The property appraiser shall apply the discount by reducing the taxable value before certifying the tax roll to the tax collector.

(a) The property appraiser shall first ascertain all other applicable exemptions, including exemptions provided pursuant to local option, and deduct all other exemptions from the assessed value.

(b) The percentage discount portion of the remaining value which is attributable to service-connected disabilities shall be subtracted to yield the discounted taxable value.

(c) The resulting taxable value shall be included in the certification for use by taxing authorities in setting millage.

(d) The property appraiser shall place the discounted amount on the tax roll when it is extended.

History.--s. 1, ch. 2007-36.

196.091 Exemption for disabled veterans confined to wheelchairs.--

(1) Any real estate used and owned as a homestead by an ex-servicemember who has been honorably discharged with a service-connected total disability and who has a certificate from the United States Government or United States Department of Veterans Affairs or its predecessor, or its successors, certifying that the ex-servicemember is receiving or has received special pecuniary assistance due to disability requiring specially adapted housing and required to use a wheelchair for his or her transportation is exempt from taxation.

(2) The production by an ex-servicemember of a certificate of disability from the United States Government or the United States Department of Veterans Affairs or its predecessor before the property appraiser of the county wherein his or her property lies is prima facie evidence of the fact that he or she is entitled to such exemptions.

(3) In the event the homestead of the wheelchair veteran was or is held with the veteran's spouse as an estate by the entirety, and in the event the veteran did or shall predecease his or her spouse, the exemption from taxation shall carry over to the benefit of the veteran's spouse, provided the spouse continues to reside on such real estate and uses it as his or her domicile or until such time as he or she remarries or sells or otherwise disposes of the property.

History.--s. 1, ch. 57-761; s. 2, ch. 65-193; ss. 1, 2, ch. 69-55; s. 1, ch. 77-102; s. 6, ch. 81-219; s. 7, ch. 84-114; s. 12, ch. 86-177; s. 4, ch. 93-268; s. 993, ch. 95-147.

Note.--Former s. 192.112.

196.095 Exemption for a licensed child care facility operating in an enterprise zone.--

(1) Any real estate used and owned as a child care facility as defined in s. 402.302 which operates in an enterprise zone pursuant to chapter 290 is exempt from taxation.

(2) To claim an enterprise zone child care property tax exemption authorized by this section, a child care facility must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the child care center is located. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to this section and meets the

criteria set out in this section. The governing body or agency shall certify all applications that contain the information required pursuant to this section and meet the criteria set out in this section as eligible to receive an ad valorem tax exemption. The child care center shall be responsible for forwarding all application materials to the governing body or enterprise zone development agency.

(3) The production by the child care facility operator of a current license by the Department of Children and Family Services or local licensing authority and certification by the governing body or enterprise zone where the child care center is located is prima facie evidence that the child care facility owner is entitled to such exemptions.

History.--s. 2, ch. 99-304.

196.101 Exemption for totally and permanently disabled persons.--

(1) Any real estate used and owned as a homestead by any quadriplegic is exempt from taxation.

(2) Any real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person, as defined in s. 196.012(11), who must use a wheelchair for mobility or who is legally blind, is exempt from taxation.

(3) The production by any totally and permanently disabled person entitled to the exemption in subsection (1) or subsection (2) of a certificate of such disability from two licensed doctors of this state or from the United States Department of Veterans Affairs or its predecessor to the property appraiser of the county wherein the property lies, is prima facie evidence of the fact that he or she is entitled to such exemption.

(4)(a) A person entitled to the exemption in subsection (2) must be a permanent resident of this state. Submission of an affidavit that the applicant claiming the exemption under subsection (2) is a permanent resident of this state is prima facie proof of such residence. However, the gross income of all persons residing in or upon the homestead for the prior year shall not exceed \$14,500. For the purposes of this section, the term "gross income" includes United States Department of Veterans Affairs benefits and any social security benefits paid to the persons.

(b) The maximum income limitations permitted in this subsection shall be adjusted annually on January 1, beginning January 1, 1990, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer price index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

(c) The department shall require by rule that the taxpayer annually submit a sworn statement of gross income, pursuant to paragraph (a). The department shall require that

the filing of such statement be accompanied by copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents it deems necessary, for each member of the household. The taxpayer's statement shall attest to the accuracy of such copies. The department shall prescribe and furnish a form to be used for this purpose which form shall include spaces for a separate listing of United States Department of Veterans Affairs benefits and social security benefits. All records produced by the taxpayer under this paragraph are confidential in the hands of the property appraiser, the department, the tax collector, the Auditor General, and the Office of Program Policy Analysis and Government Accountability and shall not be divulged to any person, firm, or corporation except upon court order or order of an administrative body having quasi-judicial powers in ad valorem tax matters, and such records are exempt from the provisions of s. 119.07(1).

(5) The physician's certification shall read as follows:

PHYSICIAN'S CERTIFICATION OF
TOTAL AND PERMANENT DISABILITY

I, (name of physician), a physician licensed pursuant to chapter 458 or chapter 459, Florida Statutes, hereby certify Mr. _____ Mrs. _____ Miss _____ Ms. _____ (name of totally and permanently disabled person), social security number _____, is totally and permanently disabled as of January 1, (year), due to the following mental or physical condition(s):

_____ Quadriplegia

_____ Paraplegia

_____ Hemiplegia

_____ Other total and permanent disability requiring use of a wheelchair for mobility

_____ Legal Blindness

It is my professional belief that the above-named condition(s) render Mr. _____ Mrs. _____ Miss _____ Ms. _____ totally and permanently disabled, and that the foregoing statements are true, correct, and complete to the best of my knowledge and professional belief.

Signature

Address (print)

Date

Florida Board of Medicine or Osteopathic Medicine license number

Issued on

NOTICE TO TAXPAYER: Each Florida resident applying for a total and permanent disability exemption must present to the county property appraiser, on or before March 1 of each year, a copy of this form or a letter from the United States Department of Veterans Affairs or its predecessor. Each form is to be completed by a licensed Florida physician.

NOTICE TO TAXPAYER AND PHYSICIAN: Section 196.131(2), Florida Statutes, provides that any person who shall knowingly and willfully give false information for the purpose of claiming homestead exemption shall be guilty of a misdemeanor of the first degree, punishable by a term of imprisonment not exceeding 1 year or a fine not exceeding \$5,000, or both.

(6) An optometrist licensed under chapter 463 may certify a person to be totally and permanently disabled as a result of legal blindness alone by issuing a certification in accordance with subsection (7). Certification of total and permanent disability due to legal blindness by a physician and an optometrist licensed in this state may be deemed to meet the requirements of subsection (3).

(7) The optometrist's certification shall read as follows:

OPTOMETRIST'S CERTIFICATION OF
TOTAL AND PERMANENT DISABILITY

I, (name of optometrist), an optometrist licensed pursuant to chapter 463, Florida Statutes, hereby certify that Mr. _____ Mrs. _____ Miss _____ Ms. _____ (name of totally and

permanently disabled person), social security number _____, is totally and permanently disabled as of January 1, (year), due to legal blindness.

It is my professional belief that the above-named condition renders Mr. _____ Mrs. _____ Miss _____ Ms. _____ (name of totally and permanently disabled person) totally and permanently disabled and that the foregoing statements are true, correct, and complete to the best of my knowledge and professional belief.

Signature _____

Address (print) _____

Date _____

Florida Board of Optometry license number _____

Issued on _____

NOTICE TO TAXPAYER: Each Florida resident applying for a total and permanent disability exemption must present to the county property appraiser, on or before March 1 of each year, a copy of this form or a letter from the United States Department of Veterans Affairs or its predecessor. Each form is to be completed by a licensed Florida optometrist.

NOTICE TO TAXPAYER AND OPTOMETRIST: Section 196.131(2), Florida Statutes, provides that any person who knowingly and willfully gives false information for the purpose of claiming homestead exemption commits a misdemeanor of the first degree, punishable by a term of imprisonment not exceeding 1 year or a fine not exceeding \$5,000, or both.

History.--s. 1, ch. 59-134; ss. 1, 2, ch. 69-55; s. 17, ch. 76-234; s. 49, ch. 77-104; s. 2, ch. 77-447; ss. 7, 10, ch. 81-219; s. 4, ch. 84-371; s. 26, ch. 85-80; s. 11, ch. 86-177; s. 24, ch. 88-119; s. 4, ch. 89-328; s. 1, ch. 90-299; s. 41, ch. 90-360; s. 2, ch. 92-167; s. 63, ch. 93-268; s. 6, ch. 94-314; s. 36, ch. 94-353; s. 1475, ch. 95-147; s. 55, ch. 96-406; s. 50, ch. 2001-266; s. 1, ch. 2007-121.

Note.--Former s. 192.113.

196.111 Property appraisers may notify persons entitled to homestead exemption; publication of notice; costs.--

(1) As soon as practicable after February 5 of each current year, the property appraisers of the several counties may mail to each person to whom homestead exemption was granted for the year immediately preceding and whose application for exemption for the

current year has not been filed as of February 1 thereof, a form for application for homestead exemption, together with a notice reading substantially as follows:

NOTICE TO TAXPAYERS ENTITLED
TO HOMESTEAD EXEMPTION

Records in this office indicate that you have not filed an application for homestead exemption for the current year.

If you wish to claim such exemption, please fill out the enclosed form and file it with your property appraiser on or before March 1, (year).

Failure to do so may constitute a waiver of said exemption for the year (year).

(Property Appraiser)

_____ County, Florida

(2) The expenditure of funds for any of the requirements of this section is hereby declared to be for a county purpose; and the board of county commissioners of each county shall, if notices are mailed under subsection (1), appropriate and provide the necessary funds for such purposes.

History.--s. 1, ch. 67-534; ss. 1, 2, ch. 69-55; s. 14, ch. 74-234; s. 1, ch. 77-102; s. 17, ch. 83-204; s. 2, ch. 85-315; s. 17, ch. 99-6.

Note.--Former s. 192.142.

196.121 Homestead exemptions; forms.--

(1) The Department of Revenue shall furnish to the property appraiser of each county a sufficient number of printed forms to be filed by taxpayers claiming to be entitled to said exemption and shall prescribe the content of such forms by rule.

(2) The forms shall require the taxpayer to furnish certain information to the property appraiser for the purpose of determining that the taxpayer is a permanent resident as defined in s. 196.012(17). Such information may include, but need not be limited to, the factors enumerated in s. 196.015.

(3) The forms shall also contain the following:

(a) Notice of the tax lien which can be imposed pursuant to s. 196.161.

(b) Notice that information contained in the application will be provided to the Department of Revenue and may also be provided to any state in which the applicant has previously resided.

(c) A requirement that the applicant read or have read to him or her the contents of the form.

History.--s. 4, ch. 17060, 1935; CGL 1936 Supp. 897(5); ss. 1, 2, ch. 69-55; ss. 21, 35, ch. 69-106; s. 1, ch. 77-102; s. 5, ch. 79-332; s. 8, ch. 81-219; s. 58, ch. 83-217; s. 994, ch. 95-147; s. 30, ch. 95-280.

Note.--Former s. 192.15.

196.131 Homestead exemptions; claims.--

(1) At the time each taxpayer files claim for homestead exemption, the property appraiser shall deliver to the taxpayer a receipt over his or her signature, or that of a duly authorized deputy, which shall appropriately identify the property covered in the application, shall bear date as of the day such application is received by the property appraiser, and shall include any serial number or other identifying data desired by said property appraiser. The possession of such receipt shall constitute conclusive proof of the timely filing of such application.

(2) Any person who knowingly and willfully gives false information for the purpose of claiming homestead exemption as provided for in this chapter is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by fine not exceeding \$5,000, or both.

History.--s. 5, ch. 17060, 1935; CGL 1936 Supp. 897(6); s. 1, ch. 21876, 1943; s. 1, ch. 28105, 1953; ss. 1, 2, ch. 69-55; s. 94, ch. 71-136; s. 15, ch. 74-234; s. 1, ch. 77-102; s. 1, ch. 77-174; s. 9, ch. 81-219; s. 3, ch. 85-315; s. 9, ch. 86-300; s. 3, ch. 88-65; s. 38, ch. 94-353; s. 1476, ch. 95-147.

Note.--Former s. 192.16.

196.141 Homestead exemptions; duty of property appraiser.--The property appraiser shall examine each claim for exemption filed with or referred to him or her and shall allow the same, if found to be in accordance with law, by marking the same approved and by making the proper deductions on the tax books.

History.--s. 6, ch. 17060, 1935; CGL 1936 Supp. 897(7); ss. 1, 2, ch. 69-55; s. 1, ch. 77-102; s. 6, ch. 79-332; s. 995, ch. 95-147; s. 38, ch. 98-129; s. 49, ch. 2005-278.

Note.--Former s. 192.17.

196.151 Homestead exemptions; approval, refusal, hearings.--The property appraisers of the counties of the state shall, as soon as practicable after March 1 of each current year and on or before July 1 of that year, carefully consider all applications for

tax exemptions that have been filed in their respective offices on or before March 1 of that year. If, upon investigation, the property appraiser finds that the applicant is entitled to the tax exemption applied for under the law, he or she shall make such entries upon the tax rolls of the county as are necessary to allow the exemption to the applicant. If, after due consideration, the property appraiser finds that the applicant is not entitled under the law to the exemption asked for, he or she shall immediately make out a notice of such disapproval, giving his or her reasons therefor, a copy of which notice must be served upon the applicant by the property appraiser either by personal delivery or by registered mail to the post office address given by the applicant. The applicant may appeal to the value adjustment board the decision of the property appraiser refusing to allow the exemption for which application was made, and the board shall review the application and evidence presented to the property appraiser upon which the applicant based the claim for exemption and shall hear the applicant in person or by agent on behalf of his or her right to such exemption. The value adjustment board shall reverse the decision of the property appraiser in the cause and grant exemption to the applicant if in its judgment the applicant is entitled thereto or shall affirm the decision of the property appraiser. The action of the board is final in the cause unless the applicant shall, within 15 days from the date of refusal of the application by the board, file in the circuit court of the county in which the homestead is situated a proceeding against the property appraiser for a declaratory judgment as is provided by chapter 86 or other appropriate proceeding. The failure of the taxpayer to appear before the property appraiser or value adjustment board or to file any paper other than the application above provided does not constitute any bar or defense to the proceedings.

History.--s. 8, ch. 17060, 1935; CGL 1936 Supp. 897(9); ss. 1, 2, ch. 69-55; s. 36, ch. 71-355; s. 14, ch. 76-133; s. 8, ch. 76-234; s. 11, ch. 81-219; s. 7, ch. 86-300; s. 156, ch. 91-112; s. 11, ch. 93-132; s. 996, ch. 95-147.

Note.--Former s. 192.19.

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

(1)(a) When the estate of any person is being probated or administered in another state under an allegation that such person was a resident of that state and the estate of such person contains real property situate in this state upon which homestead exemption has been allowed pursuant to s. 196.031 for any year or years within 10 years immediately prior to the death of the deceased, then within 3 years after the death of such person the property appraiser of the county where the real property is located shall, upon knowledge of such fact, record a notice of tax lien against the property among the public records of that county, and the property shall be subject to the payment of all taxes exempt thereunder, a penalty of 50 percent of the unpaid taxes for each year, plus 15 percent interest per year, unless the circuit court having jurisdiction over the ancillary administration in this state determines that the decedent was a permanent resident of this state during the year or years an exemption was allowed, whereupon the lien shall not be filed or, if filed, shall be canceled of record by the property appraiser of the county where the real estate is located.

(b) In addition, upon determination by the property appraiser that for any year or years within the prior 10 years a person who was not entitled to a homestead exemption was granted a homestead exemption from ad valorem taxes, it shall be the duty of the property appraiser making such determination to 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 shall be identified in the notice of tax lien. Such property which is situated in this state shall be subject to the taxes exempted thereby, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. However, if a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption shall not be assessed penalty and interest. Before any such lien may be filed, the owner so notified must be given 30 days to pay the taxes, penalties, and interest.

(2) The collection of the taxes provided in this section shall be in the same manner as existing ad valorem taxes, and the above procedure of recapturing such taxes shall be supplemental to any existing provision under the laws of this state.

(3) The lien herein provided shall not attach to the property until the notice of tax lien is filed among the public records of the county where the property is located. Prior to the filing of such notice of lien, any purchaser for value of the subject property shall take free and clear of such lien. Such lien when filed shall attach to any property which is identified in the notice of lien and is owned by the person who illegally or improperly received the homestead exemption. Should such person no longer own property in the county, but own property in some other county or counties in the state, it shall be the duty of the property appraiser to record a notice of tax lien in such other county or counties, identifying the property owned by such person in such county or counties, and it shall become a lien against such property in such county or counties.

History.--ss. 1, 2, 3, 4, ch. 67-134; ss. 1, 2, ch. 69-55; s. 20, ch. 69-216; s. 1, ch. 74-155; s. 1, ch. 77-102; s. 12, ch. 81-219; s. 51, ch. 82-226; s. 10, ch. 86-300; s. 4, ch. 90-343; s. 40, ch. 94-353; s. 1, ch. 95-359; s. 10, ch. 2002-18.

Note.--Former s. 192.215.

196.171 Homestead exemptions; city officials.--City tax assessors, or other officials performing such duties, shall be governed by the provisions of these homestead exemption laws.

History.--s. 7, ch. 17060, 1935; CGL 1936 Supp. 897(8); ss. 1, 2, ch. 69-55.

Note.--Former s. 192.18.

196.175 Renewable energy source exemption.--

(1) Improved real property upon which a renewable energy source device is installed and operated shall be entitled to an exemption in the amount of the original cost of the device,

including the installation cost thereof, but excluding the cost of replacing previously existing property removed or improved in the course of such installation.

(2) The exempt amount authorized under subsection (1) shall apply in full if the device was installed and operative throughout the 12-month period preceding January 1 of the year of application for this exemption. If the device was operative for a portion of that period, the exempt amount authorized under this section shall be reduced proportionally.

(3) It shall be the responsibility of the applicant for an exemption pursuant to this section to demonstrate affirmatively to the satisfaction of the property appraiser that he or she meets the requirements for exemption under this section and that the original cost and the period for which the device was operative, as indicated on the exemption application, are correct.

(4) No exemption authorized pursuant to this section shall be granted for a period of more than 10 years. No exemption shall be granted with respect to renewable energy source devices installed before January 1, 2009.

History.--s. 5, ch. 80-163; s. 997, ch. 95-147; s. 7, ch. 2008-227.

196.181 Exemption of household goods and personal effects.--There shall be exempt from taxation to every person residing and making his or her permanent home in this state household goods and personal effects. Title to such household goods and personal effects may be held individually, by the entireties, jointly or in common with others.

History.--ss. 1, 3, ch. 29743, 1955; s. 1, ch. 67-378; ss. 1, 2, ch. 69-55.

Note.--Former s. 192.201.

¹196.183 Exemption for tangible personal property.--

(1) Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value. A single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county. Railroads, private carriers, and other companies assessed pursuant to s. 193.085 shall be allowed one \$25,000 exemption for each county to which the value of their property is allocated. The \$25,000 exemption for freestanding property placed at multiple locations and for centrally assessed property shall be allocated to each taxing authority based on the proportion of just value of such property located in the taxing authority; however, the amount of the exemption allocated to each taxing authority may not change following the extension of the tax roll pursuant to s. 193.122.

(2) For purposes of this section, a "site where the owner of tangible personal property transacts business" includes facilities where the business ships or receives goods, employees of the business are located, goods or equipment of the business are stored, or goods or services of the business are produced, manufactured, or developed, or similar facilities located in offices, stores, warehouses, plants, or other locations of the business. Sites where only the freestanding property of the owner is located shall not be considered sites where the owner of tangible personal property transacts business.

(3) The requirement that an annual tangible personal property tax return pursuant to s. 193.052 be filed for taxpayers owning taxable property the value of which, as listed on the return, does not exceed the exemption provided in this section is waived. In order to qualify for this waiver, a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required to be filed shall be considered an application filed or required to be filed for the exemption under this section.

(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.

(5) The exemption provided in this section does not apply in any year a taxpayer fails to timely file a return that is not waived pursuant to subsection (3) or subsection (4). Any taxpayer who received a waiver pursuant to subsection (3) or subsection (4) and who owns taxable property the value of which, as listed on the return, exceeds the exemption in a subsequent year and who fails to file a return with the property appraiser is subject to the penalty contained in s. 193.072(1)(a) calculated without the benefit of the exemption pursuant to this section. Any taxpayer claiming more exemptions than allowed pursuant to subsection (1) is subject to the taxes exempted as a result of wrongfully claiming the additional exemptions plus 15 percent interest per annum and a penalty of 50 percent of the taxes exempted. By February 1 of each year, the property appraiser shall notify by mail all taxpayers whose requirement for filing an annual tangible personal property tax return was waived in the previous year. The notification shall state that a return must be filed if the value of the taxpayer's tangible personal property exceeds the exemption and include the penalties for failure to file such a return.

(6) The exemption provided in this section does not apply to a mobile home that is presumed to be tangible personal property pursuant to s. 193.075(2).

History.--s. 8, ch. 2007-339; s. 9, ch. 2008-173.

¹**Note.**--

A. Section 1, ch. 2007-339, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) In anticipation of implementing this act, the executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of making necessary changes and preparations so that forms, methods, and data records, electronic or otherwise, are ready and in place if sections 3 through 9 and sections 10, 12, and 14 . . . of this act become law.

"(3) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

B. Section 13, ch. 2008-173, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

196.185 Exemption of inventory.--All items of inventory are exempt from ad valorem taxation.

History.--s. 1, ch. 81-308.

¹196.192 Exemptions from ad valorem taxation.--Subject to the provisions of this chapter:

(1) All property owned by an exempt entity, including educational institutions, and used exclusively for exempt purposes shall be totally exempt from ad valorem taxation.

(2) All property owned by an exempt entity, including educational institutions, and used predominantly for exempt purposes shall be exempted from ad valorem taxation to the extent of the ratio that such predominant use bears to the nonexempt use.

(3) All tangible personal property loaned or leased by a natural person, by a trust holding property for a natural person, or by an exempt entity to an exempt entity for public display or exhibition on a recurrent schedule is exempt from ad valorem taxation if the property is loaned or leased for no consideration or for nominal consideration.

For purposes of this section, each use to which the property is being put must be considered in granting an exemption from ad valorem taxation, including any economic use in addition to any physical use. For purposes of this section, property owned by a limited liability company, the sole member of which is an exempt entity, shall be treated as if the property were owned directly by the exempt entity. This section does not apply

in determining the exemption for property owned by governmental units pursuant to s. 196.199.

History.--s. 3, ch. 71-133; s. 2, ch. 88-102; s. 2, ch. 89-122; s. 3, ch. 2007-106; s. 2, ch. 2008-193.

¹**Note.**--Section 3, ch. 2009-130, provides that "[t]he amendment to s. 196.192, Florida Statutes, made by section 2 of chapter 2008-193, Laws of Florida, shall operate retroactively to January 1, 2005."

196.193 Exemption applications; review by property appraiser.--

(1)(a) All property exempted from the annual application requirement of s. 196.011 shall be returned, but shall be granted tax exemption by the property appraiser. However, no such property shall be exempt which is rented or hired out for other than religious, educational, or other exempt purposes at any time.

(b) The property appraiser may deny exemption to property claimed by religious organizations to be used for any of the purposes set out in s. 196.011 if the use is not clear or if the property appraiser determines that the property is being held for speculative purposes or that it is being rented or hired out for other than religious or educational purposes.

(c) If the property appraiser does deny such property a tax exemption, appeal of the determination to the value adjustment board may be made in the manner prescribed for appealed tax exemptions.

(2) Applications required by this chapter shall be filed on forms distributed to the property appraisers by the Department of Revenue. Such forms shall call for accurate description of the property, the value of such property, and the use of such property.

(3) Upon receipt of an application for exemption, the property appraiser shall determine:

(a) Whether the applicant falls within the definition of any one or several of the exempt classifications.

(b) Whether the applicant requesting exemption uses the property predominantly or exclusively for exempt purposes.

(c) The extent to which the property is used for exempt purposes.

In doing so, the property appraiser shall use the standards set forth in this chapter as applied by regulations of the Department of Revenue.

(4) The property appraiser shall find that the person or organization requesting exemption meets the requirements set forth in paragraphs (3)(a) and (b) before any exemption can be granted.

(5)(a) If the property appraiser determines that any property claimed as wholly or partially exempt under this section is not entitled to any exemption or is entitled to an exemption to an extent other than that requested in the application, he or she shall notify the person or organization filing the application on such property of that determination in writing on or before July 1 of the year for which the application was filed.

(b) The notification must state in clear and unambiguous language the specific requirements of the state statutes which the property appraiser relied upon to deny the applicant the exemption with respect to the subject property. The notification must be drafted in such a way that a reasonable person can understand specific attributes of the applicant or the applicant's use of the subject property which formed the basis for the denial. The notice must also include the specific facts the property appraiser used to determine that the applicant failed to meet the statutory requirements. If a property appraiser fails to provide a notice that complies with this subsection, any denial of an exemption or an attempted denial of an exemption is invalid.

(c) All notifications must specify the right to appeal to the value adjustment board and the procedures to follow in obtaining such an appeal. Thereafter, the person or organization filing such application, or a duly designated representative, may appeal that determination by the property appraiser to the board at the time of its regular hearing. In the event of an appeal, the property appraiser or the property appraiser's representative shall appear at the board hearing and present his or her findings of fact. If the applicant is not present or represented at the hearing, the board may make a determination on the basis of information supplied by the property appraiser or such other information on file with the board.

History.--s. 5, ch. 71-133; s. 15, ch. 76-133; s. 1, ch. 77-102; s. 1, ch. 77-174; s. 8, ch. 86-300; s. 157, ch. 91-112; s. 998, ch. 95-147; s. 4, ch. 2007-106.

196.194 Value adjustment board; notice; hearings; appearance before the board.--

(1) The value adjustment board shall hear disputed or appealed applications for exemption and shall grant such exemptions in whole or in part in accordance with criteria set forth in this chapter. It may review exemptions on its own motion or upon motion of the property appraiser. Review of an exemption application upon motion of the board shall not be held until the applicant has had at least 5 calendar days' notice of the intent of the board to review the application.

(2) At least 2 weeks prior to the meeting of the value adjustment board, but no sooner than May 15, notice of the meeting shall be published in a newspaper of general circulation within the county or, if no such newspaper is published within the county, notice shall be placed on the courthouse door and two other prominent places within the county. Such notice shall indicate:

(a) That a list maintained by the property appraiser of all applicants for exemption who have had their applications for exemption wholly or partially approved is available to the public, at a location specified in the notice, and the hours during which the list may be

seen. The notice shall further indicate, by name, the types of exemptions which are included in the list.

(b) That a list maintained by the property appraiser of all applicants for exemption who have had their applications for exemption denied is available to the public, at a location specified in the notice, and the hours during which the list may be seen. The notice shall further indicate, by name, the types of exemptions which are included in the list.

(3) The exemption procedures of the value adjustment board shall be as provided in chapter 194, except as otherwise provided in this chapter. Records of the value adjustment board showing the names of persons and organizations granted exemptions, the street address or other designation of location of the exempted property, and the extent of the exemptions granted shall be part of the public record.

History.--s. 6, ch. 71-133; s. 1, ch. 76-122; s. 16, ch. 76-133; s. 62, ch. 80-274; s. 158, ch. 91-112.

196.195 Determining profit or nonprofit status of applicant.--

(1) Applicants requesting exemption shall supply such fiscal and other records showing in reasonable detail the financial condition, record of operation, and exempt and nonexempt uses of the property, where appropriate, for the immediately preceding fiscal year as are requested by the property appraiser or the value adjustment board.

(2) In determining whether an applicant for a religious, literary, scientific, or charitable exemption under this chapter is a nonprofit or profitmaking venture or whether the property is used for a profitmaking purpose, the following criteria shall be applied:

(a) The reasonableness of any advances or payment directly or indirectly by way of salary, fee, loan, gift, bonus, gratuity, drawing account, commission, or otherwise (except for reimbursements of advances for reasonable out-of-pocket expenses incurred on behalf of the applicant) to any person, company, or other entity directly or indirectly controlled by the applicant or any officer, director, trustee, member, or stockholder of the applicant;

(b) The reasonableness of any guaranty of a loan to, or an obligation of, any officer, director, trustee, member, or stockholder of the applicant or any entity directly or indirectly controlled by such person, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the applicant;

(c) The reasonableness of any contractual arrangement by the applicant or any officer, director, trustee, member, or stockholder of the applicant regarding rendition of services, the provision of goods or supplies, the management of the applicant, the construction or renovation of the property of the applicant, the procurement of the real, personal, or intangible property of the applicant, or other similar financial interest in the affairs of the applicant;

(d) The reasonableness of payments made for salaries for the operation of the applicant or for services, supplies and materials used by the applicant, reserves for repair, replacement, and depreciation of the property of the applicant, payment of mortgages, liens, and encumbrances upon the property of the applicant, or other purposes; and

(e) The reasonableness of charges made by the applicant for any services rendered by it in relation to the value of those services, and, if such charges exceed the value of the services rendered, whether the excess is used to pay maintenance and operational expenses in furthering its exempt purpose or to provide services to persons unable to pay for the services.

(3) Each applicant must affirmatively show that no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.

(4) No application for exemption may be granted for religious, literary, scientific, or charitable use of property until the applicant has been found by the property appraiser or, upon appeal, by the value adjustment board to be nonprofit as defined in this section.

History.--s. 7, ch. 71-133; s. 17, ch. 76-133; s. 159, ch. 91-112; s. 2, ch. 91-196; s. 3, ch. 97-294; s. 2, ch. 98-289; s. 3, ch. 2000-228.

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.--

(1) In the determination of whether an applicant is actually using all or a portion of its property predominantly for a charitable, religious, scientific, or literary purpose, the following criteria shall be applied:

(a) The nature and extent of the charitable, religious, scientific, or literary activity of the applicant, a comparison of such activities with all other activities of the organization, and the utilization of the property for charitable, religious, scientific, or literary activities as compared with other uses.

(b) The extent to which the property has been made available to groups who perform exempt purposes at a charge that is equal to or less than the cost of providing the facilities for their use. Such rental or service shall be considered as part of the exempt purposes of the applicant.

(2) Only those portions of property used predominantly for charitable, religious, scientific, or literary purposes shall be exempt. In no event shall an incidental use of property either qualify such property for an exemption or impair the exemption of an otherwise exempt property.

(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public

worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

(4) Except as otherwise provided herein, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profitmaking purposes shall be subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, shall not be considered profit making. In this connection the playing of bingo on such property shall not be considered as using such property in such a manner as would impair its exempt status.

(5)(a) Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.

(b)1. If property owned by an organization granted an exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.

2. Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which

shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.

3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be assessed a penalty or interest.

4. The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.

History.--s. 8, ch. 71-133; s. 3, ch. 88-102; s. 3, ch. 91-196; s. 4, ch. 97-294; s. 3, ch. 98-289; s. 3, ch. 2000-228; s. 5, ch. 2007-106; s. 17, ch. 2009-96.

196.1961 Exemption for historic property used for certain commercial or nonprofit purposes.--

(1) Pursuant to s. 3, Art. VII of the State Constitution, the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow an ad valorem tax exemption of up to 50 percent of the assessed value of property which meets all of the following criteria:

(a) The property must be used for commercial purposes or used by a not-for-profit organization under s. 501(c)(3) or (6) of the Internal Revenue Code of 1986.

(b) The property must be listed in the National Register of Historic Places, as defined in s. 267.021; or must be a contributing property to a National Register Historic District; or must be designated as a historic property or as a contributing property to a historic district, under the terms of a local preservation ordinance.

(c) The property must be regularly open to the public.

(2) As used in this section, "regularly open to the public" means that there are regular hours when the public may visit to observe the historically significant aspects of the building. This means a minimum of 40 hours per week, for 45 weeks per year, or an equivalent of 1,800 hours per year. A fee may be charged to the public; however, it must be comparable with other entrance fees in the immediate geographic locale.

(3) The board of county commissioners or municipal governing authority shall notify the property appraiser of the adoption of such ordinance no later than December 1 of the year prior to the year the exemption will take effect. If the exemption is granted only for a specified period or the ordinance is repealed, the board of county commissioners or municipal governing authority shall notify the property appraiser no later than December 1 of the year prior to the year the exemption expires. The ordinance must specify that the exemption shall apply only to taxes levied by the unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of

bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

(4) Only those portions of the property used predominantly for the purposes specified in paragraph (1)(a) shall be exempt. In no event shall an incidental use of property qualify such property for an exemption or impair the exemption of an otherwise exempt property.

(5) In order to retain the exemption, the historic character of the property must be maintained in good repair and condition to the extent necessary to preserve the historic value and significance of the property.

History.--s. 8, ch. 97-117.

196.197 Additional provisions for exempting property used by hospitals, nursing homes, and homes for special services.--In addition to criteria for granting exemptions for charitable use of property set forth in other sections of this chapter, hospitals, nursing homes, and homes for special services shall be exempt to the extent that they meet the following criteria:

(1) The applicant must be a Florida corporation not for profit that has been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act.

(2) In determining the extent of exemption to be granted to institutions licensed as hospitals, nursing homes, and homes for special services, portions of the property leased as parking lots or garages operated by private enterprise shall not be deemed to be serving an exempt purpose and shall not be exempt from taxation. Property or facilities which are leased to a nonprofit corporation which provides direct medical services to patients in a nonprofit or public hospital and qualifies under s. 196.196 of this chapter are excluded and shall be exempt from taxation.

History.--s. 9, ch. 71-133; s. 2, ch. 73-340; s. 1, ch. 73-344; s. 3, ch. 74-264; ss. 14, 15, ch. 76-234.

196.1975 Exemption for property used by nonprofit homes for the aged.--Nonprofit homes for the aged are exempt to the extent that they meet the following criteria:

(1) The applicant must be a corporation not for profit pursuant to chapter 617 or a Florida limited partnership, the sole general partner of which is a corporation not for profit pursuant to chapter 617, and the corporation not for profit must have been exempt as of January 1 of the year for which exemption from ad valorem property taxes is requested from federal income taxation by having qualified as an exempt charitable organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or of the corresponding section of a subsequently enacted federal revenue act.

(2) A facility will not qualify as a "home for the aged" unless at least 75 percent of the occupants are over the age of 62 years or totally and permanently disabled. For homes for the aged which are exempt from paying income taxes to the United States as specified in subsection (1), licensing by the Agency for Health Care Administration is required for ad valorem tax exemption hereunder only if the home:

(a) Furnishes medical facilities or nursing services to its residents, or

(b) Qualifies as an assisted living facility under chapter 429.

(3) Those portions of the home for the aged which are devoted exclusively to the conduct of religious services or the rendering of nursing or medical services are exempt from ad valorem taxation.

(4)(a) After removing the assessed value exempted in subsection (3), units or apartments in homes for the aged shall be exempt only to the extent that residency in the existing unit or apartment of the applicant home is reserved for or restricted to or the unit or apartment is occupied by persons who have resided in the applicant home and in good faith made this state their permanent residence as of January 1 of the year in which exemption is claimed and who also meet the requirements set forth in one of the following subparagraphs:

1. Persons who have gross incomes of not more than \$7,200 per year and who are 62 years of age or older.

2. Couples, one of whom must be 62 years of age or older, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.

3. Persons who are totally and permanently disabled and who have gross incomes of not more than \$7,200 per year.

4. Couples, one or both of whom are totally and permanently disabled, having a combined gross income of not more than \$8,000 per year, or the surviving spouse thereof, who lived with the deceased at the time of the deceased's death in a home for the aged.

However, the income limitations do not apply to totally and permanently disabled veterans, provided they meet the requirements of s. 196.081.

(b) The maximum income limitations permitted in this subsection shall be adjusted, effective January 1, 1977, and on each succeeding year, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer price index figures for the stated 12-month

period, relative to the United States as a whole, issued by the United States Department of Labor.

(5) Nonprofit housing projects that are financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that are subject to the income limitations established by that department are exempt from ad valorem taxation.

(6) For the purposes of this section, gross income includes social security benefits payable to the person or couple or assigned to an organization designated specifically for the support or benefit of that person or couple.

(7) It is declared to be the intent of the Legislature that subsection (3) implements the ad valorem tax exemption authorized in the third sentence of s. 3(a), Art. VII, State Constitution, and the remaining subsections implement s. 6(e), Art. VII, State Constitution, for purposes of granting such exemption to homes for the aged.

(8) Physical occupancy on January 1 is not required in those instances in which a home restricts occupancy to persons meeting the income requirements specified in this section. Those portions of a property failing to meet those requirements shall qualify for an alternative exemption as provided in subsection (9). In a home in which at least 25 percent of the units or apartments of the home are restricted to or occupied by persons meeting the income requirements specified in this section, the common areas of that home are exempt from taxation.

(9)(a) Each unit or apartment of a home for the aged not exempted in subsection (3) or subsection (4), which is operated by a not for profit corporation and is owned by such corporation or leased by such corporation from a health facilities authority pursuant to part III of chapter 154 or an industrial development authority pursuant to part III of chapter 159, and which property is used by such home for the aged for the purposes for which it was organized, is exempt from all ad valorem taxation, except for assessments for special benefits, to the extent of \$25,000 of assessed valuation of such property for each apartment or unit:

1. Which is used by such home for the aged for the purposes for which it was organized; and

2. Which is occupied, on January 1 of the year in which exemption from ad valorem property taxation is requested, by a person who resides therein and in good faith makes the same his or her permanent home.

(b) Each corporation applying for an exemption under paragraph (a) of this subsection or paragraph (4)(a) must file with the annual application for exemption an affidavit from each person who occupies a unit or apartment for which an exemption under either of

those paragraphs is claimed stating that the person resides therein and in good faith makes that unit or apartment his or her permanent residence.

(10) Homes for the aged, or life care communities, however designated, which are financed through the sale of health facilities authority bonds or bonds of any other public entity, whether on a sale-leaseback basis, a sale-repurchase basis, or other financing arrangement, or which are financed without public-entity bonds, are exempt from ad valorem taxation only in accordance with the provisions of this section.

(11) Any portion of such property used for nonexempt purposes may be valued and placed upon the tax rolls separately from any portion entitled to exemption pursuant to this chapter.

(12) When it becomes necessary for the property appraiser to determine the value of a unit, he or she shall include in such valuation the proportionate share of the common areas, including the land, fairly attributable to such unit, based upon the value of such unit in relation to all other units in the home, unless the common areas are otherwise exempted by subsection (8).

(13) Sections 196.195 and 196.196 do not apply to this section.

History.--s. 12, ch. 76-234; s. 1, ch. 77-174; s. 1, ch. 77-448; s. 87, ch. 79-400; s. 3, ch. 80-261; s. 53, ch. 80-274; s. 13, ch. 81-219; s. 1, ch. 82-133; s. 9, ch. 82-399; s. 8, ch. 83-71; s. 2, ch. 84-138; s. 27, ch. 85-80; s. 1, ch. 87-332; s. 46, ch. 91-45; s. 999, ch. 95-147; s. 2, ch. 95-210; s. 2, ch. 95-383; s. 141, ch. 95-418; s. 9, ch. 96-397; s. 19, ch. 99-8; s. 2, ch. 99-208; s. 10, ch. 2001-137; s. 1, ch. 2001-208; s. 7, ch. 2006-197.

196.1976 Provisions of ss. 196.197(1) or (2) and 196.1975; severability.--If any provision of s. 196.197(1) or (2), created and amended by chapter 76-234, Laws of Florida, or s. 196.1975, created by chapter 76-234 and amended by chapter 87-332, Laws of Florida, is held to be invalid or inoperative for any reason, it is the legislative intent that the invalidity shall not affect other provisions or applications of said subsections or section which can be given effect without the invalid provision or application, and to this end the provisions of said subsections and section are declared to be severable.

History.--s. 18, ch. 76-234; s. 2, ch. 77-448; s. 88, ch. 79-400; s. 2, ch. 87-332; s. 1, ch. 98-177.

196.1977 Exemption for property used by proprietary continuing care facilities.--

(1) Each apartment in a continuing care facility certified under chapter 651, which facility is not qualified for exemption under s. 196.1975, or other similar exemption, is exempt to the extent of \$25,000 of assessed valuation of such property for each apartment which is occupied on January 1 of the year in which exemption from ad valorem property taxation is requested by a person holding a continuing care contract as defined under chapter 651 who resides therein and in good faith makes the same his or her permanent home. No apartment shall be eligible for the exemption provided under this section if the resident of the apartment is eligible for the homestead exemption under s. 196.031.

(2) Each facility applying for an exemption must file with the annual application for exemption an affidavit from each person who occupies an apartment for which an exemption is claimed stating that the person resides therein and in good faith makes that apartment his or her permanent residence.

(3) Any portion of such property used for nonexempt purposes may be valued and placed upon the tax rolls separately from any portion entitled to exemption.

(4) The owner shall disclose to a qualifying resident the full amount of the benefit derived from the exemption and the method for ensuring that the resident receives such benefit. The resident shall receive the full benefit derived from this exemption in either an annual or monthly credit to his or her unit's monthly maintenance fee. For a nonqualifying resident who subsequently qualifies for the exemption, the same disclosure shall be made.

(5) It is the intent of the Legislature that this section implements s. 6(e), Art. VII of the State Constitution.

History.--s. 2, ch. 98-177.

196.1978 Affordable housing property exemption.--Property used to provide affordable housing serving eligible persons as defined by s. 159.603(7) and natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, which property is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, or a Florida-based limited partnership, the sole general partner of which is a corporation not for profit which is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and which complies with Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property which provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 shall be exempt from ad valorem taxation to the extent authorized in s. 196.196. All property identified in this section shall comply with the criteria for determination of exempt status to be applied by property appraisers on an annual basis as defined in s. 196.195. The Legislature intends that any property owned by a limited liability company or limited partnership which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) shall be treated as owned by its sole member or sole general partner.

History.--s. 15, ch. 99-378; s. 9, ch. 2000-353; s. 29, ch. 2006-69; s. 18, ch. 2009-96.

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 exclusively for educational purposes shall be exempt from taxation. Sheltered workshops providing rehabilitation and retraining of disabled individuals 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 shall be exempted 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 shall be 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 shall be 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. If legal title to property is held by a governmental agency that leases the property to a 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 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 land exclusively for educational purposes, the land is deemed to be property owned by the educational institution for purposes of this exemption. Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. Affirmative steps means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.

History.--s. 10, ch. 71-133; s. 1, ch. 77-102; ss. 35, 37, ch. 90-203; s. 2, ch. 91-121; s. 1, ch. 99-283; s. 4, ch. 2000-262.

196.1983 Charter school exemption from ad valorem taxes.--Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board pursuant to s. 1002.33(7) shall be exempt from ad valorem taxes. For leasehold properties, the landlord must certify by affidavit to the charter school that the lease payments shall be reduced to the extent of the exemption received. The owner of the property shall disclose to a charter school the full amount of the benefit derived from the exemption and the method for ensuring that the charter school receives such benefit. The charter school shall receive the full benefit derived from the exemption through either an annual or monthly credit to the charter school's lease payments.

History.--s. 1, ch. 2000-306; s. 27, ch. 2002-1; s. 909, ch. 2002-387; s. 16, ch. 2003-1.

196.1985 Labor organization property exemption.--Real property owned and used by any labor organization which has a charter from a state or national organization, which property is used predominantly by such organization for educational purposes, is hereby defined as property within the purview of s. 3, Art. VII of the State Constitution and shall be exempt from ad valorem taxation to the extent of such use pursuant to s. 196.192(2). Any portion of such property used for nonexempt purposes may be valued and placed

upon the tax rolls separately from any portion entitled to exemption pursuant to this section.

History.--s. 1, ch. 77-459.

196.1986 Community centers exemption.--

(1) A single general-purpose structure represented as a community center owned and operated by a private, nonprofit organization and used predominantly for educational, literary, scientific, religious, or charitable purposes is hereby defined as property within the purview of s. 3(a), Art. VII of the State Constitution and shall be exempt from ad valorem taxes imposed by taxing authorities. However, no use shall be considered to serve an exempt purpose if, in conjunction with that use, alcoholic beverages are served or consumed on the premises. Any portion of such property used for nonexempt purposes may be valued and placed upon the tax roll separately from any portion entitled to exemption pursuant to this section.

(2) This exemption shall not apply to condominium common elements and shall not apply to any structure unless it is generally open and available for use by the general public.

History.--s. 1, ch. 80-253.

196.1987 Biblical history display property exemption.--The use of property owned by an organization exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code to exhibit, illustrate, and interpret Biblical manuscripts, codices, stone tablets, and other Biblical archives; provide live and recorded demonstrations, explanations, reenactments, and illustrations of Biblical history and Biblical worship; and exhibit times, places, and events of Biblical history and significance, when such activity is open to the public and is available to the public for no admission charge at least 1 day each calendar year, subject to capacity limits, and when such organization has received written correspondence from the Internal Revenue Service stating that the conduct of the organization's activities does not adversely affect the organization's exempt status under s. 501(c)(3) of the Internal Revenue Code, constitutes religious use of such property, which is hereby defined as property within the purview of s. 3(a), Art. VII of the State Constitution and is exempt from ad valorem taxation to the extent of such use pursuant to s. 196.192(2). Any portion of such property used for nonexempt purposes may be valued and placed upon the tax rolls separately from any portion entitled to exemption pursuant to this section.

History.--s. 1, ch. 2006-164.

196.199 Government property exemption.--

(1) Property owned and used by the following governmental units shall be exempt from taxation under the following conditions:

(a) All property of the United States shall be exempt from ad valorem taxation, except such property as is subject to tax by this state or any political subdivision thereof or any municipality under any law of the United States.

(b) All property of this state which is used for governmental purposes shall be exempt from ad valorem taxation except as otherwise provided by law.

(c) All property of the several political subdivisions and municipalities of this state or of entities created by general or special law and composed entirely of governmental agencies, or property conveyed to a nonprofit corporation which would revert to the governmental agency, which is used for governmental, municipal, or public purposes shall be exempt from ad valorem taxation, except as otherwise provided by law.

(2) Property owned by the following governmental units but used by nongovernmental lessees shall only be exempt from taxation under the following conditions:

(a) Leasehold interests in property of the United States, of the state or any of its several political subdivisions, or of municipalities, agencies, authorities, and other public bodies corporate of the state shall be exempt from ad valorem taxation only when the lessee serves or performs a governmental, municipal, or public purpose or function, as defined in s. 196.012(6). In all such cases, all other interests in the leased property shall also be exempt from ad valorem taxation. However, a leasehold interest in property of the state may not be exempted from ad valorem taxation when a nongovernmental lessee uses such property for the operation of a multipurpose hazardous waste treatment facility.

(b) Except as provided in paragraph (c), the exemption provided by this subsection shall not apply to those portions of a leasehold or other interest defined by s. 199.023(1)(d), Florida Statutes 2005, subject to the provisions of subsection (7). Such leasehold or other interest shall be taxed only as intangible personal property pursuant to chapter 199, Florida Statutes 2005, if rental payments are due in consideration of such leasehold or other interest. All applicable collection, administration, and enforcement provisions of chapter 199, Florida Statutes 2005, shall apply to taxation of such leaseholds. If no rental payments are due pursuant to the agreement creating such leasehold or other interest, the leasehold or other interest shall be taxed as real property. Nothing in this paragraph shall be deemed to exempt personal property, buildings, or other real property improvements owned by the lessee from ad valorem taxation.

(c) Any governmental property leased to an organization which uses the property exclusively for literary, scientific, religious, or charitable purposes shall be exempt from taxation.

(3) Nothing herein or in s. 196.001 shall require a governmental unit or authority to impose taxes upon a leasehold estate created, extended, or renewed prior to April 15, 1976, if the lease agreement creating such leasehold estate contains a covenant on the part of such governmental unit or authority as lessor to refrain from imposing taxes on the leasehold estate during the term of the leasehold estate; but any such covenant shall

not prevent taxation of a leasehold estate by any such taxing unit or authority other than the unit or authority making such covenant.

(4) Property owned by any municipality, agency, authority, or other public body corporate of the state which becomes subject to a leasehold interest or other possessory interest of a nongovernmental lessee other than that described in paragraph (2)(a), after April 14, 1976, shall be subject to ad valorem taxation unless the lessee is an organization which uses the property exclusively for literary, scientific, religious, or charitable purposes.

(5) Leasehold interests in governmental property shall not be exempt pursuant to this subsection unless an application for exemption has been filed on or before March 1 with the property appraiser. The property appraiser shall review the application and make findings of fact which shall be presented to the value adjustment board at its convening, whereupon the board shall take appropriate action regarding the application. If the exemption in whole or in part is granted, or established by judicial proceeding, it shall remain valid for the duration of the lease unless the lessee changes its use, in which case the lessee shall again submit an application for exemption. The requirements set forth in s. 196.194 shall apply to all applications made under this subsection.

(6) No exemption granted before June 1, 1976, shall be revoked by this chapter if such revocation will impair any existing bond agreement.

(7) Property which is originally leased for 100 years or more, exclusive of renewal options, or property which is financed, acquired, or maintained utilizing in whole or in part funds acquired through the issuance of bonds pursuant to parts II, III, and V of chapter 159, shall be deemed to be owned for purposes of this section.

(8)(a) Any and all of the aforesaid taxes on any leasehold described in this section shall not become a lien on same or the property itself but shall constitute a debt due and shall be recoverable by legal action or by the issuance of tax executions that shall become liens upon any other property in any county of this state of the taxpayer who owes said tax. The sheriff of the county shall execute the tax execution in the same manner as other executions are executed under chapters 30 and 56.

(b) Nonpayment of any such taxes by the lessee shall result in the revocation of any occupational license of such person or the revocation, upon certification hereunder by the property appraiser to the Department of State, of the corporate charter of any such domestic corporation or the revocation, upon certification hereunder by the property appraiser to the Department of State, of the authority of any foreign corporation to do business in this state, as appropriate, which such license, charter, or authority is related to the leased property.

(9) Improvements to real property which are located on state-owned land and which are leased to a public educational institution shall be deemed owned by the public educational institution for purposes of this section where, by the terms of the lease, the

improvement will become the property of the public educational institution or the State of Florida at the expiration of the lease.

(10) Notwithstanding any other provision of law to the contrary, property held by a port authority and any leasehold interest in such property are exempt from ad valorem taxation to the same extent that county property is immune from taxation, provided such property is located in a county described in s. 9, Art. VIII of the State Constitution (1885), as restated in s. 6(e), Art. VIII of the State Constitution (1968).

History.--s. 11, ch. 71-133; s. 1, ch. 76-283; s. 1, ch. 77-174; ss. 1, 2, ch. 80-368; s. 4, ch. 82-388; s. 13, ch. 83-215; s. 30, ch. 85-342; s. 1, ch. 86-141; s. 61, ch. 86-152; s. 81, ch. 88-130; s. 47, ch. 91-45; s. 160, ch. 91-112; s. 1, ch. 96-288; s. 1, ch. 96-323; s. 9, ch. 2006-312.

196.1993 Certain agreements with local governments for use of public property; exemption.--Any agreement entered into with a local governmental authority prior to January 1, 1969, for use of public property, under which it was understood and agreed in a written instrument or by special act that no ad valorem real property taxes would be paid by the licensee or lessee, shall be deemed a license or management agreement for the use or management of public property. Such interest shall be deemed not to convey an interest in the property and shall not be subject to ad valorem real property taxation. Nothing in this section shall be deemed to exempt such licensee from the ad valorem intangible tax and the ad valorem personal property tax.

History.--s. 9, ch. 80-368.

196.1995 Economic development ad valorem tax exemption.--

(1) The board of county commissioners of any county or the governing authority of any municipality shall call a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions under s. 3, Art. VII of the State Constitution if:

(a) The board of county commissioners of the county or the governing authority of the municipality votes to hold such referendum; or

(b) The board of county commissioners of the county or the governing authority of the municipality receives a petition signed by 10 percent of the registered electors of its respective jurisdiction, which petition calls for the holding of such referendum.

(2) The ballot question in such referendum shall be in substantially the following form:

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses and expansions of existing businesses?

_____ Yes--For authority to grant exemptions.

_____ No--Against authority to grant exemptions.

(3) The board of county commissioners or the governing authority of the municipality that calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. 376.79(4). If an area nominated to be an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does not apply until such area is designated pursuant to s. 290.0065. The ballot question in such referendum shall be in substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses which are located in an enterprise zone or a brownfield area?

_____ Yes--For authority to grant exemptions.

_____ No--Against authority to grant exemptions.

(4) A referendum pursuant to this section may be called only once in any 12-month period.

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business, provided that the improvements to real property are made or the tangible personal property is added or increased on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an enterprise zone or brownfield area. Property acquired to replace existing property shall not be considered to facilitate a business

expansion. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(6) With respect to a new business as defined by s. 196.012(15)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

(7) The authority to grant exemptions under this section will expire 10 years after the date such authority was approved in an election, but such authority may be renewed for another 10-year period in a referendum called and held pursuant to this section.

(8) Any person, firm, or corporation which desires an economic development ad valorem tax exemption shall, in the year the exemption is desired to take effect, file a written application on a form prescribed by the department with the board of county commissioners or the governing authority of the municipality, or both. The application shall request the adoption of an ordinance granting the applicant an exemption pursuant to this section and shall include the following information:

(a) The name and location of the new business or the expansion of an existing business;

(b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

(c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(d) Proof, to the satisfaction of the board of county commissioners or the governing authority of the municipality, that the applicant is a new business or an expansion of an existing business, as defined in s. 196.012(15) or (16); and

(e) Other information deemed necessary by the department.

(9) Before it takes action on the application, the board of county commissioners or the governing authority of the municipality shall deliver a copy of the application to the property appraiser of the county. After careful consideration, the property appraiser shall

report the following information to the board of county commissioners or the governing authority of the municipality:

- (a) The total revenue available to the county or municipality for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total revenue available cannot be determined;
- (b) Any revenue lost to the county or municipality for the current fiscal year by virtue of exemptions previously granted under this section, or an estimate of such revenue if the actual revenue lost cannot be determined;
- (c) An estimate of the revenue which would be lost to the county or municipality during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and
- (d) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, as defined in s. 196.012(15) or (16), or into neither, which determination the property appraiser shall also affix to the face of the application. Upon the request of the property appraiser, the department shall provide to him or her such information as it may have available to assist in making such determination.

(10) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

- (a) The name and address of the new business or expansion of an existing business to which the exemption is granted;
- (b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;
- (c) The period of time for which the exemption will remain in effect and the expiration date of the exemption; and
- (d) A finding that the business named in the ordinance meets the requirements of s. 196.012(15) or (16).

History.--s. 2, ch. 80-347; s. 1, ch. 83-141; s. 30, ch. 84-356; s. 11, ch. 86-300; s. 1, ch. 90-57; s. 68, ch. 94-136; s. 1477, ch. 95-147; s. 57, ch. 95-280; s. 110, ch. 99-251; s. 5, ch. 2006-291.

196.1996 Economic development ad valorem tax exemption; effect of ch. 94-136.-- Nothing contained in chapter 94-136, Laws of Florida, shall be deemed to require any

board of county commissioners or a governing body of any municipality to reenact any resolution or ordinance to authorize the board of county commissioners or the governing body to grant economic development ad valorem tax exemptions in an enterprise zone that was in effect on December 31, 1994. Economic development ad valorem tax exemptions may be granted pursuant to such resolution or ordinance which was previously approved and a referendum, beginning July 1, 1995.

History.--s. 57, ch. 94-136.

196.1997 Ad valorem tax exemptions for historic properties.--

- (1) The board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow ad valorem tax exemptions under s. 3, Art. VII of the State Constitution to historic properties if the owners are engaging in the restoration, rehabilitation, or renovation of such properties in accordance with guidelines established in this section.
- (2) The board of county commissioners or the governing authority of the municipality by ordinance may authorize the exemption from ad valorem taxation of up to 100 percent of the assessed value of all improvements to historic properties which result from the restoration, renovation, or rehabilitation of such properties. The exemption applies only to improvements to real property. In order for the property to qualify for the exemption, any such improvements must be made on or after the day the ordinance authorizing ad valorem tax exemption for historic properties is adopted.
- (3) The ordinance shall designate the type and location of historic property for which exemptions may be granted, which may include any property meeting the provisions of subsection (11), which property may be further required to be located within a particular geographic area or areas of the county or municipality.
- (4) The ordinance must specify that such exemptions shall apply only to taxes levied by the unit of government granting the exemption. The exemptions do not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.
- (5) The ordinance must specify that any exemption granted remains in effect for up to 10 years with respect to any particular property, regardless of any change in the authority of the county or municipality to grant such exemptions or any change in ownership of the property. In order to retain the exemption, however, the historic character of the property, and improvements which qualified the property for an exemption, must be maintained over the period for which the exemption is granted.
- (6) The ordinance shall designate either a local historic preservation office or the Division of Historical Resources of the Department of State to review applications for exemptions. The local historic preservation office or the division, whichever is applicable, must recommend that the board of county commissioners or the governing authority of the municipality grant or deny the exemption. Such reviews must be

conducted in accordance with rules adopted by the Department of State. The recommendation, and the reasons therefor, must be provided to the applicant and to the governing entity before consideration of the application at an official meeting of the governing entity. For the purposes of this section, local historic preservation offices must be approved and certified by the Department of State.

(7) To qualify for an exemption, the property owner must enter into a covenant or agreement with the governing body for the term for which the exemption is granted. The form of the covenant or agreement must be established by the Department of State and must require that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant or agreement shall be binding on the current property owner, transferees, and their heirs, successors, or assigns. Violation of the covenant or agreement results in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in s. 212.12(3).

(8) Any person, firm, or corporation that desires an ad valorem tax exemption for the improvement of a historic property must, in the year the exemption is desired to take effect, file with the board of county commissioners or the governing authority of the municipality a written application on a form prescribed by the Department of State. The application must include the following information:

- (a) The name of the property owner and the location of the historic property.
- (b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements.
- (c) Proof, to the satisfaction of the designated local historic preservation office or the Division of Historical Resources, whichever is applicable, that the property that is to be rehabilitated or renovated is a historic property under this section.
- (d) Proof, to the satisfaction of the designated local historic preservation office or the Division of Historical Resources, whichever is applicable, that the improvements to the property will be consistent with the United States Secretary of Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Department of State.
- (e) Other information deemed necessary by the Department of State.

(9) The board of county commissioners or the governing authority of the municipality shall deliver a copy of each application for a historic preservation ad valorem tax exemption to the property appraiser of the county. Upon certification of the assessment roll, or recertification, if applicable, pursuant to s. 193.122, for each fiscal year during

which the ordinance is in effect, the property appraiser shall report the following information to the local governing body:

(a) The total taxable value of all property within the county or municipality for the current fiscal year.

(b) The total exempted value of all property in the county or municipality which has been approved to receive historic preservation ad valorem tax exemption for the current fiscal year.

(10) A majority vote of the board of county commissioners of the county or of the governing authority of the municipality shall be required to approve a written application for exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The board of county commissioners or the governing authority of a municipality shall include the following in the resolution or ordinance approving the written application for exemption:

(a) The name of the owner and the address of the historic property for which the exemption is granted.

(b) The period of time for which the exemption will remain in effect and the expiration date of the exemption.

(c) A finding that the historic property meets the requirements of this section.

(11) Property is qualified for an exemption under this section if:

(a) At the time the exemption is granted, the property:

1. Is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or

2. Is a contributing property to a national-register-listed district; or

3. Is designated as a historic property, or as a contributing property to a historic district, under the terms of a local preservation ordinance; and

(b) The local historic preservation office or the Division of Historical Resources, whichever is applicable, has certified to the local governing authority that the property for which an exemption is requested satisfies paragraph (a).

(12) In order for an improvement to a historic property to qualify the property for an exemption, the improvement must:

(a) Be consistent with the United States Secretary of Interior's Standards for Rehabilitation.

(b) Be determined by the Division of Historical Resources or the local historic preservation office, whichever is applicable, to meet criteria established in rules adopted by the Department of State.

(13) The Department of State shall adopt rules as provided in chapter 120 for the implementation of this section. These rules must specify the criteria for determining whether a property is eligible for exemption; guidelines to determine improvements to historic properties which qualify the property for an exemption; criteria for the review of applications for exemptions; procedures for the cancellation of exemptions for violations to the agreement required by subsection (7); the manner in which local historic preservation offices may be certified as qualified to review applications; and other requirements necessary to implement this section.

History.--s. 1, ch. 92-159.

196.1998 Additional ad valorem tax exemptions for historic properties open to the public.--

(1) If an improvement qualifies a historic property for an exemption under s. 196.1997, and the property is used for nonprofit or governmental purposes and is regularly and frequently open for the public's visitation, use, and benefit, the board of county commissioners or the governing authority of the municipality by ordinance may authorize the exemption from ad valorem taxation of up to 100 percent of the assessed value of the property, as improved, any provision of s. 196.1997(2) to the contrary notwithstanding, if all other provisions of that section are complied with; provided, however, that the assessed value of the improvement must be equal to at least 50 percent of the total assessed value of the property as improved. The exemption applies only to real property to which improvements are made by or for the use of the existing owner. In order for the property to qualify for the exemption provided in this section, any such improvements must be made on or after the day the ordinance granting the exemption is adopted.

(2) In addition to meeting the criteria established in rules adopted by the Department of State under s. 196.1997, a historic property is qualified for an exemption under this section if the Division of Historical Resources, or the local historic preservation office, whichever is applicable, determines that the property meets the criteria established in rules adopted by the Department of State under this section.

(3) In addition to the authority granted to the Department of State to adopt rules under s. 196.1997, the Department of State shall adopt rules as provided in chapter 120 for the implementation of this section, which shall include criteria for determining whether a property is qualified for the exemption authorized by this section, and other rules necessary to implement this section.

History.--s. 2, ch. 92-159.

196.1999 Space laboratories and carriers; exemption.--Notwithstanding other provisions of this chapter, a module, pallet, rack, locker, and any necessary associated

hardware and subsystem owned by any person and intended to be used to transport or store cargo used for a space laboratory for the primary purpose of conducting scientific research in space is deemed to carry out a scientific purpose and is exempt from ad valorem taxation.

History.--s. 32, ch. 2005-280.

196.2001 Not-for-profit sewer and water company property exemption.--

(1) Property of any sewer and water company owned or operated by a Florida corporation not for profit, the income from which has been exempt, as of January 1 of the year for which the exemption from ad valorem property taxes is requested, from federal income taxation by having qualified under s. 115(a) of the Internal Revenue Code of 1954 or of a corresponding section of a subsequently enacted federal revenue act, shall be exempt from ad valorem taxation, provided the following criteria for exemption are met by the not-for-profit sewer and water company:

(a) Net income derived by the company does not inure to any private shareholder or individual.

(b) Gross receipts do not constitute gross income for federal income tax purposes.

(c) Members of the company's governing board serve without compensation.

(d) Rates for services rendered by the company are established by the governing board of the county or counties within which the company provides service; by the Public Service Commission, in those counties in which rates are regulated by the commission; or by the Farmers Home Administration.

(e) Ownership of the company reverts to the county in which the company conducts its business upon retirement of all outstanding indebtedness of the company.

Notwithstanding anything above, no exemption shall be granted until the property appraiser has considered the proposed exemption and has made a specific finding that the water and sewer company in question performs a public purpose in the absence of which the expenditure of public funds would be required.

(2)(a) No exemption authorized pursuant to this section shall be granted unless the company applies to the property appraiser on or before March 1 of each year for such exemption. In its annual application for exemption, the company shall provide the property appraiser with the following information:

1. Financial statements for the immediately preceding fiscal year, certified by an independent certified public accountant, showing the financial condition and records of operation of the company for that fiscal year.

2. Any other records or information as may be requested by the property appraiser for the purposes of determining whether the requirements of subsection (1) have been met.

(b) The exemption from ad valorem taxation shall not be granted to a not-for-profit sewer and water company unless the company meets the criteria set forth in subsection (1). In determining whether the company is operated as a profitmaking venture, the property appraiser shall consider the following:

1. Any advances or payments directly or indirectly by way of salary, fee, loan, gift, bonus, gratuity, drawing account, commission, or otherwise (except for reimbursement of advances for reasonable out-of-pocket expenses incurred on behalf of the applicant) to any person, company, or other entity directly or indirectly controlled by such persons, or which pays any compensation to its officers, directors, trustees, members, or stockholders for services rendered to or on behalf of the corporation;

2. Any contractual arrangement by the corporation with any officer, director, trustee, member, or stockholder of the corporation regarding rendition of services, the provision of goods or supplies, the management of applicant, the construction or renovation of the property of the corporation, the procurement of the real, personal, or intangible property of the corporation, or other similar financial interest in the affairs of the corporation;

3. The reasonableness of payments made for salaries for the operations of the corporation or for services, supplies, and materials used by the corporation, reserves for repair, replacement, and depreciation of the property of the corporation, payment of mortgages, liens, and encumbrances upon the property of the corporation, or other purposes.

History.--s. 11, ch. 76-234; s. 2, ch. 77-459.

196.2002 Exemption for s. 501(c)(12) not-for-profit water and wastewater systems.--Property of any not-for-profit water and wastewater corporation which holds a current exemption from federal income tax under s. 501(c)(12) of the Internal Revenue Code, as amended, shall be exempt from ad valorem taxation if the sole or primary function of the corporation is to construct, maintain, or operate a water and/or wastewater system in this state.

History.--s. 1, ch. 2000-355.

196.202 Property of widows, widowers, blind persons, and persons totally and permanently disabled.--Property to the value of \$500 of every widow, widower, blind person, or totally and permanently disabled person who is a bona fide resident of this state shall be 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.

History.--s. 12, ch. 71-133; s. 1, ch. 88-293; s. 1, ch. 2001-204; s. 1, ch. 2001-245.

196.24 Exemption for disabled ex-servicemember or surviving spouse; evidence of disability.--Any ex-servicemember, as defined in s. 196.012, who is a bona fide resident of the state, who was discharged under honorable conditions, and who has been disabled to a degree of 10 percent or more while serving during a period of wartime service as defined in s. 1.01(14), or by misfortune, is entitled to the exemption from taxation provided for in s. 3(b), Art. VII of the State Constitution as provided in this section. Property to the value of \$5,000 of such a person is exempt from taxation. The production by him or her of a certificate of disability from the United States Government or the United States Department of Veterans Affairs or its predecessor before the property appraiser of the county wherein the ex-servicemember's property lies is prima facie evidence of the fact that he or she is entitled to the exemption. The unremarried surviving spouse of such a disabled ex-servicemember who, on the date of the disabled ex-servicemember's death, had been married to the disabled ex-servicemember for at least 5 years is also entitled to the exemption.

History.--s. 1, ch. 16298, 1933; CGL 1936 Supp. 897(1); s. 2, ch. 67-457; ss. 1, 2, ch. 69-55; s. 16, ch. 69-216; s. 1, ch. 77-102; s. 8, ch. 84-114; s. 5, ch. 93-268; s. 1000, ch. 95-147; s. 31, ch. 95-280; s. 1, ch. 2002-271; s. 2, ch. 2005-42.

Note.--Former s. 192.11.

¹196.26 Exemption for real property dedicated in perpetuity for conservation purposes.--

(1) As used in this section:

(a) "Allowed commercial uses" means commercial uses that are allowed by the conservation easement encumbering the land exempt from taxation under this section.

(b) "Conservation easement" means the property right described in s. 704.06.

(c) "Conservation purposes" means:

1. Serving a conservation purpose, as defined in 26 U.S.C. s. 170(h)(4)(A)(i)-(iii), for land which serves as the basis of a qualified conservation contribution under 26 U.S.C. s. 170(h); or

2.a. Retention of the substantial natural value of land, including woodlands, wetlands, watercourses, ponds, streams, and natural open spaces;

b. Retention of such lands as suitable habitat for fish, plants, or wildlife; or

c. Retention of such lands' natural value for water quality enhancement or water recharge.

(d) "Dedicated in perpetuity" means that the land is encumbered by an irrevocable, perpetual conservation easement.

(2) Land that is dedicated in perpetuity for conservation purposes and that is used exclusively for conservation purposes is exempt from ad valorem taxation. Such exclusive use does not preclude the receipt of income from activities that are consistent with a management plan when the income is used to implement, maintain, and manage the management plan.

(3) Land that is dedicated in perpetuity for conservation purposes and that is used for allowed commercial uses is exempt from ad valorem taxation to the extent of 50 percent of the assessed value of the land.

(4) Land that comprises less than 40 contiguous acres does not qualify for the exemption provided in this section unless, in addition to meeting the other requirements of this section, the use of the land for conservation purposes is determined by the Acquisition and Restoration Council created in s. 259.035 to fulfill a clearly delineated state conservation policy and yield a significant public benefit. In making its determination of public benefit, the Acquisition and Restoration Council must give particular consideration to land that:

(a) Contains a natural sinkhole or natural spring that serves a water recharge or production function;

(b) Contains a unique geological feature;

(c) Provides habitat for endangered or threatened species;

(d) Provides nursery habitat for marine and estuarine species;

(e) Provides protection or restoration of vulnerable coastal areas;

(f) Preserves natural shoreline habitat; or

(g) Provides retention of natural open space in otherwise densely built-up areas.

Any land approved by the Acquisition and Restoration Council under this subsection must have a management plan and a designated manager who will be responsible for implementing the management plan.

(5) The conservation easement that serves as the basis for the exemption granted by this section must include baseline documentation as to the natural values to be protected on the land and may include a management plan that details the management of the land so as to effectuate the conservation of natural resources on the land.

(6) Buildings, structures, and other improvements situated on land receiving the exemption provided in this section and the land area immediately surrounding the buildings, structures, and improvements must be assessed separately pursuant to chapter 193. However, structures and other improvements that are auxiliary to the use of the land for conservation purposes are exempt to the same extent as the underlying land.

(7) Land that qualifies for the exemption provided in this section the allowed commercial uses of which include agriculture must comply with the most recent best management practices if adopted by rule of the Department of Agriculture and Consumer Services.

(8) As provided in s. 704.06(8) and (9), water management districts with jurisdiction over lands receiving the exemption provided in this section have a third-party right of enforcement to enforce the terms of the applicable conservation easement for any easement that is not enforceable by a federal or state agency, county, municipality, or water management district when the holder of the easement is unable or unwilling to enforce the terms of the easement.

(9) The Acquisition and Restoration Council, created in s. 259.035, shall maintain a list of nonprofit entities that are qualified to enforce the provisions of a conservation easement.

History.--s. 1, ch. 2009-157.

¹Note.--

A. Section 9, ch. 2009-157, provides that "[t]his act shall take effect [June 10, 2009,] and shall apply to property tax assessments made on or after January 1, 2010.

B. Section 8, ch. 2009-157, provides that "[t]he Department of Revenue may adopt emergency rules to administer s. 196.26, Florida Statutes, as created by this act. The emergency rules shall remain in effect for 6 months after adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

196.28 Cancellation of delinquent taxes upon lands used for road purposes, etc.--

(1) The board of county commissioners of each county of the state be and it is hereby given full power and authority to cancel and discharge any and all liens for taxes, delinquent or current, held or owned by the county or the state, upon lands, heretofore or hereafter, conveyed to, or acquired by any agency, governmental subdivision or municipality of the state, or the United States, for road purposes, defense purposes, recreation, reforestation or other public use; and said lands shall be exempt from county taxation so long as the same are used for such public purpose.

(2) Such cancellation shall be by resolution of the board of county commissioners, duly adopted and entered upon its minutes, properly describing such lands, and setting forth the public use to which the same are, or will be, devoted. Upon receipt of a certified copy of such resolution, the proper officials of the county, and of the state, are hereby authorized, empowered and directed to make proper entries upon the records to

accomplish such cancellation and to do all things necessary to carry out the provisions of this section, and to make the same effective, this section being their authority so to do.

History.--ss. 1, 2, ch. 22845, 1945; ss. 1, 2, ch. 69-55.

Note.--Former s. 192.59.

196.29 Cancellation of certain taxes on real property acquired by a county, school board, charter school governing board, or community college district board of trustees.--Whenever any county, school board, charter school governing board, or community college district board of trustees of this state has heretofore acquired, or shall hereafter acquire, title to any real property, the taxes of all political subdivisions, as defined in s. 1.01, upon such property for the year in which title to such property was acquired, or shall hereafter be acquired, shall be that portion of the taxes levied or accrued against such property for such year which the portion of such year which has expired at the date of such acquisition bears to the entire year, and the remainder of such taxes for such year shall stand canceled.

History.--s. 1, ch. 26974, 1951; s. 1, ch. 65-179; ss. 1, 2, ch. 69-55; s. 1, ch. 69-300; s. 1, ch. 88-220; s. 2, ch. 2000-306.

Note.--Former s. 192.60.

196.295 Property transferred to exempt governmental unit; tax payment into escrow; taxes due from prior years.--

(1) In the event fee title to property is acquired between January 1 and November 1 of any year by a governmental unit exempt under this chapter by any means except condemnation or is acquired by any means except condemnation for use exclusively for federal, state, county, or municipal purposes, the taxpayer shall be required to place in escrow with the county tax collector an amount equal to the current taxes prorated to the date of transfer of title, based upon the current assessment and millage rates on the land involved. This fund shall be used to pay any ad valorem taxes due, and the remainder of taxes which would otherwise have been due for that current year shall stand canceled.

(2) In the event fee title to property is acquired by a governmental unit exempt under this chapter by any means except condemnation or is acquired by any means except condemnation for use exclusively for federal, state, county, or municipal purposes, the taxpayer is required to pay all taxes due from prior years.

History.--s. 13, ch. 74-234; s. 1, ch. 75-103; s. 7, ch. 85-322; s. 26, ch. 86-152; s. 15, ch. 86-300; s. 4, ch. 88-101; s. 8, ch. 92-173.

196.31 Taxes against state properties; notice.--Whenever lands or other property of the state or of any agency thereof are situated within any district, subdistrict or governmental unit for the purpose of taxation, which said lands or any of them or other property, are or shall be subject to special assessments or taxes, the tax collector or other

tax collecting agency having authority to collect such taxes or special assessments shall, upon such taxes or special assessments becoming legally due and payable, mail to the state agency or department holding such land or other property, or if held by the state, then to the Board of Trustees of the Internal Improvement Trust Fund at Tallahassee, a notice and make notation under the same date of such notice on the tax roll, which said notice shall contain a description of the lands or other property owned by the state or its agency upon which taxes or special assessments have been levied and are collectible, and the amount of such special assessments or taxes, and unless such notation of notice on the tax roll shall have been made, any nonpayment by the said state or its agency of taxes or special assessments shall not constitute a delinquency or be the basis on which the said lands or other property may be sold for the nonpayment of such taxes or special assessments.

History.--s. 1, ch. 15640, 1931; CGL 1936 Supp. 953(1); ss. 1, 2, ch. 69-55; ss. 27, 35, ch. 69-106.

Note.--Former s. 192.27.

196.32 Executive Office of the Governor; consent required to certain assessments.--

When, under any law of this state heretofore or hereafter enacted providing for the imposition of any tax, provision is made for the payment of any portion of the revenue derived from such tax by any state officer, officers, or board, to defray expenses incident to the enforcement and collection thereof, no such state officer, officers, or board may pay or agree to pay any of such funds without the express authorization and approval of the Executive Office of the Governor.

History.--s. 1, ch. 21919, 1943; ss. 2, 3, ch. 67-371; ss. 1, 2, ch. 69-55; ss. 31, 35, ch. 69-106; s. 94, ch. 79-190.

Note.--Former s. 192.51.

CHAPTER 286 PUBLIC RECORDS

286.0105 Notices of meetings and hearings must advise that a record is required to appeal.--Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. [200.065](#)(3).

History.--s. 1, ch. 80-150; s. 14, ch. 88-216; s. 209, ch. 95-148.

286.011 Public meetings and records; public inspection; criminal and civil penalties.--

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding \$500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant or defendants to such action acted in violation of this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual

member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation.

History.--s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91-224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353.

286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.--

(1)(a) A county or municipality may adopt an ordinance or resolution removing the presumption of prejudice from ex parte communications with local public officials by establishing a process to disclose ex parte communications with such officials pursuant to this subsection or by adopting an alternative process for such disclosure. However, this subsection does not require a county or municipality to adopt any ordinance or resolution establishing a disclosure process.

(b) As used in this subsection, the term "local public official" means any elected or appointed public official holding a county or municipal office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority.

(c) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. If adopted by county or municipal ordinance or resolution, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. The substance of any ex parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

2. A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

(2)(a) Notwithstanding the provisions of subsection (1), a county or municipality may adopt an ordinance or resolution establishing the procedures and provisions of this subsection for quasi-judicial proceedings on local government land use matters. The ordinance or resolution shall provide procedures and provisions identical to this subsection. However, this subsection does not require a county or municipality to adopt

such an ordinance or resolution.

(b) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decision making body who is not a party or party-intervenor shall be allowed to testify before the decision making body, subject to control by the decisionmaking body, and may be requested to respond to questions from the decisionmaking body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decisionmaking body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(c) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decisionmaking body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decision making body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decision making body. All decisions of the decisionmaking body in a quasi-judicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

(3) This section does not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials.

History.--s. 1, ch. 95-352; s. 31, ch. 96-324.