

By the Committee on Finance and Tax; and Senator Altman

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1 A bill to be entitled
2 An act relating to real property; amending s. 193.155,
3 F.S.; revising the criteria under which a transfer of
4 homestead property is not considered a change of
5 ownership; providing for such provisions to apply to a
6 leasehold interest under certain circumstances;
7 amending s. 193.1554, F.S.; providing that a change in
8 the ownership of nonhomestead residential property is
9 not deemed to have occurred due to certain
10 transactions involving a publicly traded company;
11 amending s. 193.1555, F.S.; providing that a change in
12 the ownership of nonresidential property is not deemed
13 to have occurred due to certain transactions involving
14 a publicly traded company; amending s. 193.1556, F.S.;
15 providing that a recorded deed or other instrument
16 shall serve as notice of a change of ownership;
17 requiring the Department of Revenue to provide a form
18 by which a property owner may notify any property
19 appraiser of a change of ownership or control;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (3) of section 193.155, Florida
25 Statutes, is amended to read:

26 193.155 Homestead assessments.—Homestead property shall be
27 assessed at just value as of January 1, 1994. Property receiving
28 the homestead exemption after January 1, 1994, shall be assessed
29 at just value as of January 1 of the year in which the property

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30 receives the exemption unless the provisions of subsection (8)
31 apply.

32 (3) (a) Except as provided in this subsection or subsection
33 (8), property assessed under this section shall be assessed at
34 just value as of January 1 of the year following a change of
35 ownership. Thereafter, the annual changes in the assessed value
36 of the property are subject to the limitations in subsections
37 (1) and (2). For the purpose of this section, a change of
38 ownership means any sale, foreclosure, or transfer of legal
39 title or beneficial title in equity to any person, except as
40 provided in this subsection. There is no change of ownership if:

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

44 a. 1. The transfer of title is to correct an error;

45 b. 2. The transfer is between legal and equitable title or
46 equitable and equitable title and no additional person applies
47 for a homestead exemption on the property; or

48 c. 3. The change or transfer is by means of an instrument in
49 which the owner is listed as both grantor and grantee of the
50 real property and one or more other individuals are additionally
51 named as grantee. However, if any individual who is additionally
52 named as a grantee applies for a homestead exemption on the
53 property, the application shall be considered a change of
54 ownership;

55 2. (b) Legal or equitable title is changed or transferred
56 ~~The transfer is~~ between husband and wife, including a change or
57 transfer to a surviving spouse or a transfer due to a
58 dissolution of marriage;

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59 3.~~(e)~~ The transfer occurs by operation of law to the
 60 surviving spouse or minor child or children under s. 732.401 ~~s.~~
 61 ~~732.4015~~; or

62 4.~~(d)~~ Upon the death of the owner, the transfer is between
 63 the owner and another who is a permanent resident and is legally
 64 or naturally dependent upon the owner.

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

69 Section 2. Subsection (5) of section 193.1554, Florida
 70 Statutes, is amended to read:

71 193.1554 Assessment of nonhomestead residential property.-

72 (5) Except as provided in this subsection, property
 73 assessed under this section shall be assessed at just value as
 74 of January 1 of the year following a change of ownership or
 75 control. Thereafter, the annual changes in the assessed value of
 76 the property are subject to the limitations in subsections (3)
 77 and (4). For purpose of this section, a change of ownership or
 78 control means any sale, foreclosure, transfer of legal title or
 79 beneficial title in equity to any person, or the cumulative
 80 transfer of control or of more than 50 percent of the ownership
 81 of the legal entity that owned the property when it was most
 82 recently assessed at just value, except as provided in this
 83 subsection. There is no change of ownership if:

84 (a) The transfer of title is to correct an error.†

85 (b) The transfer is between legal and equitable title.† ~~or~~

86 (c) The transfer is between husband and wife, including a
 87 transfer to a surviving spouse or a transfer due to a

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88 dissolution of marriage.

89 (d) For a publicly traded company, the cumulative transfer
90 of more than 50 percent of the ownership of the entity that owns
91 the property occurs through the buying and selling of shares of
92 the company on a public exchange. This exception does not apply
93 to a transfer made through a merger with or an acquisition by
94 another company, including an acquisition by acquiring
95 outstanding shares of the company.

96 Section 3. Subsection (5) of section 193.1555, Florida
97 Statutes, is amended to read:

98 193.1555 Assessment of certain residential and
99 nonresidential real property.—

100 (5) Except as provided in this subsection, property
101 assessed under this section shall be assessed at just value as
102 of January 1 of the year following a qualifying improvement or
103 change of ownership or control. Thereafter, the annual changes
104 in the assessed value of the property are subject to the
105 limitations in subsections (3) and (4). For purpose of this
106 section:

107 (a) A qualifying improvement means any substantially
108 completed improvement that increases the just value of the
109 property by at least 25 percent.

110 (b) A change of ownership or control means any sale,
111 foreclosure, transfer of legal title or beneficial title in
112 equity to any person, or the cumulative transfer of control or
113 of more than 50 percent of the ownership of the legal entity
114 that owned the property when it was most recently assessed at
115 just value, except as provided in this subsection. There is no
116 change of ownership if:

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117 1. The transfer of title is to correct an error. ~~or~~

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

119 3. For a publicly traded company, the cumulative transfer
120 of more than 50 percent of the ownership of the entity that owns
121 the property occurs through the buying and selling of shares of
122 the company on a public exchange. This exception does not apply
123 to a transfer made through a merger with or acquisition by
124 another company, including acquisition by acquiring outstanding
125 shares of the company.

126 Section 4. Section 193.1556, Florida Statutes, is amended
127 to read:

128 193.1556 Notice of change of ownership or control
129 required.—

130 (1) Any person or entity that owns property assessed under
131 s. 193.1554 or s. 193.1555 must notify the property appraiser
132 promptly of any change of ownership or control as defined in ss.
133 193.1554(5) and 193.1555(5). If the change of ownership is
134 recorded by a deed or other instrument in the public records of
135 the county where the property is located, the recorded deed or
136 other instrument shall serve as notice to the property
137 appraiser. If any property owner fails to so notify the property
138 appraiser and the property appraiser determines that for any
139 year within the prior 10 years the owner's property was not
140 entitled to assessment under s. 193.1554 or s. 193.1555, the
141 owner of the property is subject to the taxes avoided as a
142 result of such failure plus 15 percent interest per annum and a
143 penalty of 50 percent of the taxes avoided. It is the duty of
144 the property appraiser making such determination to record in
145 the public records of the county a notice of tax lien against

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146 any property owned by that person or entity in the county, and
147 such property must be identified in the notice of tax lien. Such
148 property is subject to the payment of all taxes and penalties.
149 Such lien when filed shall attach to any property, identified in
150 the notice of tax lien, owned by the person or entity that
151 illegally or improperly was assessed under s. 193.1554 or s.
152 193.1555. If such person or entity no longer owns property in
153 that county, but owns property in some other county or counties
154 in the state, it shall be the duty of the property appraiser to
155 record a notice of tax lien in such other county or counties,
156 identifying the property owned by such person or entity in such
157 county or counties, and it becomes a lien against such property
158 in such county or counties.

159 (2) The Department of Revenue shall provide a form by which
160 a property owner may provide notice to all property appraisers
161 of a change of ownership or control. The form must allow the
162 property owner to list all property that it owns or controls in
163 this state for which a change of ownership or control as defined
164 in s. 193.1554(5) or s. 193.1555(5) has occurred, but has not
165 been noticed previously to property appraisers. Providing notice
166 on this form constitutes compliance with the notification
167 requirements in this section.

168 Section 5. This act shall take effect July 1, 2010.