# CHAPTER 2004-349

## Committee Substitute for Senate Bill No. 2444

An act relating to property tax; amending s. 194.011, F.S.; revising requirements for petitioners and property appraisers with respect to providing evidence lists and documentation for proceedings of the value adjustment board; amending s. 194.032, F.S.; requiring that a petitioner be notified earlier of a scheduled appearance before the value adjustment board; amending s. 195.062, F.S.; authorizing the Department of Revenue to provide additional information in its update of the manual of instructions for property appraisers and other officials; repealing s. 373.516, F.S., relating to the assessment of rights-of-way of railroads and other public service corporations; creating s. 689.261, F.S.; requiring a seller to give notice to the prospective purchaser of homestead property concerning ad valorem taxes on the property; specifying the form of notice; creating s. 193.017, F.S.; providing for assessment of property used for affordable housing and subject to a low-income housing tax credit; amending s. 194.181, F.S.; authorizing a person other than the taxpayer to contest the assessment of any tax; designating the tax collector as the defendant with respect to questions relating to applications for tax deeds; amending s. 197.502, F.S.; providing for the escheatment of lands available for taxes; defining the term "contiguous" for purposes of ch. 197, F.S.; providing that submerged sovereignty lands are not contiguous for purposes of certain notice requirements; requiring that a search of official records for purposes of obtaining a tax deed be made by a direct and inverse search; authorizing the tax collector to contract for higher limits of liability than otherwise provided; amending s. 193.501, F.S.; clarifying a prohibition on the restriction of the normal use and maintenance of land that is subject to conservation restrictions; amending s. 1011.62, F.S.; prescribing the method by which the Department of Revenue is required to calculate the assessment level for purposes of equalizing the required local effort to fund the operation of schools; specifying that the provisions of the act apply to the assessment level for 2004 and after; ratifying any certification made under prior provisions of law; providing an effective date.

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

Section 1. Subsection (4) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.—

(4)(a) At least 15 ~~10~~ 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 ~~5~~ days before the hearing, if ~~after~~ the petitioner has provided ~~provides~~ the information required under paragraph (a), and if



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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.

Section 2. Subsection (2) of section 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.—

(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 ~~20~~ 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.

Section 3. Subsection (1) of section 195.062, Florida Statutes, is amended to read:

195.062 Manual of instructions.—

(1) The department shall prepare and maintain a current manual of instructions for property appraisers and other officials connected with the administration of property taxes. This manual shall contain all:

(a) Rules and regulations.

(b) Standard measures of value.

(c) Forms and instructions relating to the use of forms and maps.

Consistent with s. 195.032, the standard measures of value shall be adopted in general conformity with the procedures set forth in s. 120.54, but shall not have the force or effect of such rules and shall be used only to assist tax

officers in the assessment of property as provided by s. 195.002. Guidelines may be updated annually to incorporate new market data, which may be in tabular form, technical changes, changes indicated by established decisions of the Supreme Court, and, if a summary of justification is set forth in the notice required under s. 120.54, other changes relevant to appropriate assessment practices or standard measurement of value. Such new data may be incorporated into the guidelines on the approval of the executive director if after notice in substantial conformity with s. 120.54 there is no objection filed with the department within 45 days, and the procedures set forth in s. 120.54 do not apply.

Section 4. Section 373.516, Florida Statutes, is repealed.

Section 5. Section 689.261, Florida Statutes, is created to read:

689.261 Sale of residential property; disclosure of ad valorem taxes to prospective purchaser.—

(1) A prospective purchaser of residential property must be presented a disclosure summary at or before execution of the contract for sale. Unless a substantially similar disclosure summary is included in the contract for sale, a separate disclosure summary must be attached to the contract for sale. The disclosure summary, whether separate or included in the contract, must be in a form substantially similar to the following:

PROPERTY TAX
DISCLOSURE SUMMARY

BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

(2) Unless included in the contract, the disclosure summary must be provided by the seller. If the disclosure summary is not included in the contract for sale, the contract for sale must refer to and incorporate by reference the disclosure summary and include, in prominent language, a statement that the potential purchaser should not execute the contract until he or she has read the disclosure summary required by this section.

Section 6. Section 193.017, Florida Statutes, is created to read:

193.017 Low-income housing tax credit.—Property used for affordable housing which has received a low-income housing tax credit from the Florida Housing Finance Corporation, as authorized by s. 420.5099, shall be assessed under s. 193.011 and, consistent with s. 420.5099(5) and (6), pursuant to this section.

(1) The tax credits granted and the financing generated by the tax credits may not be considered as income to the property.



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(2) The actual rental income from rent-restricted units in such a property shall be recognized by the property appraiser.

(3) Any costs paid for by tax credits and costs paid for by additional financing proceeds received under chapter 420 may not be included in the valuation of the property.

(4) If an extended low-income housing agreement is filed in the official public records of the county in which the property is located, the agreement, and any recorded amendment or supplement thereto, shall be considered a land-use regulation and a limitation on the highest and best use of the property during the term of the agreement, amendment, or supplement.

Section 7. Subsections (1) and (3) of section 194.181, Florida Statutes, are amended to read:

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, ~~the law~~ 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.

(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.

Section 8. Subsection (4), paragraph (a) of subsection (5), and subsection (8) of section 197.502, Florida Statutes, are amended to read:

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.—

(4) The tax collector shall deliver to the clerk of the circuit court a statement that payment has been made for all outstanding certificates or, if the certificate is held by the county, that all appropriate fees have been deposited, and stating that the following persons are to be notified prior to the sale of the property:

(a) Any legal titleholder of record if the address of the owner appears on the record of conveyance of the lands to the owner. However, if the legal titleholder of record is the same as the person to whom the property was assessed on the tax roll for the year in which the property was last assessed, then the notice may only be mailed to the address of the legal titleholder as it appears on the latest assessment roll.

(b) Any lienholder of record who has recorded a lien against the property described in the tax certificate if an address appears on the recorded lien.

(c) Any mortgagee of record if an address appears on the recorded mortgage.

(d) Any vendee of a recorded contract for deed if an address appears on the recorded contract or, if the contract is not recorded, any vendee who has applied to receive notice pursuant to s. 197.344(1)(c).

(e) Any other lienholder who has applied to the tax collector to receive notice if an address is supplied to the collector by such lienholder.

(f) Any person to whom the property was assessed on the tax roll for the year in which the property was last assessed. ~~The certificate shall be signed by the collector and the collector's seal affixed. The collector may purchase a reasonable bond for errors and omissions of his or her office in making such certificate.~~

(g) Any lienholder of record who has recorded a lien against a mobile home located on the property described in the tax certificate if an address appears on the recorded lien and if the lien is recorded with the clerk of the circuit court in the county where the mobile home is located.

(h) Any legal titleholder of record of property that is contiguous to the property described in the tax certificate, when the property described is either submerged land or common elements of a subdivision, if the address of the titleholder of contiguous property appears on the record of conveyance of the land to that legal titleholder. However, if the legal titleholder of property contiguous to the property described in the tax certificate is the same as the person to whom the property described in the tax certificate was assessed on the tax roll for the year in which the property was last assessed, the notice may be mailed only to the address of the legal titleholder as it appears on the latest assessment roll. As used in this chapter, the term "contiguous" means touching, meeting, or joining at the surface or border, other than at a corner or a single point, and not separated by submerged lands. Submerged lands lying below the ordinary high-water mark which are sovereignty lands are not part of the upland contiguous property for purposes of notification.

The statement must be signed by the tax collector, with the tax collector's seal affixed. The tax collector may purchase a reasonable bond for errors and omissions of his or her office in making such statement. The search of the official records must be made by a direct and inverse search. "Direct" means the index in straight and continuous alphabetic order by grantor, and "inverse" means the index in straight and continuous alphabetic order by grantee.

(5)(a) The tax collector may contract with a title company or an abstract company at a reasonable fee to provide the minimum information required in subsection (4), consistent with rules adopted by the department. If additional information is required, the tax collector must make a written request

to the title or abstract company stating the additional requirements. The tax collector may select any title or abstract company, regardless of its location, as long as the fee is reasonable, the minimum information is submitted, and the title or abstract company is authorized to do business in this state. The tax collector may advertise and accept bids for the title or abstract company if he or she considers it appropriate to do so.

1. The ownership and encumbrance report must be printed or typed on stationery or other paper showing a letterhead of the person, firm, or company that makes the search, and the signature of the person who makes the search or of an officer of the firm must be attached. The tax collector is not liable for payment to the firm unless these requirements are met.

2. The tax collector may not accept or pay for any title search or abstract if no financial responsibility is assumed for the search. However, reasonable restrictions as to the liability or responsibility of the title or abstract company are acceptable. Notwithstanding s. 627.7843(3), the tax collector may contract for higher maximum liability limits.

3. In order to establish uniform prices for ownership and encumbrance reports within the county, the tax collector shall ensure that the contract for ownership and encumbrance reports include all requests for title searches or abstracts for a given period of time.

(8) Taxes shall not be extended against parcels listed as lands available for taxes, but in each year the taxes that would have been due shall be treated as omitted years and added to the required minimum bid. Three years after ~~from~~ the day the land was offered for public sale, the land shall escheat to the county in which it is located, free and clear. All tax certificates, accrued taxes, and liens of any nature against the property shall be deemed canceled as a matter of law and of no further legal force and effect, and the clerk shall execute an escheatment ~~a~~ tax deed vesting title in the board of county commissioners of the county in which the land ~~it~~ is located.

Section 9. Subsection (1) of section 193.501, Florida Statutes, is amended to read:

193.501 Assessment of lands subject to a conservation easement, environmentally endangered lands, or lands used for outdoor recreational or park purposes when land development rights have been conveyed or conservation restrictions have been covenanted.—

(1) The owner or owners in fee of any land subject to a conservation easement as described in s. 704.06(1); land qualified as environmentally endangered pursuant to paragraph (6)(i) and so designated by formal resolution of the governing board of the municipality or county within which such land is located; land designated as conservation land in a comprehensive plan adopted by the appropriate municipal or county governing body; or any land which is utilized for outdoor recreational or park purposes may, by appropriate instrument, for a term of not less than 10 years:

(a) Convey the development right of such land to the governing board of any public agency in this state within which the land is located, or to the

Board of Trustees of the Internal Improvement Trust Fund, or to a charitable corporation or trust as described in s. 704.06(3); or

(b) Covenant with the governing board of any public agency in this state within which the land is located, or with the Board of Trustees of the Internal Improvement Trust Fund, or with a charitable corporation or trust as described in s. 704.06(3), that such land be subject to one or more of the conservation restrictions provided in s. 704.06(1) or not be used by the owner for any purpose other than outdoor recreational or park purposes. If land is covenanted and used for an outdoor recreational purpose, the normal use and maintenance of the land for that purpose, consistent with the covenant, shall not be restricted.

Section 10. Paragraph (c) of subsection (4) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(c) Equalization of required local effort.—

1. The Department of Revenue shall include with its certifications provided pursuant to paragraph (a) its most recent determination of the assessment level of the prior year's assessment roll for each county and for the state as a whole.

2. The Commissioner of Education shall adjust the required local effort millage of each district for the current year, computed pursuant to paragraph (a), as follows:

a. The equalization factor for the prior year's assessment roll of each district shall be multiplied by 95 percent of the taxable value for school purposes shown on that roll and by the prior year's required local-effort millage, exclusive of any equalization adjustment made pursuant to this paragraph. The dollar amount so computed shall be the additional required local effort for equalization for the current year.

b. Such equalization factor shall be computed as the quotient of the prior year's assessment level of the state as a whole divided by the prior year's assessment level of the county, from which quotient shall be subtracted 1.

c. The dollar amount of additional required local effort for equalization for each district shall be converted to a millage rate, based on 95 percent of



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the current year's taxable value for that district, and added to the required local effort millage determined pursuant to paragraph (a).

3. Notwithstanding the limitations imposed pursuant to s. 1011.71(1), the total required local-effort millage, including additional required local effort for equalization, shall be an amount not to exceed 10 minus the maximum millage allowed as nonvoted discretionary millage, exclusive of millage authorized pursuant to s. 1011.71(2). Nothing herein shall be construed to allow a millage in excess of that authorized in s. 9, Art. VII of the State Constitution.

4. For the purposes of this chapter, the term "assessment level" means the value-weighted mean assessment ratio for the county or state as a whole, as determined pursuant to s. 195.096, or as subsequently adjusted. However, for those parcels studied pursuant to s. 195.096(3)(a)1. which are receiving the assessment limitation set forth in s. 193.155, and for which the assessed value is less than the just value, the department shall use the assessed value in the numerator and the denominator of such assessment ratio. In the event a court has adjudicated that the department failed to establish an accurate estimate of an assessment level of a county and recomputation resulting in an accurate estimate based upon the evidence before the court was not possible, that county shall be presumed to have an assessment level equal to that of the state as a whole.

5. If, in the prior year, taxes were levied against an interim assessment roll pursuant to s. 193.1145, the assessment level and prior year's nonexempt assessed valuation used for the purposes of this paragraph shall be those of the interim assessment roll.

Section 11. The amendment made by this act to section 1011.62(4)(c)4., Florida Statutes, applies to the certifications of the 2004 and later levels of assessment. It is the intent of the Legislature that the use of just value instead of assessed value for property assessed pursuant to section 193.155, Florida Statutes, for the calculation of such levels for any certification made pursuant to section 1011.62(4)(c)4. or former section 236.081(4)(c)4., Florida Statutes, prior to the 2004 tax roll is validated and ratified.

Section 12. This act shall take effect January 1, 2005.

Approved by the Governor June 23, 2004.

Filed in Office Secretary of State June 23, 2004.



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