

CHAPTER 97-117

House Bill No. 967

An act relating to ad valorem taxation; amending s. 193.011, F.S.; including historic preservation ordinances within certain factors to consider in determining highest and best use of property for purposes of deriving just valuation; creating s. 193.503, F.S.; providing for classification and assessment of eligible property as historic property used for commercial or certain nonprofit purposes, for purposes of taxes levied by a county or municipality which adopts an ordinance authorizing such assessment; providing procedures and requirements; specifying the factors applicable to such classification; providing for appeals to the value adjustment board; providing that the owner is liable for deferred tax liability for prior years in which such classification and assessment was granted if the property fails to meet qualifying criteria; amending ss. 194.011, 194.032, 194.037, 195.073, and 195.096, F.S., relating to procedures of the value adjustment boards and classification of real property, to conform; creating s. 196.1961, F.S.; providing procedures and requirements for counties and municipalities to adopt an ordinance granting partial exemption for certain historic property used for commercial or nonprofit purposes; specifying qualifications for such exemption; providing an effective date and a contingent effective date.

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

Section 1. Effective upon this act becoming a law, subsection (2) of section 193.011, Florida Statutes, is amended to read:

193.011 Factors to consider in deriving just valuation.—In arriving at just valuation as required under s. 4, Art. VII of the State Constitution, the property appraiser shall take into consideration the following factors:

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, ~~or~~ local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

Section 2. Section 193.503, Florida Statutes, is created to read:

193.503 Classification and assessment of historic property used for commercial or certain nonprofit purposes.—

(1) Pursuant to s. 4(d), Art. VII of the State Constitution, the board of county commissioners of a county or the governing authority of a municipality may adopt an ordinance providing for assessment of historic property used for commercial or certain nonprofit purposes as described in this section solely on the basis of character or use as provided in this section. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. 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 such assessment will take effect. If such assessment 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 assessment expires.

(2) If an ordinance is adopted as described in subsection (1), the property appraiser shall, for assessment purposes, annually classify any eligible property as historic property used for commercial or certain nonprofit purposes, for purposes of the taxes levied by the governing body or authority adopting the ordinance. For all other purposes, the property shall be assessed pursuant to s. 193.011.

(3) No property shall be classified as historic property used for commercial or certain nonprofit purposes unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such property, may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such property was actually used as required by this section. Failure to make timely application by March 1 shall constitute a waiver for 1 year of the privilege herein granted for such assessment.

(4) Any property classified and assessed as historic property used for commercial or certain nonprofit purposes pursuant to this section must meet 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 s. 501(c)(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; that is, it must be open for a minimum of 40 hours per week for 45 weeks per year or an equivalent of 1,800 hours per year.

(d) The property must be maintained in good repair and condition to the extent necessary to preserve the historic value and significance of the property.

(5) In years in which proper application for assessment has been made and granted pursuant to this section, the assessment of such historic property shall be based solely on its use for commercial or certain nonprofit purposes. The property appraiser shall consider the following use factors only:

(a) The quantity and size of the property.

(b) The condition of the property.

(c) The present market value of the property as historic property used for commercial or certain nonprofit purposes.

(d) The income produced by the property.

(6) In years in which proper application for assessment has not been made under this section, the property shall be assessed under the provisions of s. 193.011 for all purposes.

(7) Any property owner who is denied classification under this section may appeal to the value adjustment board. The property appraiser shall notify the property owner in writing of the denial of such classification on or before July 1 of the year for which the application was filed. The notification shall advise the property owner of his or her right to appeal to the value adjustment board and of the filing deadline. The board may also review all property classified by the property appraiser upon its own motion. The property appraiser shall have available at his or her office a list by ownership of all applications received showing the full valuation under s. 193.011, the valuation of the property under the provisions of this section, and whether or not the classification requested was granted.

(8) For the purposes of assessment roll preparation and recordkeeping, the property appraiser shall report the assessed value of property qualified for the assessment pursuant to this section as its "classified use value" and shall annually determine and report as "just value" the fair market value of such property, irrespective of any negative impact that restrictions imposed or conveyances made pursuant to this section may have had on such value.

(9)(a) After qualifying for and being granted the classification and assessment pursuant to this section, the owner of the property shall not use the property in any manner not consistent with the qualifying criteria. If the historic designation status or the use of the property changes or if the property fails to meet the other qualifying criteria for the classification and assessment, the property owner shall be liable for the amount of taxes equal to the "deferred tax liability" for up to the past 10 years in which the property received the use classification and assessment pursuant to this section. The governmental taxing unit shall determine the time period for which the deferred tax liability is due. A written instrument from the governmental taxing unit shall be promptly recorded in the same manner as any other instrument affecting the title to real property. A release of the written instrument shall be made to the owner upon payment of the deferred tax liability.

(b) For purposes of this subsection, “deferred tax liability” means an amount equal to the difference between the total amount of taxes that would have been due in March if the property had been assessed under the provisions of s. 193.011 and the total amount of taxes actually paid in those years when the property was assessed under the provisions of this section, plus interest on that difference computed as provided in s. 212.12(3).

(c) Any payment of the deferred tax liability shall be payable to the county tax collector within 90 days after the date of the change in classification. The collector shall distribute the payment to each governmental unit where the classification and assessment was allowed in the proportion that its millage bears to the total millage levied on the parcel for the years in which such classification and assessment was in effect.

(d) The tax collector shall annually report to the department the amount of deferred tax liability collected pursuant to this section.

Section 3. Paragraph (d) of subsection (3) of section 194.011, Florida Statutes, 1996 Supplement, is amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board shall describe the property by parcel number and shall be filed as follows:

(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.

Section 4. Paragraph (b) of subsection (1) of section 194.032, Florida Statutes, 1996 Supplement, is amended to read:

194.032 Hearing purposes; timetable.—

(1)

(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.

Section 5. Subsection (2) of section 194.037, Florida Statutes, 1996 Supplement, is amended to read:

194.037 Disclosure of tax impact.—

(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)~~^(f) Tangible personal property, which must be identified as “Business Machinery and Equipment.”

~~(h)~~^(g) Vacant land and nonagricultural acreage, which must be identified as “Vacant Lots and Acreage.”

Section 6. Subsection (1) of section 195.073, Florida Statutes, 1996 Supplement, is amended to read:

195.073 Classification of property.—All items required by law to be on the assessment rolls must receive a classification based upon the use of the property. The department shall promulgate uniform definitions for all classifications. The department may designate other subclassifications of property. No assessment roll may be approved by the department which does not show proper classifications.

(1) Real property must be classified according to the assessment basis of the land into the following classes:

(a) Residential, subclassified into categories, one category for homestead property and one for nonhomestead property:

1. Single family.
2. Mobile homes.
3. Multifamily.

4. Condominiums.
5. Cooperatives.
6. Retirement homes.
 - (b) Commercial and industrial.
 - (c) Agricultural.
 - (d) Nonagricultural acreage.
 - (e) High-water recharge.
 - (f) Historic property used for commercial or certain nonprofit purposes.
 - ~~(g)(f)~~ Exempt, wholly or partially.
 - ~~(h)(g)~~ Centrally assessed.
 - ~~(i)(h)~~ Leasehold interests.
 - ~~(j)(i)~~ Time-share property.
 - ~~(k)(j)~~ Other.

Section 7. Paragraph (a) of subsection (3) and subsection (6) of section 195.096, Florida Statutes, 1996 Supplement, as amended by section 19, chapter 95-272, section 8, chapter 96-204, section 7, chapter 96-397, and section 54, chapter 96-406, Laws of Florida, are amended to read:

195.096 Review of assessment rolls.—

(3)(a) Upon completion of review pursuant to paragraph (2)(f), the Division of Ad Valorem Tax shall publish the results of reviews conducted under this section. The results must include all statistical and analytical measures computed under this section for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following real property classes whenever the classes constituted 5 percent or more of the total assessed value of real property in a county on the previous tax roll:

1. Residential property that consists of one primary living unit, including, but not limited to, single-family residences, condominiums, cooperatives, and mobile homes.
2. Residential property that consists of two or more primary living units.
3. Agricultural, high-water recharge, historic property used for commercial or certain nonprofit purposes, and other use-valued property.
4. Vacant lots.
5. Nonagricultural acreage and other undeveloped parcels.
6. Improved commercial and industrial property.
7. Taxable institutional or governmental, utility, locally assessed railroad, oil, gas and mineral land, subsurface rights, and other real property.

When one of the above classes constituted less than 5 percent of the total assessed value of all real property in a county on the previous assessment roll, the division may combine it with one or more other classes of real property for purposes of assessment ratio studies or use the weighted average of the other classes for purposes of calculating the level of assessment for all real property in a county. The division shall also publish such results for any subclassifications of the classes or assessment rolls it may have chosen to study.

(6) Reviews conducted under this section must include an evaluation of whether nonhomestead exempt values determined by the appraiser under applicable provisions of chapter 196 are correct and whether agricultural and high-water recharge classifications and classifications of historic property used for commercial and certain nonprofit purposes were granted in accordance with law.

Section 8. Section 196.1961, Florida Statutes, is created to read:

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 s. 501(c)(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.

Section 9. Except as otherwise provided herein, this act shall take effect on the effective date of an amendment to the State Constitution approved by the electors at the general election to be held in November 1998 which authorizes, or removes impediment to, enactment by the Legislature of the provisions of this act.

Became a law without the Governor's approval May 24, 1997.

Filed in Office Secretary of State May 23, 1997.