

CHAPTER 2010-109

Committee Substitute for Committee Substitute for House Bill No. 927

An act relating to real property; amending s. 193.155, F.S.; revising the criteria under which a transfer of homestead property is not considered a change of ownership; providing for such provisions to apply to a leasehold interest under certain circumstances; amending s. 193.1554, F.S.; providing that a change in the ownership of nonhomestead residential property is not deemed to have occurred due to certain transactions involving a publicly traded company; amending s. 193.1555, F.S.; providing that a change in the ownership of nonresidential property is not deemed to have occurred due to certain transactions involving a publicly traded company; amending s. 193.1556, F.S.; providing that a recorded deed or other instrument shall serve as notice of a change of ownership; requiring the Department of Revenue to provide a form by which a property owner may notify any property appraiser of a change of ownership or control; providing an effective date.

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

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

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8) apply.

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

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

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

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

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

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

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

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

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

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

193.1554 Assessment of nonhomestead residential property.—

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

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

(b) The transfer is between legal and equitable title.;

(c) The transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage.

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

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

193.1555 Assessment of certain residential and nonresidential real property.—

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

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

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

1. The transfer of title is to correct an error.~~;~~~~or~~
2. The transfer is between legal and equitable title.
3. For a publicly traded company, the cumulative transfer of more than 50 percent of the ownership of the entity that owns the property occurs through the buying and selling of shares of the company on a public exchange. This exception does not apply to a transfer made through a merger with or acquisition by another company, including acquisition by acquiring outstanding shares of the company.

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

193.1556 Notice of change of ownership or control required.—

(1) Any person or entity that owns property assessed under s. 193.1554 or s. 193.1555 must notify the property appraiser promptly of any change of ownership or control as defined in ss. 193.1554(5) and 193.1555(5). If the change of ownership is recorded by a deed or other instrument in the public records of the county where the property is located, the recorded deed or other instrument shall serve as notice to the property appraiser. 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's property was not entitled to assessment under s. 193.1554 or s. 193.1555, the owner of the property is subject to the taxes avoided as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes avoided. It is the duty of the property appraiser making such determination to 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 or entity that illegally or improperly was assessed under s. 193.1554 or s. 193.1555. If such person or entity no longer owns property in that county, but owns 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 or entity in such county or counties, and it becomes a lien against such property in such county or counties.

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

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

Approved by the Governor May 26, 2010.

Filed in Office Secretary of State May 26, 2010.