

The 2009 Florida Statutes

CHAPTER 193: ASSESSMENTS

PART II: SPECIAL CLASSES OF PROPERTY (ss. 193.441-193.703)

PART II

SPECIAL CLASSES OF PROPERTY

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193.441 Legislative intent; findings and declaration.--

(1) For the purposes of assessment roll preparation and recordkeeping, it is the legislative intent that any assessment for tax purposes which is less than the just value of the property shall be considered a classified use assessment and reported accordingly.

(2) The Legislature finds that Florida's groundwater is among the state's most precious and basic natural resources. The Legislature further finds that it is in the interest of the state to protect its groundwater from pollution, overutilization, and other degradation because groundwater is the primary source of potable water for 90 percent of Floridians. The Legislature declares that it is in the public interest to allow county governments the flexibility to implement voluntary tax assessment programs that protect the state's high-water recharge areas.

History.--s. 12, ch. 79-334; s. 1, ch. 96-204.

193.451 Annual growing of agricultural crops, nonbearing fruit trees, nursery stock; taxability.--

(1) Growing annual agricultural crops, nonbearing fruit trees, and nursery stock, regardless of the growing methods, shall be considered as having no ascertainable value and shall not be taxable until they have reached maturity or a stage of marketability and have passed from the hands of the producer and/or offered for sale. This section shall be construed liberally in favor of the taxpayer.

(2) Raw, annual, agricultural crops shall be considered to have no ascertainable value and shall not be taxable until such property is offered for sale to the consumer.

(3) Personal property leased or subleased by the Department of Agriculture and Consumer Services and utilized in the inspection, grading, or classification of citrus fruit shall be deemed to have value for purposes of assessment for ad valorem property taxes no greater than its market value as salvage. It is the expressed intent of the Legislature that this subsection shall have retroactive application to December 31, 2003.

History.--ss. 1, 2, ch. 63-432; s. 1, ch. 67-573; ss. 1, 2, ch. 69-55; s. 1, ch. 2005-210.

Note.--Former s. 192.063.

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.--

(1) The property appraiser shall, on an annual basis, classify for assessment purposes all lands within the county as either agricultural or nonagricultural.

(2) Any landowner whose land is denied agricultural classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of agricultural classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his or her right to appeal to the value adjustment board and of the filing deadline. The board may also review all lands 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 acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(3) (a) No lands shall be classified as agricultural lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such lands, 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 lands were actually used for a bona fide agricultural purpose. Failure to make timely application by March 1 shall constitute a waiver for 1 year of the privilege herein granted for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 may file an application for the classification and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the classification be granted. The petition may be filed at any time 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, the applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the classification, the property appraiser or the value adjustment board may grant the classification. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. 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 classification of property within the county after an initial application is made and the classification granted by the

property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(b) Subject to the restrictions set out in this section, only lands which are used primarily for bona fide agricultural purposes shall be classified agricultural. "Bona fide agricultural purposes" means good faith commercial agricultural use of the land. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

1. The length of time the land has been so used.
2. Whether the use has been continuous.
3. The purchase price paid.
4. Size, as it relates to specific agricultural use, but in no event shall a minimum acreage be required for agricultural assessment.
5. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices.
6. Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease.
7. Such other factors as may from time to time become applicable.

(c) The maintenance of a dwelling on part of the lands used for agricultural purposes shall not in itself preclude an agricultural classification.

(d) When property receiving an agricultural classification contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately, pursuant to s. 193.011, to qualify for the assessment limitation set forth in s. 193.155. The remaining property may be classified under the provisions of paragraphs (a) and (b).

(e) Notwithstanding the provisions of paragraph (a), land that has received an agricultural classification from the value adjustment board or a court of competent jurisdiction pursuant to this section is entitled to receive such classification in any subsequent year until such agricultural use of the land is abandoned or discontinued, the land is diverted to a nonagricultural use, or the land is reclassified as nonagricultural pursuant to subsection (4). The property appraiser must, no later than January 31 of each year, provide notice to the owner of land that was classified agricultural in the previous year informing the owner of the requirements of this paragraph and requiring the owner to certify that neither the

ownership nor the use of the land has changed. The department shall, by administrative rule, prescribe the form of the notice to be used by the property appraiser under this paragraph. If a county has waived the requirement that an annual application or statement be made for classification of property pursuant to paragraph (a), the county may, by a majority vote of its governing body, waive the notice and certification requirements of this paragraph and shall provide the property owner with the same notification provided to owners of land granted an agricultural classification by the property appraiser. Such waiver may be revoked by a majority vote of the county's governing body. This paragraph does not apply to any property if the agricultural classification of that property is the subject of current litigation.

(4) (a) The property appraiser shall reclassify the following lands as nonagricultural:

1. Land diverted from an agricultural to a nonagricultural use.
2. Land no longer being utilized for agricultural purposes.
3. Land that has been zoned to a nonagricultural use at the request of the owner subsequent to the enactment of this law.

(b) The board of county commissioners may also reclassify lands classified as agricultural to nonagricultural when there is contiguous urban or metropolitan development and the board of county commissioners finds that the continued use of such lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.

(c) Sale of land for a purchase price which is three or more times the agricultural assessment placed on the land shall create a presumption that such land is not used primarily for bona fide agricultural purposes. Upon a showing of special circumstances by the landowner demonstrating that the land is to be continued in bona fide agriculture, this presumption may be rebutted.

(5) For the purpose of this section, "agricultural purposes" includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production.

(6) (a) In years in which proper application for agricultural assessment has been made and granted pursuant to this section, the assessment of land shall be based solely on its agricultural use. The property appraiser shall consider the following use factors only:

1. The quantity and size of the property;
2. The condition of the property;

3. The present market value of the property as agricultural land;
4. The income produced by the property;
5. The productivity of land in its present use;
6. The economic merchantability of the agricultural product; and
7. Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.

(b) Notwithstanding any provision relating to annual assessment found in s. 192.042, the property appraiser shall rely on 5-year moving average data when utilizing the income methodology approach in an assessment of property used for agricultural purposes.

(c) 1. For purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

2. Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms shall be assessed by the methodology described in subparagraph 1.

(d) In years in which proper application for agricultural assessment has not been made, the land shall be assessed under the provisions of s. 193.011.

(7) Lands classified for assessment purposes as agricultural lands which are taken out of production by any state or federal eradication or quarantine program shall continue to be classified as agricultural lands for the duration of such program or successor programs. Lands under these programs which are converted to fallow, or otherwise nonincome-producing uses shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of no more than \$50 per acre, on a single year assessment methodology; however, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.

History.--s. 1, ch. 59-226; s. 1, ch. 67-117; ss. 1, 2, ch. 69-55; s. 1, ch. 72-181; s. 4, ch. 74-234; s. 3, ch. 76-133; s. 15, ch. 82-208; ss. 10, 80, ch. 82-226; s. 1, ch. 85-77; s. 3, ch. 86-300; s. 23, ch. 90-217; ss. 132, 142, ch. 91-112; s. 63, ch. 94-353; s. 1468, ch. 95-147; s. 1, ch. 95-404; s. 1, ch. 98-313; s. 1, ch. 99-351; s. 3, ch. 2000-308; s. 4, ch. 2001-279; s. 15, ch. 2002-18; s. 2, ch. 2003-162; s. 43, ch. 2003-254; s. 1, ch. 2006-45; s. 2, ch. 2008-197.

193.4615 Assessment of obsolete agricultural equipment.--

(1) For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461 and that is no longer usable for its intended purpose shall be deemed to have a market value no greater than its value for salvage.

(2) This section shall take effect January 1, 2007.

History.--s. 16, ch. 2006-289.

193.462 Agricultural lands; annual application process; extenuating circumstances; waivers.--

(1) For purposes of granting an agricultural classification for January 1, 2003, the term "extenuating circumstances," as used in s. 193.461(3)(a), includes the failure of a property owner in a county that waived the annual application process to return the agricultural classification form or card, which return was required by operation of s. 193.461(3)(e), as created by chapter 2002-18, Laws of Florida.

(2) Any waiver of the annual application granted under s. 193.461(3)(a), which is in effect on December 31, 2002, shall remain in full force and effect until subsequently revoked as provided by s. 193.461(3)(a).

History.--s. 3, ch. 2003-162; s. 44, ch. 2003-254.

193.481 Assessment of mineral, oil, gas, and other subsurface rights.--

(1) Whenever the mineral, oil, gas, and other subsurface rights in or to real property in this state shall have been sold or otherwise transferred by the owner of such real property, or retained or acquired through reservation or otherwise, such subsurface rights shall be taken and treated as an interest in real property subject to taxation separate and apart from the fee or ownership of the fee or other interest in the fee. Such mineral, oil, gas, and other subsurface rights, when separated from the fee or other interest in the fee, shall be subject to separate taxation. Such taxation shall be against such subsurface interest and not against the owner or owners thereof or against separate interests or rights in or to such subsurface rights.

(2) The property appraiser shall, upon request of the owner of real property who also owns mineral, oil, gas, or other subsurface mineral rights to the same property, separately assess the subsurface mineral right and the remainder of the real estate as separate items on the tax roll.

(3) Such subsurface rights shall be assessed on the basis of a just valuation, as required by s. 4, Art. VII of the State Constitution, which valuation, when combined with the value of the remaining surface and undisposed of subsurface interests, shall not exceed the full just value of the fee title of the lands involved, including such subsurface rights.

(4) Statutes and regulations, not in conflict with the provisions herein, relating to the assessment and collection of ad valorem taxes on real property, shall apply to the separate assessment and taxation of such subsurface rights, insofar as they may be applied.

(5) Tax certificates and tax liens encumbering subsurface rights, as aforesaid, may be acquired, purchased, transferred, and enforced as are tax certificates and tax liens encumbering real property generally, including the issuance of a tax deed.

(6) Nothing contained in chapter 69-60, Laws of Florida, amending subsections (1) and (3) of this section and creating former s. 197.083 shall be construed to affect any contractual obligation existing on June 4, 1969.

History.--ss. 1, 2, 3, 4, ch. 57-150; s. 1, ch. 63-355; ss. 1, 2, ch. 69-55; ss. 1, 2, ch. 69-60; s. 13, ch. 69-216; s. 2, ch. 71-105; ss. 33, 35, ch. 73-332; s. 1, ch. 77-102; s. 29, ch. 95-280.

Note.--Former s. 193.221.

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(1) The owner or owners in fee of any land subject to a conservation easement as described in s. 704.06; 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.

(2) The governing board of any public agency in this state, or the Board of Trustees of the Internal Improvement Trust Fund, or a charitable corporation or trust as described in s. 704.06(3), is authorized and empowered in its discretion to accept any and all

instruments conveying the development right of any such land or establishing a covenant pursuant to subsection (1), and if accepted by the board or charitable corporation or trust, the instrument shall be promptly filed with the appropriate officer for recording in the same manner as any other instrument affecting the title to real property.

(3) When, pursuant to subsections (1) and (2), the development right in real property has been conveyed to the governing board of any public agency of this state, to the Board of Trustees of the Internal Improvement Trust Fund, or to a charitable corporation or trust as described in s. 704.06(2), or a covenant has been executed and accepted by the board or charitable corporation or trust, the lands which are the subject of such conveyance or covenant shall be thereafter assessed as provided herein:

(a) If the covenant or conveyance extends for a period of not less than 10 years from January 1 in the year such assessment is made, the property appraiser, in valuing such land for tax purposes, shall consider no factors other than those relative to its value for the present use, as restricted by any conveyance or covenant under this section.

(b) If the covenant or conveyance extends for a period less than 10 years, the land shall be assessed under the provisions of s. 193.011, recognizing the nature and length thereof of any restriction placed on the use of the land under the provisions of subsection (1).

(4) After making a conveyance of the development right or executing a covenant pursuant to this section, or conveying a conservation easement pursuant to this section and s. 704.06, the owner of the land shall not use the land in any manner not consistent with the development right voluntarily conveyed, or with the restrictions voluntarily imposed, or with the terms of the conservation easement or shall not change the use of the land from outdoor recreational or park purposes during the term of such conveyance or covenant without first obtaining a written instrument from the board or charitable corporation or trust, which instrument reconveys all or part of the development right to the owner or releases the owner from the terms of the covenant and which instrument must be promptly recorded in the same manner as any other instrument affecting the title to real property. Upon obtaining approval for reconveyance or release, the reconveyance or release shall be made to the owner upon payment of the deferred tax liability. Any payment of the deferred tax liability shall be payable to the county tax collector within 90 days of the date of approval by the board or charitable corporation or trust of the reconveyance or release. The collector shall distribute the payment to each governmental unit in the proportion that its millage bears to the total millage levied on the parcel for the years in which such conveyance or covenant was in effect.

(5) The governing board of any public agency or the Board of Trustees of the Internal Improvement Trust Fund or a charitable corporation or trust which holds title to a development right pursuant to this section may not convey that development right to anyone other than the governing board of another public agency or a charitable corporation or trust, as described in s. 704.06(3), or the record owner of the fee interest in

the land to which the development right attaches. The conveyance from the governing board of a public agency or the Board of Trustees of the Internal Improvement Trust Fund to the owner of the fee shall be made only after a determination by the board that such conveyance would not adversely affect the interest of the public. Section 125.35 does not apply to such sales, but any public agency accepting any instrument conveying a development right pursuant to this section shall forthwith adopt appropriate regulations and procedures governing the disposition of same. These regulations and procedures must provide in part that the board may not convey a development right to the owner of the fee without first holding a public hearing and unless notice of the proposed conveyance and the time and place at which the public hearing is to be held is published once a week for at least 2 weeks in some newspaper of general circulation in the county involved prior to the hearing.

(6) The following terms whenever used as referred to in this section have the following meanings unless a different meaning is clearly indicated by the context:

(a) "Board" is the governing board of any city, county, or other public agency of the state or the Board of Trustees of the Internal Improvement Trust Fund.

(b) "Conservation restriction" means a limitation on a right to the use of land for purposes of conserving or preserving land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition. The limitation on rights to the use of land may involve or pertain to any of the activities enumerated in s. 704.06(1).

(c) "Conservation easement" means that property right described in s. 704.06.

(d) "Covenant" is a covenant running with the land.

(e) "Deferred tax liability" means an amount equal to the difference between the total amount of taxes that would have been due in March in each of the previous years in which the conveyance or covenant was in effect 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).

(f) "Development right" is the right of the owner of the fee interest in the land to change the use of the land.

(g) "Outdoor recreational or park purposes" includes, but is not necessarily limited to, boating, golfing, camping, swimming, horseback riding, and archaeological, scenic, or scientific sites and applies only to land which is open to the general public.

(h) "Present use" is the manner in which the land is utilized on January 1 of the year in which the assessment is made.

- (i) "Qualified as environmentally endangered" means land that has unique ecological characteristics, rare or limited combinations of geological formations, or features of a rare or limited nature constituting habitat suitable for fish, plants, or wildlife, and which, if subject to a development moratorium or one or more conservation easements or development restrictions appropriate to retaining such land or water areas predominantly in their natural state, would be consistent with the conservation, recreation and open space, and, if applicable, coastal protection elements of the comprehensive plan adopted by formal action of the local governing body pursuant to s. 163.3161, the Local Government Comprehensive Planning and Land Development Regulation Act; or surface waters and wetlands, as determined by the methodology ratified in s. 373.4211.
- (7) (a) The property appraiser shall report to the department showing the just value and the classified use value of property that is subject to a conservation easement under s. 704.06, property assessed as environmentally endangered land pursuant to this section, and property assessed as outdoor recreational or park land.
- (b) The tax collector shall annually report to the department the amount of deferred tax liability collected pursuant to this section.

¹(8) A person or organization that, on January 1, has the legal title to land that is entitled by law to assessment under this section shall, on or before March 1 of each year, file an application for assessment under this section with the county property appraiser. The application must identify the property for which assessment under this section is claimed. The initial application for assessment for any property must include a copy of the instrument by which the development right is conveyed or which establishes a covenant that establishes the conservation purposes for which the land is used. The Department of Revenue shall prescribe the forms upon which the application is made. The failure to file an application on or before March 1 of any year constitutes a waiver of assessment under this section for that year. However, an applicant who is qualified to receive an assessment under this section but fails to file an application by March 1 may file an application for the assessment and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the assessment be granted. The petition must be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser pursuant to s. 194.011(1). Notwithstanding s. 194.013, the applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the assessment and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the assessment, the property appraiser or the value adjustment board may grant the assessment. The owner of land that was assessed under this section in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. 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 assessment of property within the county. Such waiver may be revoked by a majority vote of the governing body of the county.

¹(9) A person or entity that owns land assessed pursuant to this section must notify the property appraiser promptly if the land becomes ineligible for assessment under this section. If any property owner fails to notify the property appraiser and the property appraiser determines that for any year within the preceding 10 years the land was not eligible for assessment under this section, the owner of the land is subject to taxes avoided as a result of such failure plus 15 percent interest per annum and a penalty of 50 percent of the taxes avoided. 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. The property is subject to a lien in the amount of the unpaid taxes and penalties. The lien when filed shall attach to any property identified in the notice of tax lien which is owned by the person or entity and which was improperly assessed. If such person or entity no longer owns property in that county but owns property in some other county or counties of this 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.

History.--s. 1, ch. 67-528; ss. 1, 2, ch. 69-55; s. 2, ch. 72-181; s. 1, ch. 77-102; s. 1, ch. 78-354; s. 2, ch. 84-253; s. 29, ch. 85-55; s. 2, ch. 86-44; s. 39, ch. 93-206; s. 3, ch. 94-122; s. 43, ch. 94-356; s. 9, ch. 2004-349; s. 2, 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. 193.202.

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 (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.

History.--s. 2, ch. 97-117.

193.505 Assessment of historically significant property when development rights have been conveyed or historic preservation restrictions have been covenanted.--

(1) The owner or owners in fee of any improved real property qualified as historically significant pursuant to paragraph (6)(a), and so designated by formal resolution of the governing body of the county within which the property is located, may by appropriate instrument:

(a) Convey all rights to develop the property to the governing body of the county in which such property is located; or

(b) Enter into a covenant running with the land for a term of not less than 10 years with the governing body of the county in which the property is located that the property shall not be used for any purpose inconsistent with historic preservation or the historic qualities of the property.

(2) (a) The governing body of each county is authorized and empowered in its discretion, subject to the provisions of paragraph (6)(b), to accept any instrument conveying a development right or establishing a covenant pursuant to subsection (1); and, if such instrument is accepted by the governing body, it shall be promptly filed with the appropriate officer for recording in the same manner as any other instrument affecting title to real property.

(b) Before accepting any instrument pursuant to this section, the governing body of the county shall seek the counsel and advice of the governing body of the municipality in which the property lies, if any, as to the merit of such acceptance.

(3) When, pursuant to this section, the development right in historically significant property has been conveyed to the governing body of the county or a covenant for historic preservation has been executed and accepted by such body, the real property subject to such conveyance or covenant shall be assessed at fair market value; however, the appraiser shall recognize the nature and length of the restriction placed on the use of the property under the provisions of the conveyance or covenant.

(4) (a) During the unexpired term of a covenant executed pursuant to this section, the owner of the property subject thereto shall not use the property in any manner inconsistent with historic preservation or the historic character of the property without first obtaining a written instrument from the governing body of the county releasing the owner from the terms of the covenant. Such instrument shall be promptly recorded in the same manner as any other instrument affecting the title to real property. Upon obtaining the approval of the board for release, the property will be subject to a deferred tax liability. The release shall be made to the owner upon payment of the deferred tax liability. Any payment of the deferred tax liability shall be payable to the county tax collector within 90 days of the date of approval of the release by the board. The tax collector shall distribute the payment

to each governmental unit in the proportion that its millage bears to the total millage levied on the parcel for the years in which the covenant was in effect.

(b) After a covenant executed pursuant to this section has expired, the property previously subject to the covenant will be subject to a deferred tax liability, payable as provided in paragraph (a), within 90 days of the date of such expiration.

(5) The governing body of any county which holds title to a development right pursuant to this section shall not convey that right to anyone and shall not exercise that right in any manner inconsistent with historic preservation. No property for which the development right has been conveyed to the governing body of the county shall be used for any purpose inconsistent with historic preservation or the historic qualities of the property.

(6) (a) Improved real property shall be qualified as historically significant only if:

1. The property is listed on the national register of historic places pursuant to the National Historic Preservation Act of 1966, as amended, 16 U.S.C. s. 470; or is within a certified locally ordinated district pursuant to s. 48(g)(3)(B)(ii), Internal Revenue Code; or has been found to be historically significant in accordance with the intent of and for purposes of this section by the Division of Historical Resources existing under chapter 267, or any successor agency, or by the historic preservation board existing under chapter 266, if any, in the jurisdiction of which the property lies; and

2. The owner of the property has applied to such division or board for qualification pursuant to this section.

(b) It is the legislative intent that property be qualified as historically significant pursuant to paragraph (a) only when it is of such unique or rare historic character or significance that a clear and substantial public benefit is provided by virtue of its preservation.

(7) A covenant executed pursuant to this section shall, at a minimum, contain the following restrictions:

(a) No use shall be made of the property which in the judgment of the covenantee or the division or board is inconsistent with the historic qualities of the property.

(b) In any restoration or repair of the property, the architectural features of the exterior shall be retained consistent with the historic qualities of the property.

(c) The property shall not be permitted to deteriorate and shall be maintained in good repair and condition to the extent necessary to preserve the historic value and significance of the property.

(d) The covenant shall include provisions for periodic access by the public to the property.

(8) For the purposes of this section, the term "deferred tax liability" means an amount equal to the difference between the total amount of taxes which would have been due in March in each of the previous years in which a covenant executed and accepted pursuant to this section was in effect if the property had been assessed under the provisions of s. 193.011 irrespective of any negative impact on fair market value that restrictions imposed pursuant to this section may have caused and the total amount of taxes actually paid in those years, plus interest on that difference computed as provided in s. 212.12(3).

(9) (a) For the purposes of assessment roll preparation and recordkeeping, the property appraiser shall report the assessed value of property subject to a conveyance or covenant 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.

(b) The property appraiser shall annually report to the department the just value and classified use value of property for which the development right has been conveyed separately from such values for property subject to a covenant.

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

History.--s. 1, ch. 84-253; s. 8, ch. 86-163.

193.621 Assessment of pollution control devices.--

(1) If it becomes necessary for any person, firm or corporation owning or operating a manufacturing or industrial plant or installation to construct or install a facility, as is hereinafter defined, in order to eliminate or reduce industrial air or water pollution, any such facility or facilities shall be deemed to have value for purposes of assessment for ad valorem property taxes no greater than its market value as salvage. Any facility as herein defined heretofore constructed shall be assessed in accordance with this section.

(2) If the owner of any manufacturing or industrial plant or installation shall find it necessary in the control of industrial contaminants to demolish and reconstruct that plant or installation in whole or part and the property appraiser determines that such demolition or reconstruction does not substantially increase the capacity or efficiency of such plant or installation or decrease the unit cost of production, then in that event, such demolition or reconstruction shall not be deemed to increase the value of such plant or installation for ad valorem tax assessment purposes.

(3) The terms "facility" or "facilities" as used in this section shall be deemed to include any device, fixture, equipment, or machinery used primarily for the control or abatement

of pollution or contaminants from manufacturing or industrial plants or installations, but shall not include any public or private domestic sewerage system or treatment works.

(4) Any taxpayer claiming the right of assessments for ad valorem taxes under the provisions of this law shall so state in a return filed as provided by law giving a brief description of the facility. The property appraiser may require the taxpayer to produce such additional evidence as may be necessary to establish taxpayer's right to have such properties classified hereunder for assessments.

(5) If a property appraiser is in doubt whether a taxpayer is entitled, in whole or in part, to an assessment under this section, he or she may refer the matter to the Department of Environmental Protection for a recommendation. If the property appraiser so refers the matter, he or she shall notify the taxpayer of such action. The Department of Environmental Protection shall immediately consider whether or not such taxpayer is so entitled and certify its recommendation to the property appraiser.

(6) The Department of Environmental Protection shall promulgate rules and regulations regarding the application of the tax assessment provisions of this section for the consideration of the several county property appraisers of this state. Such rules and regulations shall be distributed to the several county property appraisers of this state.

History.--s. 25, ch. 67-436; ss. 1, 2, ch. 69-55; ss. 21, 26, 35, ch. 69-106; s. 13, ch. 69-216; s. 2, ch. 71-137; s. 33, ch. 71-355; s. 1, ch. 77-102; s. 47, ch. 77-104; s. 4, ch. 79-65; s. 44, ch. 94-356; s. 1469, ch. 95-147; s. 20, ch. 2000-158; s. 1, ch. 2000-210.

Note.--Former s. 403.241.

193.623 Assessment of building renovations for accessibility to the physically handicapped.--Any taxpayer who renovates an existing building or facility owned by such taxpayer in order to permit physically handicapped persons to enter and leave such building or facility or to have effective use of the accommodations and facilities therein shall, for the purpose of assessment for ad valorem tax purposes, be deemed not to have increased the value of such building more than the market value of the materials used in such renovation, valued as salvage materials. "Building or facility" shall mean only a building or facility, or such part thereof, as is intended to be used, and is used, by the general public. The renovation required in order to entitle a taxpayer to the benefits of this section must include one or more of the following: the provision of ground level or ramped entrances and washroom and toilet facilities accessible to, and usable by, physically handicapped persons.

History.--s. 1, ch. 76-144.

193.625 High-water recharge lands; classification and assessment.--

(1) Notwithstanding the provisions of s. 193.461, the property appraiser shall annually classify for assessment purposes all lands within a county choosing to have a high-water recharge protection tax assessment program as either agricultural, nonagricultural, or

high-water recharge. The classification applies only to taxes levied by the counties and municipalities adopting an ordinance under subsection (5).

(2) Any landowner whose land is within a county that has a high-water recharge protection tax assessment program and whose land is denied high-water recharge classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of high-water recharge classification on or before July 1 of the year for which the application was filed. The notification must advise the landowner of a right to appeal to the value adjustment board and of the filing deadline. The board may also review all lands classified by the property appraiser upon its own motion. The property appraiser shall have available at her or his office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(3) (a) Lands may not be classified as high-water recharge lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying the lands, may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that the lands were actually used for a bona fide high-water recharge purpose. Failure to make timely application by March 1 constitutes a waiver for 1 year of the privilege granted for high-water recharge assessment. The owner of land that was classified high-water recharge in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. 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 classification of property within the county after an initial application is made and the classification granted.

(b) Subject to the restrictions set out in this section, only lands that are used primarily for bona fide high-water recharge purposes may be classified as high-water recharge. The term "bona fide high-water recharge purposes" means good faith high-water recharge use of the land. In determining whether the use of the land for high-water recharge purposes is bona fide, the following factors apply:

1. The land use must have been continuous.
2. The land use must be vacant residential, vacant commercial, vacant industrial, vacant institutional, nonagricultural, or single-family residential. The maintenance of one single-family residential dwelling on part of the land does not in itself preclude a high-water recharge classification.
3. The land must be located within a prime groundwater recharge area or in an area considered by the appropriate water management district to supply significant groundwater recharge. Significant groundwater

recharge shall be assessed by the appropriate water management district on the basis of hydrologic characteristics of the soils and underlying geologic formations.

4. The land must not be receiving any other special classification.
5. There must not be in the vicinity of the land any activity that has the potential to contaminate the ground water, including, but not limited to, the presence of:
 - a. Toxic or hazardous substances;
 - b. Free-flowing saline artesian wells;
 - c. Drainage wells;
 - d. Underground storage tanks; or
 - e. Any potential pollution source existing on a property that drains to the property seeking the high-water recharge classification.
6. The owner of the property has entered into a contract with the county as provided in subsection (5).
7. The parcel of land must be at least 10 acres.

Notwithstanding the provisions of this paragraph, the property appraiser shall use the best available information on the high-water recharge characteristics of lands when making a final determination to grant or deny an application for high-water recharge assessment for the lands.

- (4) The provisions of this section do not constitute a basis for zoning restrictions.
- (5)
 - (a) In years in which proper application for high-water recharge assessment has been made and granted under this section, for purposes of taxes levied by the county, the assessment of the land must be based on the formula adopted by the county as provided in paragraph (b).
 - (b) Counties that choose to have a high-water recharge protection tax assessment program must adopt by ordinance a formula for determining the assessment of properties classified as high-water recharge property and a method of contracting with property owners who wish to be involved in the program.
 - (c) The contract must include a provision that the land assessed as high-water recharge land will be used primarily for bona fide high-water recharge purposes for a period of at least 5 years, as determined by the county, from January 1 of the

year in which the assessment is made. Violation of the contract results in the property owner being subject to the payment of the difference between the total amount of taxes actually paid on the property and the amount of taxes which would have been paid in each previous year the contract was in effect if the high-water recharge assessment had not been used.

(d) A municipality located in any county that adopts an ordinance under paragraph (a) may adopt an ordinance providing for the assessment of land located in the incorporated areas in accordance with the county's ordinance.

(e) Property owners whose land lies within an area determined to be a high-water recharge area must not be required to have their land assessed according to the high-water recharge classification.

(f) In years in which proper application for high-water recharge assessment has not been made, the land must be assessed under s. 193.011.

History.--s. 2, ch. 96-204; s. 27, ch. 97-96; s. 25, ch. 97-236; s. 3, ch. 2005-36.

193.6255 Applicability of duties of property appraisers and clerks of the court pursuant to high-water recharge areas.--The amendments to ss. 193.625 and 194.037 by this act, insofar as they impose duties on property appraisers and on clerks of the court, apply only to the unincorporated area within those counties that adopt an ordinance under s. 193.625(5). A municipality located in any county that adopts such an ordinance may include all eligible property for high-water recharge classification by ordinance adopted by the municipality's governing body.

History.--s. 9, ch. 96-204.

193.703 Reduction in assessment for living quarters of parents or grandparents.--

(1) In accordance with s. 4(e), Art. VII of the State Constitution, a county may provide for a reduction in the assessed value of homestead property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive parents or grandparents of the owner of the property or of the owner's spouse if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age.

(2) A reduction may be granted under subsection (1) only to the owner of homestead property where the construction or reconstruction is consistent with local land development regulations.

(3) A reduction in assessment which is granted under this section applies only to construction or reconstruction that occurred after the effective date of this section to an existing homestead and applies only during taxable years during which at least one such parent or grandparent maintains his or her primary place of residence in such living quarters within the homestead property of the owner.

(4) Such a reduction in assessment may be granted only upon an application filed annually with the county property appraiser. The application must be made before March 1 of the year for which the reduction is to be granted. If the property appraiser is satisfied that the property is entitled to a reduction in assessment under this section, the property appraiser shall approve the application, and the value of such residential improvements shall be excluded from the value of the property for purposes of ad valorem taxation. The value excluded may not exceed the lesser of the following:

(a) The increase in assessed value resulting from construction or reconstruction of the property; or

(b) Twenty percent of the total assessed value of the property as improved.

(5) If the owner of homestead property for which such a reduction in assessed value has been granted is found to have made any willfully false statement in the application for the reduction, the reduction shall be revoked, the owner is subject to a civil penalty of not more than \$1,000, and the owner shall be disqualified from receiving any such reduction for a period of 5 years.

(6) When the property owner no longer qualifies for the reduction in assessed value for living quarters of parents or grandparents, the previously excluded just value of such improvements as of the first January 1 after the improvements were substantially completed shall be added back to the assessed value of the property.

History.--s. 1, ch. 2002-226.