

## 2008 Florida Statutes

### 197.243 Definitions relating to Homestead Property Tax Deferral Act.--

- (1) "Household" means a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling.
- (2) "Income" means the "adjusted gross income," as defined in s. 62 of the United States Internal Revenue Code, of all members of a household.

**History.**--s. 2, ch. 77-301; s. 1, ch. 78-161; s. 19, ch. 79-334; s. 144, ch. 85-342; s. 4, ch. 98-139.

**Note.**--Former s. 197.0164.

### 197.252 Homestead tax deferral.--

- (1) Any person who is entitled to claim homestead tax exemption under the provisions of s. 196.031(1) may elect to defer payment of a portion of the combined total of the ad valorem taxes and any non-ad valorem assessments which would be covered by a tax certificate sold under this chapter levied on that person's homestead by filing an annual application for tax deferral with the county tax collector on or before January 31 following the year in which the taxes and non-ad valorem assessments are assessed. Any applicant who is entitled to receive the homestead tax exemption but has waived it for any reason shall furnish, with the application for tax deferral, a certificate of eligibility to receive the exemption. Such certificate shall be prepared by the county property appraiser upon request of the taxpayer. It shall be the burden of each applicant to affirmatively demonstrate compliance with the requirements of this section.
- (2)(a) Approval of an application for tax deferral shall defer that portion of the combined total of ad valorem taxes and any non-ad valorem assessments which would be covered by a tax certificate sold under this chapter otherwise due and payable on the applicant's homestead pursuant to s. 197.333 which exceeds 5 percent of the applicant's household's income for the prior calendar year. If any such applicant's household income for the prior calendar year is less than \$10,000, approval of such application shall defer such ad valorem taxes plus non-ad valorem assessments in their entirety.
- <sup>1</sup>(b) If the applicant is 65 years of age or older, approval of the application shall defer that portion of the ad valorem taxes plus non-ad valorem assessments which exceeds 3 percent of the applicant's household income for the prior calendar year. If any applicant's household income for the prior calendar year is less than \$10,000, or is less than the amount of the household income designated for the additional homestead exemption pursuant to s. 196.075, and the applicant is 65 years of age or older, approval of the application shall defer the ad valorem taxes plus non-ad valorem assessments in their entirety.
- (c) The household income of an applicant who applies for a tax deferral before the end of the calendar year in which the taxes and non-ad valorem assessments are assessed shall be for the current year, adjusted to reflect estimated income for the full calendar year period. The estimate of a full year's household income shall be made by multiplying the household income received to the date of application by a fraction, the numerator being 365 and the denominator being the number of days expired in the calendar year to the date of application.

(3) No tax deferral shall be granted:

(a) If the total amount of deferred taxes, non-ad valorem assessments, and interest plus the total amount of all other unsatisfied liens on the homestead exceeds 85 percent of the assessed value of the homestead, or

(b) If the primary mortgage financing on the homestead is for an amount which exceeds 70 percent of the assessed value of the homestead.

(4) The amount of taxes, non-ad valorem assessments, and interest deferred under this act shall accrue interest at a rate equal to the semiannually compounded rate of one-half of 1 percent plus the average yield to maturity of the long-term fixed-income portion of the Florida Retirement System investments as of the end of the quarter preceding the date of the sale of the deferred payment tax certificates; however, the interest rate may not exceed 7 percent.

(5) The taxes, non-ad valorem assessments, and interest deferred pursuant to this act shall constitute a prior lien and shall attach as of the date and in the same manner and be collected as other liens for taxes, as provided for under this chapter, but such deferred taxes, non-ad valorem assessments, and interest shall only be due, payable, and delinquent as provided in this act.

**History.**--s. 3, ch. 77-301; s. 2, ch. 78-161; s. 20, ch. 79-334; s. 145, ch. 85-342; s. 1, ch. 89-328; s. 1007, ch. 95-147; s. 5, ch. 98-139; s. 1, ch. 2006-47; s. 8, ch. 2006-69; s. 7, ch. 2007-339.

**<sup>1</sup>Note.**--

A. Section 15, ch. 2007-339, provides in part that "[t]his act shall take effect upon becoming a law, except that . . . [the amendment to s. 197.252(2)(b)] shall apply retroactively to the 2008 tax roll."

B. Section 1, ch. 2007-339, provides that:

"(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

"(2) In anticipation of implementing this act, the executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of making necessary changes and preparations so that forms, methods, and data records, electronic or otherwise, are ready and in place if sections 3 through 9 and sections 10, 12, and 14 . . . of this act become law.

"(3) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules."

**Note.**--Former s. 197.0165.

### **197.253 Homestead tax deferral; application.--**

(1) The application for deferral shall be made upon a form prescribed by the department and furnished by the county tax collector. The application form shall be signed upon oath by the applicant before an officer authorized by the state to administer oaths. The tax collector may, in his or her discretion, require the applicant to submit such other evidence and documentation as deemed necessary by the tax collector in considering the application. The application form shall advise the applicant of the manner in which interest is computed. Each application form shall contain an explanation of the conditions to be met for approval and the conditions under which deferred taxes and interest become due, payable, and delinquent. Each application shall clearly state that all deferrals pursuant to this act shall constitute a lien on the applicant's homestead.

(2)(a) The tax collector shall consider each annual application for homestead tax deferral within 30 days of the day the application is filed or as soon as practicable thereafter. A tax collector who finds that the applicant is entitled to the tax deferral shall approve the application and file the application in the permanent records. A tax collector who finds the applicant is not entitled to the deferral shall send a notice of disapproval within 30 days of the filing of the application, giving reasons therefor to the applicant, either by personal delivery or by registered mail to the mailing address given by the applicant and shall make return in the manner in which such notice was served upon the applicant upon the original notice thereof and file among the permanent records of the tax collector's office. The original notice of disapproval sent to the applicant shall advise the applicant of the right to appeal the decision of the tax collector to the value adjustment board and shall inform the applicant of the procedure for filing such an appeal.

(b) Appeals of the decision of the tax collector to the value adjustment board shall be in writing on a form prescribed by the department and furnished by the tax collector. Such appeal shall be filed with the value adjustment board within 20 days after the applicant's receipt of the notice of disapproval.

The value adjustment board shall review the application and the evidence presented to the tax collector upon which the applicant based his or her claim for tax deferral and, at the election of the applicant, shall hear the applicant in person, or by agent on the applicant's behalf, on his or her right to homestead tax deferral. The value adjustment board shall reverse the decision of the tax collector and grant homestead tax deferral to the applicant, if in its judgment the applicant is entitled thereto, or affirm the decision of the tax collector. Such action of the value adjustment board shall be final unless the applicant or tax collector or other lienholder, within 15 days from the date of disapproval of the application by the board, files in the circuit court of the county in which the property is located, a proceeding for a declaratory judgment or other appropriate proceeding.

(3) Each application shall contain a list of, and the current value of, all outstanding liens on the applicant's homestead.

(4) For approved applications, the date of receipt by the tax collector of the application for tax deferral shall be used in calculating taxes due and payable net of discounts for early payment as provided for by s. 197.162.

(5) If such proof has not been furnished with a prior application, each applicant shall furnish proof of fire and extended coverage insurance in an amount which is in excess of the sum of all outstanding liens and deferred taxes and interest with a loss payable clause to the county tax collector.

(6) The tax collector shall notify the property appraiser in writing of those parcels for which taxes have been deferred.

(7) The property appraiser shall promptly notify the tax collector of denials of homestead application and changes in ownership of properties that have been granted a tax deferral.

**History.**--s. 4, ch. 77-301; s. 3, ch. 78-161; s. 21, ch. 79-334; s. 146, ch. 85-342; s. 161, ch. 91-112; s. 1008, ch. 95-147; s. 6, ch. 98-139.

**Note.**--Former s. 197.0166.

#### **197.254 Annual notification to taxpayer.--**

(1) The tax collector shall notify the taxpayer of each parcel appearing on the real property assessment roll of the right to defer payment of taxes and non-ad valorem assessments pursuant to ss. 197.242-197.312. Such notice shall be printed on the back of envelopes used for mailing the notice of taxes provided for by s. 197.322(3). Such notice of the right to defer payment of taxes and non-ad valorem assessments shall read:

NOTICE TO TAXPAYERS ENTITLED  
TO HOMESTEAD EXEMPTION

"If your income is low enough to meet certain conditions, you may qualify for a deferred tax payment plan on homestead property. An application to determine eligibility is available in the county tax collector's office."

(2) On or before November 1 of each year, the tax collector shall notify each taxpayer to whom a tax deferral has been previously granted of the accumulated sum of deferred taxes, non-ad valorem assessments, and interest outstanding.

**History.**--s. 5, ch. 77-301; s. 22, ch. 79-334; s. 57, ch. 82-226; s. 147, ch. 85-342; s. 2, ch. 89-328; s. 3, ch. 92-312; s. 12, ch. 93-132.

**Note.**--Former s. 197.0167.

#### **197.262 Deferred payment tax certificates.--**

(1) The tax collector shall notify each local governing body of the amount of taxes and non-ad valorem assessments deferred which would otherwise have been collected for such governing body. The county shall then, at the time of the tax certificate sale held pursuant to s. 197.432, strike each certificate off to the county. Certificates issued pursuant to this section are exempt from the public sale of tax certificates held pursuant to s. 197.432.

(2) The certificates so held by the county shall bear interest at a rate equal to the semiannually compounded rate of 0.5 percent plus the average yield to maturity of the long-term fixed-income portion of the Florida Retirement System investments as of the end of the quarter preceding the date of the sale of the deferred payment tax certificates; however, the interest rate may not exceed 9.5 percent.

**History.**--s. 6, ch. 77-301; s. 4, ch. 78-161; s. 2, ch. 84-137; s. 148, ch. 85-342; s. 3, ch. 89-328; s. 4, ch. 92-312.

**Note.**--Former s. 197.0168.

**197.263 Change in ownership or use of property.--**

(1) In the event that there is a change in use of tax-deferred property such that the owner is no longer entitled to claim homestead exemption for such property pursuant to s. 196.031(1), or such person fails to maintain the required fire and extended insurance coverage, the total amount of deferred taxes and interest for all previous years shall be due and payable November 1 of the year in which the change in use occurs or on the date failure to maintain insurance occurs and shall be delinquent on April 1 of the year following the year in which the change in use or failure to maintain insurance occurs.

(2) In the event that there is a change in ownership of tax-deferred property, the total amount of deferred taxes and interest for all previous years shall be due and payable on the date the change in ownership takes place and shall be delinquent on April 1 following said date. When, however, the change in ownership is to a surviving spouse and such spouse is eligible to claim homestead exemption on such property pursuant to s. 196.031(1), such surviving spouse may continue the deferment of previously deferred taxes and interest pursuant to the provisions of this act.

(3) Whenever the property appraiser discovers that there has been a change in the ownership or use of property which has been granted a tax deferral, the property appraiser shall notify the tax collector in writing of the date such change occurs, and the tax collector shall collect any taxes and interest due or delinquent.

(4) During any year in which the total amount of deferred taxes, interest, and all other unsatisfied liens on the homestead exceeds 85 percent of the assessed value of the homestead, the tax collector shall immediately notify the owner of the property on which taxes and interest have been deferred that the portion of taxes and interest which exceeds 85 percent of the assessed value of the homestead shall be due and payable within 30 days of receipt of the notice. Failure to pay the amount due shall cause the total amount of deferred taxes and interest to become delinquent.

(5) Each year, upon notification, each owner of property on which taxes and interest have been deferred shall submit to the tax collector a list of, and the current value of, all outstanding liens on the owner's homestead. Failure to respond to this notification within 30 days shall cause the total amount of deferred taxes and interest to become payable within 30 days.

(6) In the event deferred taxes become delinquent under this chapter, then on or before June 1 following the date the taxes become delinquent, the tax collector shall sell a tax certificate for the delinquent taxes and interest in the manner provided by s. 197.432.

**History.--**s. 7, ch. 77-301; s. 5, ch. 78-161; s. 149, ch. 85-342; s. 5, ch. 92-312; s. 1009, ch. 95-147.

**Note.--**Former s. 197.0169.

**197.272 Prepayment of deferred taxes.--**

(1) All or part of the deferred taxes and accrued interest may at any time be paid to the tax collector by:

(a) The owner of the property or the spouse of the owner.

(b) The next of kin of the owner, heir of the owner, child of the owner, or any person having or claiming a legal or equitable interest in the property, provided no objection is made by the owner within 30 days after the tax collector notifies the owner of the fact that such payment has been tendered.

(2) Any partial payment made pursuant to this section shall be applied first to accrued interest.

**History.--**s. 8, ch. 77-301; s. 150, ch. 85-342.

**Note.--**Former s. 197.017.

**197.282 Distribution of payments.--**When any deferred taxes or interest is collected, the tax collector shall maintain a record of the payment, setting forth a description of the property and the amount of taxes or interest collected for such property. The tax collector shall distribute payments received in accordance with the procedures for distribution of ad valorem taxes or redemption moneys as prescribed in this chapter.

**History.--**s. 9, ch. 77-301; s. 6, ch. 78-161; s. 151, ch. 85-342.

**Note.--**Former s. 197.0171.

**197.292 Construction.--**Nothing in this act shall be construed to prevent the collection of personal property taxes which become a lien against tax-deferred property, defer payment of special assessments to benefited property other than those specifically allowed to be deferred, or affect any provision of any mortgage or other instrument relating to property requiring a person to pay ad valorem taxes or non-ad valorem assessments.

**History.--**s. 10, ch. 77-301; s. 152, ch. 85-342; s. 6, ch. 89-328.

**Note.--**Former s. 197.0172.

**197.301 Penalties.--**

- (1) The following penalties shall be imposed on any person who willfully files information required under s. 197.252 or s. 197.263 which is incorrect:
  - (a) Such person shall pay the total amount of taxes and interest deferred, which amount shall immediately become due;
  - (b) Such person shall be disqualified from filing a homestead tax deferral application for the next 3 years; and
  - (c) Such person shall pay a penalty of 25 percent of the total amount of taxes and interest deferred.
- (2) Any person against whom the penalties prescribed in this section have been imposed may appeal the penalties imposed to the value adjustment board within 30 days after said penalties are imposed.

**History.**--s. 11, ch. 77-301; s. 153, ch. 85-342; s. 162, ch. 91-112.

**Note.**--Former s. 197.0173.